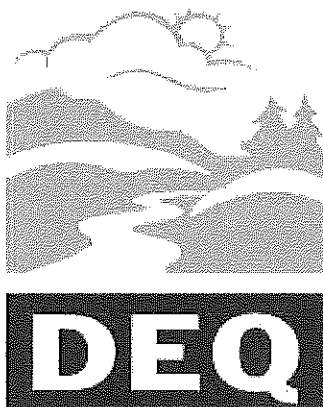


**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS 06/21/2001**



**State of Oregon  
Department of  
Environmental  
Quality**

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# Environmental Quality Commission Meeting Agenda

June 22, 2001

Gresham City Council Chambers Building  
1333 NW Eastman Parkway, Gresham, OR 97030  
(across from Gresham City Hall)

On Thursday, June 21, 2001, the Commission will tour Lower Willamette River clean-up sites and the Gresham Wastewater Treatment Plant. On Thursday evening, the Commission will dine with local stakeholders to discuss Sandy River Basin watershed issues at McMenamins Edgefield in Troutdale.

**Friday, June 22, 2001** Beginning at 8:30 a.m.

The Commission will hold an executive session at 8:00 a.m. to consult with counsel concerning legal rights and duties with regard to current litigation, including GASP et al v. EQC et al and Northwest Environmental Advocates v. EPA and NMFS, and potential litigation against the Department relating to the NPDES Permit Program and Umatilla Chemical Depot. Executive session is held pursuant to ORS 192.660(1)(h). Only representatives of the media may attend but will not be allowed to report on any deliberations during the session.

- A. Action Item: Contested Case Hearing: True Line Trenching and Boring
- B. †Rule Adoption: Title V Permitting Program CPI Fee Increase
- C. †Rule Adoption: Underground Injection Control Rules
- D. Action Item: Mid County Sewer Project: Final Report by Gresham and Portland
- E. †Emergency Rule Adoption: Emergency On Site Fee Rules
- F. Director's Report
- G. Consideration of Tax Credit Requests
- H. Discussion Item: Development of Performance Appraisal Process for Director
- I. Approval of Minutes
- J. Commissioners' Reports

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

**Note:** Because of the uncertain length of time needed for each agenda item, the Commission may hear any item at any time during 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 participants agree. Those wishing to hear discussion of an item should arrive at the beginning of the meeting to avoid missing the item.

**Public Forum:** The Commission will break the meeting at approximately 11:30 a.m. on Friday, June 22, 2001 for public forum if people are signed up to speak. Public forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not part of the agenda for this meeting. Individual presentations will be limited to five minutes. The Commission may discontinue public forum after a reasonable time if a large number of speakers wish to appear. Public comment periods for Rule Adoption items have closed and, in accordance with ORS 183.335(13), no comments may be presented to the Commission on those agenda items.

The next Commission meeting is scheduled for August 9-10, 2001, in Joseph, 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 503-229-5301, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting reports. 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.

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 28, 2001

**To:** Environmental Quality Commission

**From:** Stephanie Hallock, Director *S. Hallock*

**Subject:** Agenda Item A, Contested Case No. 38051 regarding George H. and Erica N. True dba True Line Trenching and Boring (True Line), June 22, 2001 EQC Meeting

**Appeal to EQC** True Line petitioned for Commission review of a Hearing Order (Attachment E) dated January 16, 2001, which held DEQ correctly determined that True Line failed to renew its sewage disposal business license in a timely manner, and as a result, DEQ properly proposed to refuse renewal of that license.

**Background** Findings of fact made by the Hearings Officer are summarized as follows:

True Line operates a sewage disposal business in Hood River, Oregon, and received a sewage disposal license from DEQ, effective October 4, 1999, and expiring June 30, 2000. About 30 days before the June 30 expiration, DEQ mailed True Line a license renewal application form, stating the renewal fee of \$400 if the application was submitted by June 30 and \$800 if submitted July 1 or later.

On July 5, 2000, True Line notified DEQ that it misplaced the renewal form. DEQ faxed and mailed the form to True Line and informed appellants that an \$800 fee was required for license renewal because the license expired effective July 1. True Line completed and mailed the renewal form to DEQ on July 5 with a check for \$400 and a note that it was appealing the balance due. DEQ received and processed the \$400 check on July 10. Although the renewal form submitted by True Line was dated June 30, 2000, the Hearings Officer found that this form was backdated (Attachment E).

On July 31, 2000, DEQ notified True Line that its license would not be renewed because it did not submit a complete renewal application prior to the July 1 deadline, unless True Line requested a hearing within 60 days of the notice date (Attachment E1). The notice provided for continuation of True Line's license if a hearing request was received within the 60 day period. True Line requested a hearing on September 13, 2000. A contested case hearing was held December 4, 2000, and the Hearings Officer issued the Order January 16, 2001.

True Line's appeal to the Commission was filed February 8, 2001. True Line failed to submit its Exceptions and Brief to the Commission within 30 days as

required by OAR 340-011-0132(3)(a). Without request from True Line, DEQ granted True Line an extension until April 3, 2001, to file Exceptions and Brief (Attachment C). To date, True Line has not filed Exceptions or Brief and has verbally informed DEQ that it does not intend to file these documents.

The Department filed its Brief to the Commission on May 2, 2001 (Attachment B).

**EQC  
Authority**

The Commission has the authority to hear this appeal under OAR 340-011-0132.

**Alternatives**

The Commission may:

1. Uphold the Hearing Order and make a minor (insubstantial) modification clarifying the Order as proposed by the Department. The modification would clarify that DEQ was not legally required to deem True Line's license effective pending the outcome of this appeal under ORS 183.430. ORS 183.430(1) states that where a licensee has made a timely application for renewal, the license will not be deemed to expire until the agency makes a formal grant or denial of that application. The Hearings Officer found that True Line failed to make a timely renewal application, and that DEQ complied with ORS 183.430 in proposing refusal of license renewal in its July 31, 2000 notice. Together, these findings create the possibility that the Order could be interpreted to mean DEQ is required to extend the effectiveness of a license pending the outcome of an appeal, contrary to the express language of ORS 183.430. The Department requests the Commission uphold and clarify the Order with modifications identified on pages 4 and 5 of its Brief (Attachment B). This would result in revocation of True Line's license upon the date the Commission enters its Order, and would avoid creating precedent that DEQ must deem a license valid where the licensee has failed to timely renew its license.
2. Uphold the Hearing Order with no modification or clarification. This would result in True Line's license being revoked as of the date the Commission enters its Order. As discussed above, however, entry of the Order in its present form may create precedent that DEQ must, under ORS 183.430, deem a license effective where the licensee has not made timely application for renewal.
3. Dismiss True Line's appeal. The Commission has the authority to dismiss True Line's appeal because it failed to file Exceptions and Brief as required by OAR 340-011-0132(3)(a). *See* OAR 340-011-0132(3)(f) ("[t]he Commission may dismiss any Petition if the Petitioner fails to timely file and serve any exceptions and brief required by this rule"). Dismissal of the appeal would result in the Order becoming final immediately upon dismissal, and would render True Line's license ineffective upon dismissal. As



discussed above, however, dismissing the appeal would have the effect of making the Order final in its present form, and may create precedent that DEQ must, under ORS 183.430, deem a license effective where the licensee has not made timely application for renewal.

4. Reverse or substantially modify the Hearing Order. The Commission has the authority to reverse or substantially modify the Order, although this has not been requested by DEQ or True Line. Limitations on the Commission's authority to reverse or substantially modify the Order are detailed below.

The Commission is reviewing the Order, including the recommended findings of fact and conclusions of law, and may substitute its judgment for that of the Hearings Officer except as noted below.<sup>1</sup> The Order was issued under 1999 statutes and rules for the Hearings Officer Panel Pilot Project,<sup>2</sup> which require contested case hearings to be conducted by a hearing officer appointed to the panel. The Commission's authority to review and reverse the Hearing Officer's decision is limited by the statutes and rules of the Department of Justice that implement the project.<sup>3</sup>

The most important limitations are as follows:

1. The Commission may not modify the form of the Order in any substantial manner without identifying and explaining the modifications.<sup>4</sup>
2. The Commission may not modify a recommended finding of historical fact unless it finds that the recommended finding is not supported by a preponderance of the evidence.<sup>5</sup> Accordingly, the Commission may not modify any historical fact unless it has reviewed the entire record or at least all portions of the record that are relevant to the finding.
3. The Commission may not consider any new or additional evidence, but may only remand the matter to the Hearing Officer to take the evidence.<sup>6</sup>

Rules implementing the 1999 statutes also have more specific provisions for how Commissioners must declare and address any ex parte communications and potential or actual conflicts of interest.<sup>7</sup>

In addition, a number of procedural provisions are established by the Commission's own rules. These include:

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<sup>1</sup> OAR 340-011-0132.

<sup>2</sup> Or Laws 1999 Chapter 849.

<sup>3</sup> *Id.* at § 5(2); § 9(6).

<sup>4</sup> *Id.* at § 12(2).

<sup>5</sup> *Id.* at § 12(3). A historical fact is a determination that an event did or did not occur or that a circumstance or status did or did not exist either before or at the time of the hearing.

<sup>6</sup> *Id.* at § 8; OAR 137-003-0655(4).

<sup>7</sup> OAR 137-003-0655(5); 137-003-0660.

1. The Commission will not consider matters not raised before the hearing officer unless it is necessary to prevent a manifest injustice.<sup>8</sup>
2. The Commission will not remand a matter to the Hearing Officer to consider new or additional facts unless the proponent of the new evidence has properly filed a written motion explaining why evidence was not presented to the Hearing Officer.<sup>9</sup>

**Attachments**

- A. Letter from Mikell O'Mealy, May 18, 2001
- B. Department's Brief on Appeal, May 2, 2001
- C. Letter from Mikell O'Mealy, March 20, 2001
- D. Petition for Commission Review, February 6, 2001
- E. Hearing Decision and Proposed Order on Case No. 38051, January 16, 2001
- F. Exhibits from Hearing of December 4, 2000
  1. Hearing Brief of Department, November 29, 2000
    - A. Sewage Disposal License No. 38051
    - B. Note from Erica True, July 5, 2000
    - C1. Sewage Disposal License Application
    - C2. Note from True Line Appealing Balance Due
    - C3. Copy of Envelope from True Line
    - D1. Notice of Incomplete License Renewal Application, July 17, 2000
    - E1. Letter from Susan Greco, July 31, 2000
  101. Hearing Brief of Appellant
  102. Telephone Record of Appellant
    - A. Notice of Contested Case Rights and Procedures
    - B. Request for Hearing, September 13, 2000
    - C. Amended Notice of Proposed Refusal to Renew Sewage Disposal License No. 38051, November 7, 2000
    - D. Notice of Hearing, November 17, 2000
    - E. Amended Notice of Hearing, November 22, 2000

**Available  
Upon Request**

OAR Chapter 340, Division 11; OAR 340-071-0600; OAR 340-071-0140.

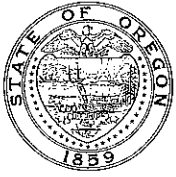
Report Prepared By: Mikell O'Mealy  
Assistant to the Commission

Phone: (503) 229-5301

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<sup>8</sup> OAR 340-011-132(3)(a).

<sup>9</sup> *Id.* at (4).



# Oregon

John A. Kitzhaber, M.D., Governor

Attachment A

## Department of Environmental Quality

811 SW Sixth Avenue  
Portland, OR 97204-1390  
(503) 229-5696  
TTY (503) 229-6993

May 18, 2001

Via Certified Mail

George H. True  
True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River, OR 97031-9432

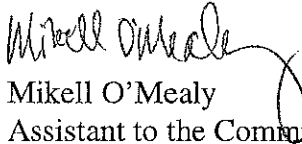
RE: Appeal to Environmental Quality Commission

The appeal in the above referenced matter has been set for the regularly scheduled Environmental Quality Commission meeting on Friday, June 22, 2001. The matter will be heard in the regular course of the meeting. The meeting will be held at the Gresham City Council Chambers Building, 1333 NW Eastman Parkway, Gresham, OR 97030 (across from Gresham City Hall). As soon as the agenda and record is available, I will forward the same to you.

Oral arguments by each party will be allowed at the meeting. Each party will be allowed 5 minutes for opening arguments, followed by 5 minutes of rebuttal and 2 minutes for closing arguments.

If you should have any questions or should need special accommodations, please feel free to call me at (503) 229-5301 or (800) 452-4011 ex. 5301 within the state of Oregon.

Sincerely,



Mikell O'Mealy  
Assistant to the Commission

Cc: Justin Wirth, Department of Justice  
Sherman Olson, Department of Environmental Quality

HARDY MYERS  
Attorney General

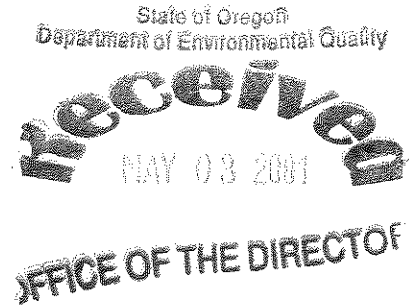


Attachment B

PETER D. SHEPHERD  
Deputy Attorney General

DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

May 2, 2001



BY FAX AND REGULAR MAIL

Mikell O'Mealy  
Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, OR 97204-1390

Re: *In the Matter of: George H. True and Erica N. True, dba True Line Trenching  
and Boring*  
DOJ File No. 340310-GN0410-00

Dear Ms. O'Mealy:

Enclosed for filing is Brief of the Department of Environmental Quality on Appeal to the Environmental Quality Commission. I am also faxing this to you to ensure a timely filing.

Sincerely,

Justin Wirth  
Assistant Attorney General  
Natural Resources Section

JXW:cad/GEN82937

Enclosure

c: (by fax and by mail): George True

c: (by mail) Sherman Olson

Ed Woods



1 unilaterally extended True Line's time to file its Exceptions and Brief to April 3, 2001. Attached  
2 hereto as Exhibit A is a true copy of a March 20, 2001 letter from Mikell O'Meally, DEQ Rules  
3 Coordinator, to True Line extending True Line's time to file its Exceptions and Brief to April 3,  
4 2001. True Line has informed DEQ that it will not be filing any Exceptions, Brief, or any other  
5 document. Nonetheless, True Line insists on the EQC hearing this matter. Therefore, DEQ  
6 submits this Brief to the Commission for its consideration.

7  
8 **ARGUMENT ON APPEAL**

9 I. THE COMMISSION SHOULD DISMISS TRUELINE'S APPEAL BECAUSE  
10 IT HAS FAILED TO FILE ITS EXCEPTIONS AND BRIEF AS REQUIRED BY DEQ'S  
11 RULES

12 OAR 340-011-0132(3)(a) states that within "30 days from the filing of the Petition [for  
13 Review by EQC], the Petitioner *must* file with the Commission \* \* \* written exceptions, brief  
14 and proof of service." (Emphasis added). The Commission has the discretion to dismiss a  
15 Petition for Review for failure to file the required Exceptions and Brief. OAR 340-011-  
16 0132(3)(f) ("[t]he Commission may dismiss any Petition if the Petitioner fails to timely file and  
17 serve any exceptions and brief required by this rule.")

18 This case presents an appropriate situation for dismissal of a Petition. The heart of this  
19 case is True Line's failure to timely file for a renewal of its license. In its dealings with True  
20 Line, DEQ has twice shown extraordinary lenience in dealing with True Line's failure to act in a  
21 timely manner. True Line, however, has steadfastly failed and refused to comply with the law.  
22 First, DEQ allowed True Line to continue to operate its sewage disposal business, while the  
23 contested case was underway. As explained below, DEQ complied with ORS 183.430 allowing  
24 True Line's license to remain effective if it requested a hearing, even though, under the facts of  
25 this case, it was not required to do so.

26 ///

1 Second, True Line has now failed to file Exceptions and its Brief as required by law.  
2 OAR 340-011-0132(3)(f). DEQ gave True Line until April 3, 2001 to file these documents,  
3 without receiving any extension request from True Line. But, True Line has failed to file any  
4 documents whatsoever. Since True Line's license remains effective until the Commission enters  
5 a Final Order, True Line has no interest in expediting these proceedings. Indeed, True Line  
6 apparently recognizes that if it is able to delay these proceedings long enough, it will escape  
7 liability for the payment of the full fee to "renew" its license based on its untimely filing. The  
8 Hearing Officer found that this untimely filing resulted from True Line's misplacement of its  
9 application form, and failure to pay attention to the deadline for renewing its license. *See*  
10 Proposed Order, p.2, finding of Fact No. 8 and Proposed Order, p.4 (copy attached as Exhibit B).  
11 Since the Commission will hear this matter at its June 21-22, 2001 meeting, and the next renewal  
12 of True Line's license is due on June 30, 2001, it appears likely that, unless the Commission acts  
13 with great alacrity, True Line will have avoided all consequences for filing its late "renewal."  
14 The Commission should not permit this result. Instead, the Commission should dismiss True  
15 Line's Appeal, and immediately enter the Hearing Officer's Proposed Order as final (with the  
16 minor modification discussed below). Immediate dismissal of True Line's Appeal would at least  
17 mean that True Line will be unlicensed until the next renewal period, beginning on July 1, 2001,  
18 unless it pays the outstanding balance of \$400.

19

20 II. THE COMMISSION SHOULD AFFIRM THE HEARING OFFICER'S  
21 PROPOSED ORDER WITH ONE MINOR CLARIFICATION

22 The Hearing Officer's Hearing Decision and Proposed Order contains extensive findings  
23 of fact and conclusions of law accurately representing the facts and law applicable to this case.  
24 The Decision and Proposed Order are, in DEQ's analysis, correct. Because True Line has not  
25 filed any exceptions to the Decision and Proposed Order, DEQ will not rehash the findings and  
26 reasoning of the Hearing Officer in this brief, but submits that the Commission should affirm the

1 Decision and Proposed Order, with one minor clarification discussed below. For the  
2 Commission's convenient reference, a copy of the Hearing Officer's Decision and Proposed  
3 Order is attached hereto as Exhibit B.

4 DEQ believes that one point of clarification and minor change to the Decision and  
5 Proposed Order is, however, appropriate. On the bottom of page 3 and the top of page 4 of the  
6 Decision and Proposed Order, there is discussion of DEQ's compliance with ORS 183.430(1).  
7 That statute provides, in pertinent part:

8 In the case of any license which must periodically be renewed, *where the licensee*  
9 *has made a timely application for renewal in accordance with the rules of the*  
10 *agency, such license shall not be deemed to expire, despite any stated expiration*  
*thereon, until the agency concerned has issued a formal order of grant or denial of*  
*such renewal. [Emphasis added]*

11 The Decision and Proposed Order correctly states that DEQ complied with this  
12 provision. The Decision and Proposed Order does not make clear, however, that DEQ's  
13 compliance with this provision was not required by law under the facts of this case. The  
14 language emphasized above makes clear that DEQ need not deem a license valid where  
15 there has been no timely application for renewal. In the fourth paragraph under the  
16 heading "Conclusions and Reasons" (page 3 of the Hearing Officer's Decision and  
17 Proposed Order) makes clear that the earliest date that True Line's renewal could  
18 possibly be considered to be submitted was July 5, 2000, five days after True Line's  
19 license expired both by its own terms, and as provided by law (citing OAR 340-071-  
20 0600(1) and OAR 340-071-0140(1)(h)(A) and (B)).

21 In order to make clear that DEQ is not required to comply with ORS 183.430(1)  
22 where no timely application for renewal is received before expiration (as occurred in this  
23 case), DEQ requests that the following modifications be made to the Hearing Officer's  
24 Decision and Proposed Order:

25 First, following the first sentence on the top of page 4 of the Hearing Officer's  
26 Decision and Proposed Order insert the text:



1 Respondents did not timely renew their license. Nonetheless,  
2 Second, delete the period ending the last sentence of the first paragraph on page 4

3 of the Hearing Officer's Decision and Proposed Order and add the text:

4 , even though it was not required to do so since the license expired, and the  
5 renewal application was not timely made "in accordance with the rules of the  
6 agency." ORS 183.430(1).

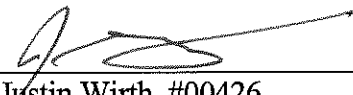
7 **CONCLUSION**

8 For the foregoing reasons, DEQ respectfully requests that the Commission  
9 dismiss True Line's appeal, and modify the Hearing Officer's Decision and Proposed  
10 Order as identified above.

11 DATED this 2nd day of May, 2001.

12 Respectfully submitted,

13  
14 HARDY MYERS  
Attorney General

15  
16   
17 Justin Wirth, #00426  
Assistant Attorney General

CERTIFICATE OF SERVICE


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I hereby certify that on the 2nd day of May, 2001, I served an original of the BRIEF OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY ON APPEAL TO THE ENVIRONMENTAL QUALITY COMMISSION upon Mikell O'Mealy, Department of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390, by facsimile and by first class mail, and a copy thereof by first class mail addressed to:

True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River, OR 97031-9432

Sherman Olson  
Ed Woods  
Department of Environmental Quality  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204-1334

DATED this 3rd day of May, 2001.

  
Justin Wirth, #00426  
Assistant Attorney General



# Oregon

John A. Kitzhaber, M.D., Governor

March 20, 2001

Department of Environmental Quality

811 SW Sixth Avenue

Portland, OR 97204-1390

(503) 229-5696

TTY (503) 229-6993

George H. True  
True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River OR97031-9432

RE: Appeal to Environmental Quality Commission

Dear Mr. True:

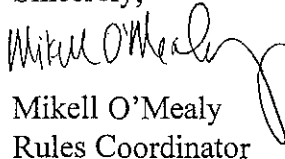
On February 6, 2001, the Environmental Quality Commission received your timely request for administrative review by the Commission.

The hearings decision for this case outlined appeal procedures, including filing of exceptions and briefs. As stated in the hearing decision and pursuant to OAR 340-011-0132, you must file exceptions and brief within thirty days from the filing of the request. The exceptions should specify those findings and conclusions that you object to and include alternative proposed findings. As of the date of this notice, the Department has not received your exceptions and brief and is extending your opportunity to provide these materials for two weeks (April 3, 2001). Once your exceptions have been received, or, if no exceptions have been received by April 3, 2001, the Department will file its answer brief within 30 days. I have enclosed a copy of the applicable administrative rules.

To file exceptions and briefs, please send to Mikell O'Mealy, on behalf of the Environmental Quality Commission, at 811 S.W. 6th Avenue, Portland, Oregon, 97204 with copies to Justin Wirth, Department of Justice, 1162 Court Street N.E., Salem, Oregon 97310.

After the parties file exceptions and briefs, this item will be set for Commission consideration at a regularly scheduled Commission meeting, and the parties will be notified of the date and location. If you have any questions on this process, or need additional time to file exceptions and briefs, please call me at 229-5301 or (800) 452-4011 ext. 5301 within the state of Oregon.

Sincerely,

  
Mikell O'Mealy  
Rules Coordinator

cc: Justin Wirth, Department of Justice

RECEIVED  
MAR 28 2001

NATURAL RESOURCES  
DEPT. OF JUSTICE

EXHIBIT   A    
PAGE   1  



DEQ-1

## Oregon Administrative Rules 340-011-0132

### Alternative Procedure for Entry of a Final Order in Contested Cases Resulting from Appeal of Civil Penalty Assessments

- (1) Commencement of Review by the Commission:
  - (a) Copies of the hearing officer's Order will be served on each of the participants in accordance with OAR 340-011-0097. The hearing officer's Order will be the final order of the Commission unless within 30 days from the date of service, a participant or a member of the Commission files with the Commission and serves upon each participant a Petition for Commission Review. A proof of service should also be filed, but failure to file a proof of service will not be a ground for dismissal of the Petition.
  - (b) The timely filing of a Petition is a jurisdictional requirement and cannot be waived.
  - (c) The timely filing of a Petition will automatically stay the effect of the hearing officer's Order.
  - (d) In any case where more than one participant timely serves and files a Petition, the first to file will be the Petitioner and the latter the Respondent.
- (2) Contents of the Petition for Commission Review. A Petition must be in writing and need only state the participant's or a Commissioner's intent that the Commission review the hearing officer's Order.
- (3) Procedures on Review:
  - (a) Petitioner's Exceptions and Brief: Within 30 days from the filing of the Petition, the Petitioner must file with the Commission and serve upon each participant written exceptions, brief and proof of service. The exceptions must specify those findings and conclusions objected to, and also include proposed alternative findings of fact, conclusions of law, and order with specific references to the parts of the record upon which the Petitioner relies. Matters not raised before the hearing officer will not be considered except when necessary to prevent manifest injustice.
  - (b) Respondent's Brief: Each participant will have 30 days from the date of filing of the Petitioner's exceptions and brief, in which to file with the Commission and serve upon each participant an answering brief and proof of service. If multiple Petitions have been filed, the Respondent must also file exceptions as required in (3)(a) at this time.
  - (c) Reply Brief: Each participant will have 20 days from the date of filing of a Respondent's brief, in which to file with the Commission and serve upon each participant a reply brief and proof of service.
  - (d) Briefing on Commission Invoked Review: When one or more members of the Commission wish to review a hearing officer's Order, and no participant has timely filed a Petition, the Chairman will promptly notify the participants of the issue that the Commission desires the participants to brief. The Chairman will also establish the schedule for filing of briefs. The participants must limit their briefs to those issues. When the Commission wishes to review a hearing officer's Order and a participant also requested review, briefing will follow the schedule set forth in subsections (a), (b), and (c) of this section.
  - (e) Extensions: The Chairman or the Director, may extend any of the time limits contained in this rule except for the filing of a Petition under subsection (1) of this rule. Each extension request must be in writing and be served upon each participant. Any request for an extension may be granted or denied in whole or in part.

- (f) Dismissal: The Commission may dismiss any Petition if the Petitioner fails to timely file and serve any exceptions or brief required by this rule.
- (g) Oral Argument: Following the expiration of the time allowed the participants to present exceptions and briefs, the Chairman will schedule the appeal for oral argument before the Commission.
- (4) Additional Evidence: A request to present additional evidence will be submitted by motion and be accompanied by a statement specifying the reason for the failure to present the evidence to the hearing officer. If the Commission grants the motion or decides on its own motion that additional evidence is necessary, the matter will be remanded to a hearing officer for further proceedings.
- (5) Scope of Review: The Commission may substitute its judgment for that of the hearing officer in making any particular finding of fact, conclusion of law, or order except as limited by OAR 137-003-0665.

Stat. Auth.: ORS 183.335 & ORS 468.020

Stats. Implemented: ORS 183.430 & ORS 183.435

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 115, f. & ef. 7-6-76; DEQ 25-1979, f. & ef. 7-5-79; DEQ 7-1988, f. & cert. ef. 5-6-88; DEQ 1-2000(Temp), f. 2-15-00, cert. ef. 2-15-00 thru 7-31-00; DEQ 9-2000, f. & cert. ef. 7-21-00

Ref No.: G60416  
Case No: 01-GAP-00008  
Case Type: DEQ

STATE OF OREGON  
Before the Hearing Officer Panel  
For the  
DEPT OF ENVIRONMENTAL QUALITY  
875 Union Street NE  
Salem, Oregon 97311

Dec Mailed: 01/16/01  
Mailed by: SLS

**HEARING DECISION**

TRUE LINE TRENCHING AND BORING  
4120 BARTLETT DR

HOOD RIVER OR 97031 9432

DEPT OF ENVIRONMENTAL QUALITY  
811 SW 6TH AVE

PORTLAND OR 97204 1334

JUSTIN WIRTH  
ASST ATTORNEY GENERAL  
1162 COURT ST NE  
SALEM OR 97310 1320

SUSAN GRECO

The following **HEARING DECISION** was served to the parties at their respective addresses.

RECEIVED  
JAN 17 2001

NATURAL RESOURCES  
DEPT OF JUSTICE

EXHIBIT B  
PAGE 1

**STATE OF OREGON  
BEFORE THE HEARING OFFICER PANEL  
FOR THE ENVIRONMENTAL QUALITY COMMISSION**

IN THE MATTER OF:	)	
	)	PROPOSED ORDER
George H. True and Erica N. True,	)	AGENCY CASE NO. 38051
dba True Line Trenching and Boring,	)	
	)	
Respondents.	)	

**HISTORY OF THE CASE**

The Department of Environmental Quality (DEQ) issued a letter to respondents on July 31, 2000, informing them that DEQ had refused their request to renew license no. 38051 because respondents failed to submit a completed renewal application prior to the expiration date of July 1, 2000 for their license, as required by OAR 340-071-0660(1) (*sic*) and 340-071-0140(1)(h).

On September 18, 2000 respondents requested a hearing on DEQ's decision not to renew their license.

On November 8, 2000 the assistant attorney general representing DEQ informed respondents in writing that the reference in the July 31, 2000 letter to them from DEQ to "OAR 340-071-0660(1)," should read "OAR 340-071-0600(1)."

A hearing was held in Portland, Oregon on December 4, 2000 before Ken L. Betterton, hearing officer. Justin Wirth, assistant attorney general, represented DEQ. George H. True appeared *pro se*. Sherman Olson testified as a witness for DEQ. George H. True testified on his own behalf. The hearing officer closed the record and took the case under advisement on December 4, 2000.

**ISSUE**

Did respondents sewage disposal license expire because they failed to renew the license as required by OAR 340-071-0600(1) and 340-071-0140(1)(h)?

**FINDINGS OF FACT**

(1) George H. True and Erica N. True, dba True Line Trenching and Boring, operate a sewage disposal business in Hood River, Oregon. (2) The Trues first applied for and received a sewage disposal license from DEQ effective October 4, 1999. (3) Their license states that it expired on June 30, 2000. (4) All sewage disposal licenses from DEQ expire annually on June 30, and must be renewed for the next July 1 through June 30 period. (5) Each year about 30 days prior to June 30,

DEQ mails each licensee in the state an Application for Renewal of Sewage Disposal Service License form for the licensee to renew its license. (6) The application for renewal form states that the fee is "\$400 if received by 6-30-00, and \$800 if received 7-1-00 or after."

(7) The Trues did not renew their license by the June 30, 2000 deadline because they had misplaced their renewal form. (8) On Wednesday, July 5, 2000, Erica True telephoned the DEQ office in Portland to report that she and her husband had misplaced their license renewal form, and requested another form. (9) A DEQ employee simultaneously faxed and mailed a copy of the renewal form to the Trues, and told Erica True that the fee would be \$800 for a new license, not the \$400 for a renewal fee, because the Trues had not renewed their license by the June 30 deadline. (10) The Trues telephoned DEQ 11 times on July 5 to talk to various managers about the renewal form and the fee to renew their license.

(11) The Trues completed the application form on July 5, 2000, and mailed the form to DEQ with their check for \$400 for the renewal fee, together with a note that they were appealing the "balance due." (12) The envelope containing the Trues' application form and check is postmarked July 5, 2000.

(13) DEQ received the envelope on July 10, 2000 and processed the Trues' \$400 check.

(14) DEQ mailed the Trues a letter on July 31, 2000, informing them that DEQ would not renew their license because they did not submit their application prior to the expiration date of July 1, 2000. (15) The July 31 letter informed respondents that the decision not to renew their license would become effective 60 days from the date of the letter, unless within that time respondents requested a hearing. (16) If respondents requested a hearing, their license would not expire until DEQ issued an order to grant or deny the renewal. (17) Respondents have had the right to continue to operate their business pending the outcome of their appeal.

(18) DEQ offices were open for business on Monday, July 3, 2000. (19) DEQ offices were closed on Tuesday, July 4, 2000, Independence Day, a national holiday.

#### ULTIMATE FINDINGS OF FACT

Respondents' license expired because they failed to renew their license by the deadline as provided in DEQ's administrative rules.

#### APPLICABLE LAW

DEQ's administrative rule OAR 340-071-0600(1) provides:

"No person shall perform sewage disposal services or advertise or represent himself/herself as being in the business of performing such services without first obtaining a business license from the Department. Unless suspended or revoked at an earlier date, a Sewage Disposal Service business license issued pursuant to this rule expires on July 1 next following the date of issuance. \* \* \*"

EXHIBIT B  
PAGE 3



The license fees for sewage disposal service are as follows: New Business License -- \$800 (OAR 340-071-0140(1)(h)(A); and Renewal of Existing and Valid Business License -- \$400 (OAR 340-071-0140(1)(h)(B).

### CONCLUSIONS AND REASONS

DEQ takes the position that respondents' license expired effective July 1, 2000 because respondents failed to renew their license by June 30, 2000, and that respondents need to pay the \$800 fee to obtain a new license.

Respondents contend that their license should be renewed because it submitted an application form and a check for \$400, that DEQ has not defined whether an application form should be "received" or "postmarked" by a certain date, and that DEQ should accept "equitable remedies."

OAR 340-071-0600(1) states that a sewage disposal license expires on the July 1 following the date of issue. The fee to renew an existing and valid sewage disposal business license is \$400. OAR 340-071-0140(1)(h)(B). The license DEQ issued to respondents on October 4, 1999 informed them that the license period ran from July 1, 1999 through June 30, 2000, and that their license expired on June 30, 2000. The application form DEQ sent respondents about 30 days prior to June 30, 2000 informed them, as well as all applicants or licensees receiving the form, that the fee for renewal would be \$400 if the application were received by June 30, 2000, and \$800 if received July 1, 2000 or later. DEQ rules provide that a license must be renewed prior to July 1. Respondents had ample notice as to the rules and procedures for timely renewing their license.

DEQ has no administrative rule that addresses whether an application form postmarked June 30, with a \$400 check, would be accepted as a timely renewal. In the absence of such a postmark rule, a reading of OAR 340-071-0600(1) and OAR 340-071-0140(1)(h)(A) and (B) supports the conclusion that an application for renewal must be received by June 30 to be timely. While DEQ may have allowed on one occasion an application with a postmark of June 30 as timely (see Exhibit 1-D-1), respondents application form bears a postmark of July 5, 2000, five days later.<sup>1</sup>

Respondents cite ORS 183.430 in support of their case. ORS 183.430 provides:

"(1) In the case of any license which must be periodically renewed, where the licensee has made timely application for renewal in accordance with the rules of the agency, such license shall not be deemed to expire, despite any stated expiration date thereon, until the agency concerned has issued a formal order of grant or denial of such renewal. In case an agency proposes to refuse to renew such license, upon demand of the licensee, the agency must grant hearing as provided by ORS 183.310 to 183.550 before issuance of order of refusal to renew.  
\* \* \*"

"\* \* \* \*"

<sup>1</sup> Although respondents' completed application form is dated June 30, 2000, it is clearly backdated. Respondents telephoned DEQ on July 5, 2000 to report they had lost their application form and requested another one--the one DEQ faxed to them and the one they completed on July 5.

Of course, the issue in this case is whether respondents timely renewed their license. DEQ's July 31, 2000 letter to respondents states that the department's decision not to renew their license would become effective 60 days after the date of the letter, unless they requested a hearing. In the event they requested a hearing, their license would not expire until DEQ issues an order of grant or denial of the renewal. That is precisely what has happened in this case. Respondents requested a hearing and DEQ has stayed its decision to consider respondents' license as expired pending the outcome of this hearing and DEQ's final order. Respondents have had the right to continue operating their business pending the outcome of their appeal. DEQ has complied with ORS 183.430.

Respondents are looking for equity and relief because they misplaced their application form and did not pay close attention to the deadline for renewing their sewage disposal license. Understandably they do not want to pay another \$400 to obtain a valid license. However, if respondents' application is accepted as a valid renewal when they submitted their application several days late, must DEQ then accept application forms submitted, for example, on August 24, or September 10, or October 18? DEQ has the statutory responsibility to license and regulate sewage disposal businesses to protect the public. If licensees could submit their renewal applications late, at their convenience, DEQ's regulatory responsibilities would be undermined.

Respondents' sewage disposal license expired effective July 1, 2000 without a timely renewal. They must pay a total of \$800 to obtain a new license, if they wish to be licensed.

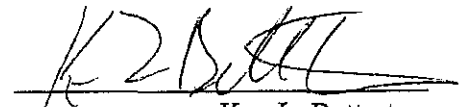
Respondents also request relief for other Oregon sewage disposal licensees who purportedly have paid an additional \$400 for not renewing their licenses timely. Those other licensees are not parties to this proceeding. The hearing officer has no authority to grant relief or even address claims of individuals or businesses not a party to this matter.

### ORDER

DEQ decided correctly in its July 31, 2000 letter that respondents did not renew their application for license renewal prior to the expiration date of July 1, 2000.

ENVIRONMENTAL QUALITY COMMISSION

Dated this 16<sup>th</sup> day of January 2001



Ken L. Betterton  
Hearing Officer

EXHIBIT B  
PAGE 5

### Appeal Procedures

If you are not satisfied with this decision, you have the right to have the decision reviewed by the Oregon Environmental Quality Commission. To have the decision reviewed, you must file a "Petition for Review" within 30 days of the date this order is served on you as provided in Oregon Administrative Rule (OAR) 340-011-0132(1) and (2). The Petition for Review must be filed with:

Stephanie Hallock, Director  
**Department of Environmental Quality**  
811 SW Sixth Avenue  
Portland, OR 97204.

Within 30 days of filing the Petition for Review, you must also file exceptions and a brief as in provided in OAR 132-011-0132(3). If the petition, exceptions and brief are filed in a timely manner, the Commission will set the matter for oral argument and notify you of the time and place of the Commission's meeting. The requirements for filing a petition, exceptions and briefs are set out in OAR 340-011-0132.

Unless you timely and appropriately file a Petition for Review as set forth above, this Proposed Order becomes the Final Order of the Environmental Quality Commission 30 days from the date of service on you of this Proposed Order. If you wish to appeal the Final Order, you have 60 days from the date the Proposed Order becomes the Final Order to file a petition for review with the Oregon Court of Appeals. *See* ORS 183.400 et. seq.



# Oregon

John A. Kitzhaber, M.D., Governor

March 20, 2001

## Department of Environmental Quality

811 SW Sixth Avenue  
Portland, OR 97204-1390  
(503) 229-5696  
TTY (503) 229-6993

George H. True  
True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River OR97031-9432

RE: Appeal to Environmental Quality Commission

Dear Mr. True:

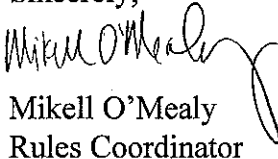
On February 6, 2001, the Environmental Quality Commission received your timely request for administrative review by the Commission.

The hearings decision for this case outlined appeal procedures, including filing of exceptions and briefs. As stated in the hearing decision and pursuant to OAR 340-011-0132, you must file exceptions and brief within thirty days from the filing of the request. The exceptions should specify those findings and conclusions that you object to and include alternative proposed findings. As of the date of this notice, the Department has not received your exceptions and brief and is extending your opportunity to provide these materials for two weeks (April 3, 2001). Once your exceptions have been received, or, if no exceptions have been received by April 3, 2001, the Department will file its answer brief within 30 days. I have enclosed a copy of the applicable administrative rules.

To file exceptions and briefs, please send to Mikell O'Mealy, on behalf of the Environmental Quality Commission, at 811 S.W. 6th Avenue, Portland, Oregon, 97204 with copies to Justin Wirth, Department of Justice, 1162 Court Street N.E., Salem, Oregon 97310.

After the parties file exceptions and briefs, this item will be set for Commission consideration at a regularly scheduled Commission meeting, and the parties will be notified of the date and location. If you have any questions on this process, or need additional time to file exceptions and briefs, please call me at 229-5301 or (800) 452-4011 ext. 5301 within the state of Oregon.

Sincerely,

  
Mikell O'Mealy  
Rules Coordinator

cc: Justin Wirth, Department of Justice

## Oregon Administrative Rules 340-011-0132

### Alternative Procedure for Entry of a Final Order in Contested Cases Resulting from Appeal of Civil Penalty Assessments

- (1) Commencement of Review by the Commission:
  - (a) Copies of the hearing officer's Order will be served on each of the participants in accordance with OAR 340-011-0097. The hearing officer's Order will be the final order of the Commission unless within 30 days from the date of service, a participant or a member of the Commission files with the Commission and serves upon each participant a Petition for Commission Review. A proof of service should also be filed, but failure to file a proof of service will not be a ground for dismissal of the Petition.
  - (b) The timely filing of a Petition is a jurisdictional requirement and cannot be waived.
  - (c) The timely filing of a Petition will automatically stay the effect of the hearing officer's Order.
  - (d) In any case where more than one participant timely serves and files a Petition, the first to file will be the Petitioner and the latter the Respondent.
- (2) Contents of the Petition for Commission Review. A Petition must be in writing and need only state the participant's or a Commissioner's intent that the Commission review the hearing officer's Order.
- (3) Procedures on Review:
  - (a) Petitioner's Exceptions and Brief: Within 30 days from the filing of the Petition, the Petitioner must file with the Commission and serve upon each participant written exceptions, brief and proof of service. The exceptions must specify those findings and conclusions objected to, and also include proposed alternative findings of fact, conclusions of law, and order with specific references to the parts of the record upon which the Petitioner relies. Matters not raised before the hearing officer will not be considered except when necessary to prevent manifest injustice.
  - (b) Respondent's Brief: Each participant will have 30 days from the date of filing of the Petitioner's exceptions and brief, in which to file with the Commission and serve upon each participant an answering brief and proof of service. If multiple Petitions have been filed, the Respondent must also file exceptions as required in (3)(a) at this time.
  - (c) Reply Brief: Each participant will have 20 days from the date of filing of a Respondent's brief, in which to file with the Commission and serve upon each participant a reply brief and proof of service.
  - (d) Briefing on Commission Invoked Review: When one or more members of the Commission wish to review a hearing officer's Order, and no participant has timely filed a Petition, the Chairman will promptly notify the participants of the issue that the Commission desires the participants to brief. The Chairman will also establish the schedule for filing of briefs. The participants must limit their briefs to those issues. When the Commission wishes to review a hearing officer's Order and a participant also requested review, briefing will follow the schedule set forth in subsections (a), (b), and (c) of this section.
  - (e) Extensions: The Chairman or the Director, may extend any of the time limits contained in this rule except for the filing of a Petition under subsection (1) of this rule. Each extension request must be in writing and be served upon each participant. Any request for an extension may be granted or denied in whole or in part.

## Oregon Administrative Rules 340-011-0132

### Alternative Procedure for Entry of a Final Order in Contested Cases Resulting from Appeal of Civil Penalty Assessments

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  - (a) Copies of the hearing officer's Order will be served on each of the participants in accordance with OAR 340-011-0097. The hearing officer's Order will be the final order of the Commission unless within 30 days from the date of service, a participant or a member of the Commission files with the Commission and serves upon each participant a Petition for Commission Review. A proof of service should also be filed, but failure to file a proof of service will not be a ground for dismissal of the Petition.
  - (b) The timely filing of a Petition is a jurisdictional requirement and cannot be waived.
  - (c) The timely filing of a Petition will automatically stay the effect of the hearing officer's Order.
  - (d) In any case where more than one participant timely serves and files a Petition, the first to file will be the Petitioner and the latter the Respondent.
- (2) Contents of the Petition for Commission Review. A Petition must be in writing and need only state the participant's or a Commissioner's intent that the Commission review the hearing officer's Order.
- (3) Procedures on Review:
  - (a) Petitioner's Exceptions and Brief: Within 30 days from the filing of the Petition, the Petitioner must file with the Commission and serve upon each participant written exceptions, brief and proof of service. The exceptions must specify those findings and conclusions objected to, and also include proposed alternative findings of fact, conclusions of law, and order with specific references to the parts of the record upon which the Petitioner relies. Matters not raised before the hearing officer will not be considered except when necessary to prevent manifest injustice.
  - (b) Respondent's Brief: Each participant will have 30 days from the date of filing of the Petitioner's exceptions and brief, in which to file with the Commission and serve upon each participant an answering brief and proof of service. If multiple Petitions have been filed, the Respondent must also file exceptions as required in (3)(a) at this time.
  - (c) Reply Brief: Each participant will have 20 days from the date of filing of a Respondent's brief, in which to file with the Commission and serve upon each participant a reply brief and proof of service.
  - (d) Briefing on Commission Invoked Review: When one or more members of the Commission wish to review a hearing officer's Order, and no participant has timely filed a Petition, the Chairman will promptly notify the participants of the issue that the Commission desires the participants to brief. The Chairman will also establish the schedule for filing of briefs. The participants must limit their briefs to those issues. When the Commission wishes to review a hearing officer's Order and a participant also requested review, briefing will follow the schedule set forth in subsections (a), (b), and (c) of this section.
  - (e) Extensions: The Chairman or the Director, may extend any of the time limits contained in this rule except for the filing of a Petition under subsection (1) of this rule. Each extension request must be in writing and be served upon each participant. Any request for an extension may be granted or denied in whole or in part.

- (f) Dismissal: The Commission may dismiss any Petition if the Petitioner fails to timely file and serve any exceptions or brief required by this rule.
- (g) Oral Argument: Following the expiration of the time allowed the participants to present exceptions and briefs, the Chairman will schedule the appeal for oral argument before the Commission.
- (4) Additional Evidence: A request to present additional evidence will be submitted by motion and be accompanied by a statement specifying the reason for the failure to present the evidence to the hearing officer. If the Commission grants the motion or decides on its own motion that additional evidence is necessary, the matter will be remanded to a hearing officer for further proceedings.
- (5) Scope of Review: The Commission may substitute its judgment for that of the hearing officer in making any particular finding of fact, conclusion of law, or order except as limited by OAR 137-003-0665.

Stat. Auth.: ORS 183.335 & ORS 468.020

Stats. Implemented: ORS 183.430 & ORS 183.435

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 115, f. & ef. 7-6-76; DEQ 25-1979, f. & ef. 7-5-79; DEQ 7-1988, f. & cert. ef. 5-6-88; DEQ 1-2000(Temp), f. 2-15-00, cert. ef. 2-15-00 thru 7-31-00; DEQ 9-2000, f. & cert. ef. 7-21-00

**True Line, Inc.**

Attachment D

FEB 13 2001

4120 BARTLETT DR  
HOOD RIVER, OR 97031

Phone (541)351-1130  
Fax (541)354-3933

February 06, 2001

RE: Petition for Review

TO: Stephanie Hallock, Director  
DEQ  
811 S.W. Sixth Ave.  
Portland, OR 97204

State of Oregon  
Department of Environmental Quality  
**Received**  
FEB 08 2001  
OFFICE OF THE DIRECTOR

It is in my legal right to have this decision reviewed by the Oregon Environmental Quality Commission and by submitting this "petition for review" I am requesting your assistance in this matter as per OAR340-011-0132 (1) and (2).

Thank You,

George H. True  
True Line, Inc.



Ref No.: G60416  
Case No: 01-GAP-00008  
Case Type: DEQ

**STATE OF OREGON**  
**Before the Hearing Officer Panel**  
**For the**  
**DEPT OF ENVIRONMENTAL QUALITY**  
875 Union Street NE  
Salem, Oregon 97311

Dec Mailed: 01/16/01  
Mailed by: SLS

**HEARING DECISION**

TRUE LINE TRENCHING AND BORING  
4120 BARTLETT DR

HOOD RIVER OR 97031 9432

DEPT OF ENVIRONMENTAL QUALITY  
811 SW 6TH AVE

PORTLAND OR 97204 1334

JUSTIN WIRTH  
ASST ATTORNEY GENERAL  
1162 COURT ST NE  
SALEM OR 97310 1320

SUSAN GRECO

The following **HEARING DECISION** was served to the parties at their respective addresses.

**STATE OF OREGON  
BEFORE THE HEARING OFFICER PANEL  
FOR THE ENVIRONMENTAL QUALITY COMMISSION**

IN THE MATTER OF:	)	
	)	PROPOSED ORDER
	)	AGENCY CASE NO. 38051
George H. True and Erica N. True,	)	
dba True Line Trenching and Boring,	)	
	)	
Respondents.	)	

**HISTORY OF THE CASE**

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On September 18, 2000 respondents requested a hearing on DEQ's decision not to renew their license.

On November 8, 2000 the assistant attorney general representing DEQ informed respondents in writing that the reference in the July 31, 2000 letter to them from DEQ to "OAR 340-071-0660(1)," should read "OAR 340-071-0600(1)."

A hearing was held in Portland, Oregon on December 4, 2000 before Ken L. Betterton, hearing officer. Justin Wirth, assistant attorney general, represented DEQ. George H. True appeared *pro se*. Sherman Olson testified as a witness for DEQ. George H. True testified on his own behalf. The hearing officer closed the record and took the case under advisement on December 4, 2000.

**ISSUE**

Did respondents sewage disposal license expire because they failed to renew the license as required by OAR 340-071-0600(1) and 340-071-0140(1)(h)?

**FINDINGS OF FACT**

(1) George H. True and Erica N. True, dba True Line Trenching and Boring, operate a sewage disposal business in Hood River, Oregon. (2) The Trues first applied for and received a sewage disposal license from DEQ effective October 4, 1999. (3) Their license states that it expired on June 30, 2000. (4) All sewage disposal licenses from DEQ expire annually on June 30, and must be renewed for the next July 1 through June 30 period. (5) Each year about 30 days prior to June 30,

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#### **ULTIMATE FINDINGS OF FACT**

Respondents' license expired because they failed to renew their license by the deadline as provided in DEQ's administrative rules.

#### **APPLICABLE LAW**

DEQ's administrative rule OAR 340-071-0600(1) provides:

"No person shall perform sewage disposal services or advertise or represent himself/herself as being in the business of performing such services without first obtaining a business license from the Department. Unless suspended or revoked at an earlier date, a Sewage Disposal Service business license issued pursuant to this rule expires on July 1 next following the date of issuance. \* \* \*"

The license fees for sewage disposal service are as follows: New Business License -- \$800 (OAR 340-071-0140(1)(h)(A)); and Renewal of Existing and Valid Business License -- \$400 (OAR 340-071-0140(1)(h)(B)).

### CONCLUSIONS AND REASONS

DEQ takes the position that respondents' license expired effective July 1, 2000 because respondents failed to renew their license by June 30, 2000, and that respondents need to pay the \$800 fee to obtain a new license.

Respondents contend that their license should be renewed because it submitted an application form and a check for \$400, that DEQ has not defined whether an application form should be "received" or "postmarked" by a certain date, and that DEQ should accept "equitable remedies."

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DEQ has no administrative rule that addresses whether an application form postmarked June 30, with a \$400 check, would be accepted as a timely renewal. In the absence of such a postmark rule, a reading of OAR 340-071-0600(1) and OAR 340-071-0140(1)(h)(A) and (B) supports the conclusion that an application for renewal must be received by June 30 to be timely. While DEQ may have allowed on one occasion an application with a postmark of June 30 as timely (see Exhibit 1-D-1), respondents application form bears a postmark of July 5, 2000, five days later.<sup>1</sup>

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---

<sup>1</sup> Although respondents' completed application form is dated June 30, 2000, it is clearly backdated. Respondents telephoned DEQ on July 5, 2000 to report they had lost their application form and requested another one--the one DEQ faxed to them and the one they completed on July 5.

Of course, the issue in this case is whether respondents timely renewed their license. DEQ's July 31, 2000 letter to respondents states that the department's decision not to renew their license would become effective 60 days after the date of the letter, unless they requested a hearing. In the event they requested a hearing, their license would not expire until DEQ issues an order of grant or denial of the renewal. That is precisely what has happened in this case. Respondents requested a hearing and DEQ has stayed its decision to consider respondents' license as expired pending the outcome of this hearing and DEQ's final order. Respondents have had the right to continue operating their business pending the outcome of their appeal. DEQ has complied with ORS 183.430.

Respondents are looking for equity and relief because they misplaced their application form and did not pay close attention to the deadline for renewing their sewage disposal license. Understandably they do not want to pay another \$400 to obtain a valid license. However, if respondents' application is accepted as a valid renewal when they submitted their application several days late, must DEQ then accept application forms submitted, for example, on August 24, or September 10, or October 18? DEQ has the statutory responsibility to license and regulate sewage disposal businesses to protect the public. If licensees could submit their renewal applications late, at their convenience, DEQ's regulatory responsibilities would be undermined.

Respondents' sewage disposal license expired effective July 1, 2000 without a timely renewal. They must pay a total of \$800 to obtain a new license, if they wish to be licensed.

Respondents also request relief for other Oregon sewage disposal licensees who purportedly have paid an additional \$400 for not renewing their licenses timely. Those other licensees are not parties to this proceeding. The hearing officer has no authority to grant relief or even address claims of individuals or businesses not a party to this matter.

### ORDER

DEQ decided correctly in its July 31, 2000 letter that respondents did not renew their application for license renewal prior to the expiration date of July 1, 2000.

ENVIRONMENTAL QUALITY COMMISSION

Dated this 16<sup>th</sup> day of January 2001



Ken L. Betterton  
Hearing Officer

Proposed Order (DEQ)

Page 5

George H. True and Erica N. True,  
dba True Line Trenching and Boring

### **Appeal Procedures**

If you are not satisfied with this decision, you have the right to have the decision reviewed by the Oregon Environmental Quality Commission. To have the decision reviewed, you must file a "Petition for Review" within 30 days of the date this order is served on you as provided in Oregon Administrative Rule (OAR) 340-011-0132(1) and (2). The Petition for Review must be filed with:

Stephanie Hallock, Director  
**Department of Environmental Quality**  
811 SW Sixth Avenue  
Portland, OR 97204.

Within 30 days of filing the Petition for Review, you must also file exceptions and a brief as in provided in OAR 132-011-0132(3). If the petition, exceptions and brief are filed in a timely manner, the Commission will set the matter for oral argument and notify you of the time and place of the Commission's meeting. The requirements for filing a petition, exceptions and briefs are set out in OAR 340-011-0132.

Unless you timely and appropriately file a Petition for Review as set forth above, this Proposed Order becomes the Final Order of the Environmental Quality Commission 30 days from the date of service on you of this Proposed Order. If you wish to appeal the Final Order, you have 60 days from the date the Proposed Order becomes the Final Order to file a petition for review with the Oregon Court of Appeals. *See* ORS 183.400 et. seq.

EXHIBIT # 1

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STATE OF OREGON  
Before the Hearing Officer Panel  
For the  
DEPT. OF ENVIRONMENTAL QUALITY  
875 Union Street NE  
Salem, Oregon 97311

In the Matter of:

George H. True and Erica N. True, dba True  
Line Trenching and Boring,  
  
Respondents.

Ref. No. G60416  
Agency Case No. 38051

HEARING BRIEF OF THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Introduction

This case arises out of True Line Trenching and Boring's (True Line) failure to renew its sewage disposal service business license. The facts and law in this case are both straightforward and clear: when a sewage disposal service business licensee fails to timely renew its license, the license expires and the licensee must pay \$800 to obtain a new license. True Line's license expired, but it paid only \$400 in an attempt to "renew" its license. The Department of Environmental Quality (DEQ) now seeks to confirm that True Line's license has expired.

Facts

True Line was a licensed sewage disposal service business. Its license expired on June 30, 2000. Attached hereto as Exhibit A is a true copy of True Line's license showing the June 30, 2000 expiration date. Realizing that True Line neglected to renew its license before June 30, 2000, Erica True of True Line called DEQ on July 5, 2000 to request a license renewal form. Attached hereto as Exhibit B is a true copy of a phone message left by Erica True with DEQ dated July 5, 2000. That day, DEQ faxed a "renewal" form to True Line indicating that the form was to be used to obtain a new license. Attached hereto as Exhibit C is a true copy of the new

1 license “renewal” form. True Line was informed that the fee to obtain a license after the June  
2 30, 2000 renewal date passed was \$800. See Exhibit B. Nonetheless, True Line submitted its  
3 “renewal” application with a \$400 fee. Although True Line back-dated its application to June  
4 30, 2000, there is no question the application was not sent to DEQ until July 5, 2000 since the  
5 envelope in which the application was sent was postmarked July 5, 2000. Moreover, True Line  
6 enclosed only \$400 with this application and sent a handwritten note to DEQ stating that it was  
7 “appealing” the balance of the fee not enclosed. See Exhibit C. To give True Line every chance  
8 to pay the proper fee, DEQ sent True Line a notice stating that its application was incomplete,  
9 and it needed to submit an additional \$400. Attached hereto as Exhibit D is a true copy of the  
10 July 17, 2000 notice sent to True Line by DEQ. True Line failed to pay any additional fee.  
11 Therefore, DEQ sent True Line a notice that its license would be “revoked” unless it requested a  
12 contested case. Attached hereto as Exhibit E is a true copy of the Notice of Proposed Action  
13 (license non-renewal) from DEQ to True Line dated July 31, 2000. True Line then requested this  
14 contested case.

#### 15 Legal Argument

16 Since the facts of this case are beyond dispute and this case presents only one legal issue,  
17 the hearings officer should rule in favor of DEQ.

18 OAR 340-071-0600(1) requires every sewage disposal service business to have a DEQ-  
19 issued license. To obtain that license initially requires submission of an application and an \$800  
20 non-refundable license fee. OAR 340-071-0140(1)(h)(A). Renewal of an “Existing and Valid  
21 Business License,” requires a \$400 fee.

22 True Line’s license *expired* by its own terms on June 30, 2000. Thus, since True Line no  
23 longer had a valid and existing license, OAR 340-071-0140(1)(h) requires that True Line submit  
24 an \$800 fee with its application. This is because after expiration, the application is by definition,  
25 an application for a new license. Therefore, True Line’s untimely renewal attempt legally  
26 amounts to a new business application which was incomplete because it contained a \$400 fee,



1 rather than the \$800 new license fee required by OAR 340-071-0140(1)(h)(B). Since True Line  
2 failed to submit a complete license application, DEQ has properly refused to “renew” True  
3 Line’s license.


4 Conclusion

5 Since True Line failed to renew its sewage disposal business license in a timely manner  
6 and DEQ’s regulations require that an untimely renewal be treated as a new license application,  
7 DEQ properly refused to renew True Line’s license where True Line did not submit the full new  
8 license fee. Therefore, DEQ’s action of “non-renewing” True Line’s license should be upheld.

9 DATED this 29<sup>th</sup> day of November 2000.

10 Respectfully submitted,

11 HARDY MYERS  
12 Attorney General

13   
14 \_\_\_\_\_  
15 Justin Wirth, #00426  
16 Of Attorneys for Department of Environmental  
17 Quality  
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Control Number  
26663

DEPARTMENT OF ENVIRONMENTAL QUALITY  
LICENSE FOR SEWAGE DISPOSAL SERVICE  
LICENSE PERIOD: JULY 1, 1999 THROUGH JUNE 30, 2000

License Number

Individual      38051      Installer Only

George H. True and Erica N. True, dba  
TRUE LINE TRENCHING & BORING  
4120 Bartlett Drive  
Hood River OR 97031

Payment Received:  
10-4-99  
License issued:  
10-4-99  
License Expires:  
JUNE 30, 2000



LANGDON MARSH, Director

DEQ/WQ-102 (5/99)

DIVISION CARV



# While You Were Out

To Sandy

Date 7/5 Time 8:05

Erika True called

of True Line Trenching

Phone (541) 354-1130

- |                                                 |                                             |
|-------------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> Telephoned             | <input type="checkbox"/> in person          |
| <input checked="" type="checkbox"/> Please call | <input type="checkbox"/> Wants to see you   |
| <input type="checkbox"/> Will call again        | <input type="checkbox"/> Returned your call |

Message misplaced license renewal form, needs new form

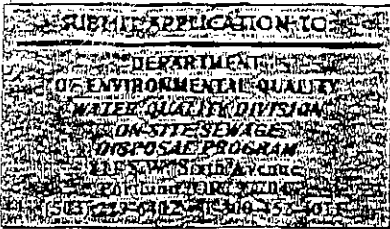
License # 38051

*I'm sorry upset with what we did, because we will*

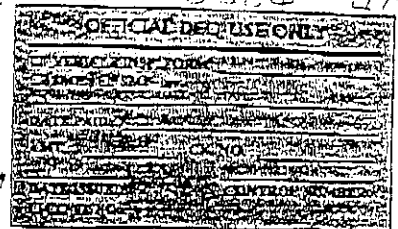
Taken by Emily

FORM Z5-097883

*now*



APPLICATION FOR RENEWAL OF SEWAGE DISPOSAL SERVICE LICENSE STATE OF OREGON 2000-2001



FEE \$400 - If received by 6-30-00; FEE \$400 - If received 7-1-00 or AFTER.

FEE IS NOW \$200 ONLY

Your current SEWAGE DISPOSAL SERVICE LICENSE will EXPIRE on July 1, 2000, unless you file a complete license renewal application with the Department of Environmental Quality (DEQ) by no later than June 30, 2000.

Individual 38051

George H. True, and Erica N. True, dba TRUE LINE TRENCHING & BORING 4120 Bartlett Drive Hood River, OR 97031

YOUR LICENSE READS AS SHOWN ON THE LEFT. If there are any changes in business name, status, ownership, address, or if you are no longer in business, please indicate on the lines provided below:

An application that is received after June 30, 2000, is not timely and will automatically result in license expiration. If you fail to meet this deadline for filing the license renewal application, you must stop all activities that require possession of a valid sewage disposal service license until such time as a new license is issued by DEQ.

If there has been a change in business name, ownership or entity, you must provide the Department with (a) a rider to your valid \$2,500 bond on file with us, or (b) a new \$2,500 surety bond or a new form of approved equivalent security in the amount of \$2,500.

1. List the TELEPHONE NUMBER where you can be reached WEEKDAYS: Area Code: (541) 354-1130

2. Please answer ALL of the following questions, and describe in detail if required. (Incomplete applications will be returned.)

- A. Do you CONSTRUCT ON-SITE SEWAGE DISPOSAL SYSTEMS or any part thereof... B. Do you PUMP OUT or CLEAN PORTABLE TOILETS? C. Do you PUMP SEPTAGE (human waste) from SEPTIC TANKS... D. Do you CLEAN SEPTIC TANKS or OTHER TREATMENT FACILITIES... E. Do you use BIOLOGICAL ADDITIVES or CHEMICALS to CLEAN SEPTIC TANKS? F. Do you CLEAN EFFLUENT SEWER or TRENCH PIPING?

BY MY SIGNATURE, I CERTIFY THAT ALL INFORMATION PROVIDED WITH THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Signature: [Signature] Title: OWNER Date: 6/30/00

(Print Name)

Please be sure you have completed this application and enclosed all required attachments before mailing to the Department of Environmental Quality at the address found in the upper left corner of this form. The non-refundable/non-proratable license renewal fee (\$400) must accompany this application.

NOTE: Your completed renewal application must be returned to the Department of Environmental Quality by June 30, 2000. Failure to meet this deadline will cause your license to EXPIRE, and you will be required to apply for a "NEW" license rather than a "RENEWAL".

We are appealing  
Balance will  
resolve at the  
end of appeal  
process!

TrueMedone

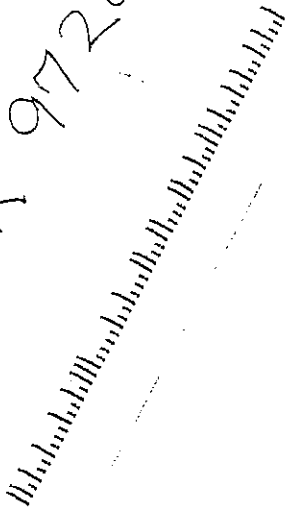
© 1993 Day Runner, Inc. All Rights Reserved.

TRUE LINE TRENCHING AND BORING  
4120 BARTLETT DRIVE  
HOOD RIVER OR 97031  
(541) 354-1130



DEG  
811 SW Sixth Ave  
Portland OR 97204-1390

BO



572041390

State of Oregon  
Department of Environmental Quality  
Sewage Disposal Service

Date: July 17, 2000  
License no. 38051

- George & Erica True
- True Line Trenching & Boring
- 4120 Bartlett Drive
- Hood River, OR 97031

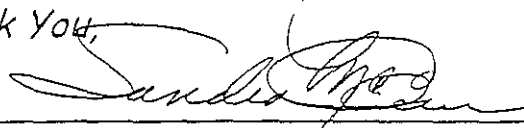
WE HAVE RECEIVED AN *INCOMPLETE* SEWAGE DISPOSAL SERVICE BUSINESS LICENSING PACKET FROM YOU. Your license cannot be issued until we have received the additional fee described below:

The Department stipulated in writing on your 2000-01 Sewage Disposal Business License Renewal Application that if we did not receive it and the \$400.00 license fee by June 30, 2000, the fee would increase to \$800.00 July 1<sup>st</sup>. We did however, allow an application with a postmark of June 30<sup>th</sup> to be considered timely.

The postmark on the envelope of your renewal application was July 5, 2000, and you submitted \$400.00. Please submit an additional **\$400.00**, so that we may process and issue your license. *Please be aware that you are not currently licensed to work in the sewage disposal service business, Please submit the additional fee promptly.*

Thank You,

Cc: Hood River County



Department of Environmental Quality  
Water Quality Division, On-Site Program  
811 SW Sixth Avenue  
Portland, OR 97204  
Phone: (503) 229.6402  
Or  
Toll Free 1.800.452.4011, ext. 6402

Exhibit   D    
Page   1



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Environmental Quality

811 SW Sixth Avenue

Portland, OR 97204-1390

(503) 229-5696

TDD (503) 229-6993

RECEIVED

JUL 01 2000

DEQ W.Q. Division

July 31, 2000

George True  
True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River OR 97031

Dear Mr. True:

On July 5, 2000, you submitted your request for a renewal of license no. 38051 to the Department. Since the Department did not receive a complete renewal application prior to the expiration date of July 1, 2000 as required by OAR 340-071-0660(1) and 340-071-0140(1)(h), we are proposing to refuse to renew your license.

The Department's decision to refuse to renew your license will become effective 60 days from the date of service of this notification unless within that time the Department receives a request for a contested case hearing from you. **The request for hearing must be made in writing, must be received by the Director's office within sixty (60) days from the date of service of this Notice, and must be accompanied by a written "answer" to the refusal to renew your license.** Send the request for hearing and answer to: **DEQ Rules Coordinator, Office of the Director, 811 S.W. Sixth Avenue, Portland, Oregon 97204.** Following receipt of a request for hearing and an answer, you will be notified of the date, time and place of the hearing. The hearing will be conducted under OAR Chapter 340, Division 011. I have enclosed a copy of the applicable rules.

If you fail to request a hearing within 60 days from the date of service of this letter, your license will be deemed to have expired. If you timely request a hearing, your license will not expire until the Department has issued an order of grant or denial of the renewal.

If you should have any questions, please feel free to contact me at (503) 229-5213 or (800) 452-4011 extension 5213 within the state of Oregon.

Sincerely,

  
Susan M. Greco

cc: Larry Knudsen, DOJ  
Ed Woods, WQ

Exhibit   E    
Page   1  

DEQ-1



1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 29<sup>th</sup> day of November 2000, I served the within HEARING  
3 BRIEF OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY upon the parties hereto  
4 by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

5 George H. True  
6 Erica N. True  
7 True Line Trenching and Boring  
8 4120 Bartlett Drive  
9 Hood River, OR 97031-9432


10   
11 Justin Wirth, # 00426  
12 Assistant Attorney General

EXHIBIT # 101

## INTRO

## IN RESPONSE TO "WHY" CASE ARISES -

Actually this case arises out of the DEQ's failure to define, "timely" in their "on-site sewage disposal rules 340 divisions 71 and 73." It also arises out of the DEQ's failure to list in the rules book:

1. that a renewal application and renewal fee needs to be received by and or postmarked by a specific date.
2. the consequences of not having a renewal application and renewal fee received on or postmarked by certain date.
3. DEQ's unwillingness to accept equitable remedies.

True Line now seeks to confirm that its license was infact "renewed" and was in no violation of a "timely rule" and is therefore not required to pay an additional \$400.00.

## FACTS

In regards to the brief submitted by DEQ there are certain items I do not agree with...

LINE 18 - the words "has expired" should be "will expire"

LINE 20 - the word "was" should be "is" **AS PER ORS 183.430.**

LINE 22 - the word "neglected" is not representative of the true nature of the correspondence between DEQ and True Line. Reason was not that we realized we neglected to renew, but rather that we had misplaced our renewal application form and were requesting a fax as per exhibit B.

LINE 24 - In an attempt to resolve renewal process, True Line did indeed call DEQ, in addition True Line called DEQ another 10 times on July 5th, 2000. (Not mentioned in brief)

LINE 26 - RE: new or renewed license. When Erica True of True Line asked Sandy of DEQ if True Line was to receive a new license #, etc., Sandy stated, "NO" that everything stayed the same... no additional work was

required on the part of DEQ...just \$400.00 more from True Line. Sandy stated that we could, "request" a new license # but it takes more time and work and the old license number was just going to be renewed!! (which is in direct conflict with ORS 454.745.) When Erica of TL asked since they would be essentially paying for a new license if a "new" license form needed to be used? She was told "no" that the "old" renewal form would work because we were actually just renewing our license - not obtaining a new license."

#### LINE 7 - STATEMENT IS INCORRECT

LINE 11 - States, "License is to be revoked" No where in the letter dated July 31, is the term, "revoked", ever used. Also no where in any DEQ OAR or ORS is this term used to describe non renewal. In contradiction to the word "Therefore" actuality this notice was not sent to True Line upon initiation of DEQ, but rather as a result of George True's request/correspondence with Susan Grecco, (rules coordinator), starting the 6th day of July.

LINE 13 - In addition it should be stated that I responded in a timely manner to request a hearing, as per the letter from Susan Grecco and ORS 183.430, & ORS 183.435

#### LEGAL ARGUMENTS

Your honor, as you can see by my opening presentation the facts in this case as presented by Department of Environmental Quality are in dispute.

At this time I would like to ask if you have any questions?

LINE 22 of DEQ's brief - (read)

READ DEFINITIONS IN UNDER DEQ'S OAR'S - 340-71-0100  
SUBSECTION 27 (completed application) ORS 454.605

I'm going to go over what the DEQ OAR's say and do not say.  
(READ 340-071)

This simply states that you need a license to conduct business. I'll further my conclusion by reading what Assistant Att. Justin Wirth states in his letter.  
(READ J.W.'s letter)

OAR 340-071-0140 (READ)

Therefore it is concluded that my license is both existing and valid. I would also like to further conclude by reading a letter from Susan Grecco.

DEQ has received my renewal application AND cashed my \$400 check. I would like to submit further documentation to support my conclusion.

1.) ORS 183-430

2.) READ EVIDENCE

3.) I would like to submit for your analysis other OAR's from DEQ as well as from other state agencies that show they type of language that defines timely that we cannot find in the "DEQ's Onsite Water Division 71 and 73" rules.

I am not asking to use date or times in the other agencies' rules, yet rather the language that they use to define timely.

## SUMMARY

Your honor, are there any questions at this time?

*Your honor it is my understanding as per DEQ's OAR that you must rule for or against my position as no "equitable remedies" will be allowed in these proceedings. However, I would like you to take into consideration that I did indeed offer equitable remedies to the DEQ's director at that time, Langdon Marsh, and the administrators of the water quality division. Evidence to support this include my phone records - 11 phone calls on July 5*

*and then made 4 phone calls to the director starting on July 6th, and the last one 14 days later to which Langdon Marsh finally responded, at which time he denied all attempts at compromise.*

Before I conclude;

Please note that on my official request to DEQ for hearing that I signed the letter George H. True, President/True Line Trenching and Boring, Secretary/Treasurer of Hood River Underground Council and ON BEHALF OF ALL OREGON LICENSED SEWAGE SERVICE CONTRACTORS.

Therefore...I would like to point out that there were 31 other contractors that paid an additional \$400 and I am asking that if you find in my behalf that you also stipulate that the DEQ apply the excess funds towards the renewal of their 2001 sewage licenses.

EXHIBIT # 102

Account Number  
132686- PG 3  
AUG 15, 2000

Attachment F

DATE	TIME	*	CALLED LOCATION	PHONE NUMBER	MINUTES	AMOUNT
CALLS FOR 541-354-1130						
7/05	7:54A	N	SANDY	OR 1+	503-668-4073	.8 .0632
7/05	7:59A	D	PORTLAND	OR 1+	503-229-5189	1.5 .1185
7/05	8:03A	D	DIR ASST	OR 1+	541-555-1212	1.0 .9500
7/05	10:52A	D	PORTLAND	OR 1+	503-229-6443	4.5 .3555
7/05	11:37A	D	PORTLAND	OR 1+	503-229-5189	.9 .0711
7/05	11:40A	D	UNIONTOWN	VA 1+	509-229-5696	.5 .0395
7/05	11:41A	D	PORTLAND	OR 1+	503-229-5189	1.6 .1264
7/05	11:44A	D	BEND	OR 1+	541-388-6146	.5 .0395
7/05	11:45A	D	PORTLAND	OR 1+	503-229-5189	3.5 .2765
7/05	11:51A	D	PORTLAND	OR 1+	503-229-5189	5.0 .3950
7/05	12:07P	D	PORTLAND	OR 1+	503-229-5438	2.3 .1817
7/05	12:11P	D	SALEM	OR 1+	503-378-6760	1.0 .0790
7/05	12:24P	D	PORTLAND	OR 1+	503-229-5189	1.5 .1185
7/05	1:19P	D	PORTLAND	OR 1+	503-229-5415EW	.7 .0553
7/05	2:13P	D	PORTLAND	OR 1+	503-229-5189	1.9 .1501
7/05	2:16P	D	PORTLAND	OR 1+	503-229-5189	1.5 .1185
7/05	3:39P	D	PORTLAND	OR 1+	503-229-5415EW	1.8 .1422
7/05	3:58P	D	PORTLAND	OR 1+	503-229-5189	2.1 .1659
7/05	4:06P	D	SALEM	OR 1+	503-378-4621	2.3 .1817
7/06	8:38A	D	PORTLAND	OR 1+	503-229-5213	.9 .0711
7/06	9:07A	D	PORTLAND	OR 1+	503-229-5300Dir	2.2 .1738
7/06	10:40A	D	PORTLAND	OR 1+	503-323-6767	.5 .0395
7/06	10:41A	D	OKGRVMLWKI	OR 1+	503-353-2416	.9 .0711
7/06	10:54A	D	THE DALLES	OR 1+	541-296-2248	2.7 .2133
7/06	11:28A	D	BEAVERTON	OR 1+	503-533-9747	14.8 1.1692
7/07	9:53A	D	THE DALLES	OR 1+	541-298-2600	1.7 .1343
7/07	10:27A	D	PORTLAND	OR 1+	503-286-6400	.6 .0474
7/08	8:31A	N	SANDY	OR 1+	503-668-4073	3.5 .2765
7/08	1:01P	N	DIR ASST	OR 1+	503-555-1212	1.0 .9500
7/08	1:02P	N	PORTLAND	OR 1+	503-252-0188	9.0 .7110
7/08	1:11P	N	PORTLAND	OR 1+	503-252-0188	4.1 .3239
7/08	4:02P	N	BEAVERTON	OR 1+	503-533-9747	2.5 .1975
7/10	9:03A	D	SANDY	OR 1+	503-668-6505	.5 .0395
7/10	9:12A	D	PORTLAND	OR 1+	503-229-5300Dir	3.4 .2686
7/11	8:22A	D	PORTLAND	OR 1+	503-252-0188	2.6 .2054
7/11	9:36A	D	SANDY	OR 1+	503-668-4073	3.8 .3002
7/11	11:08A	D	SANDY	OR 1+	503-668-4073	2.0 .1580
7/11	11:13A	D	PORTLAND	OR 1+	503-229-5300Dir	1.2 .0948
7/11	11:34A	D	VANCOUVER	VA 1+	360-574-7816	7.0 .5530
7/11	11:44A	D	MILES CITY	MT 1+	406-232-4272	.5 .0395
7/11	12:06P	D	VANCOUVER	VA 1+	360-574-7816	4.6 .3634
7/11	12:11P	D	ADDISON	TX 1+	972-687-4400	7.8 .6162
7/11	12:47P	D	PORTLAND	OR 1+	503-252-0353	.9 .0711
7/11	12:56P	D	THE DALLES	OR 1+	541-296-2248	1.8 .1422
7/11	1:13P	D	MOSIER	OR 1+	541-478-3220	1.3 .1027
7/11	1:17P	D	MILES CITY	MT 1+	406-232-4272	1.0 .0790
7/12	8:40A	D	THE DALLES	OR 1+	541-296-8672	.8 .0632
7/12	8:55A	D	THE DALLES	OR 1+	541-296-2248	.9 .0711
7/12	8:57A	D	SHADY COVE	OR 1+	541-878-2275	5.8 .4582
7/12	9:03A	D	THE DALLES	OR 1+	541-296-2248	5.6 .4424
7/12	9:44A	D	MEDFORD	OR 1+	541-772-2471	15.4 1.2166
7/12	10:05A	D	MILES CITY	MT 1+	406-232-4272	2.4 .1896
7/12	10:20A	D	THE DALLES	OR 1+	541-296-2248	2.8 .2212
7/12	6:12P	E	MILES CITY	MT 1+	406-232-4272	.5 .0395
7/13	8:25A	D	CASCADELKS	OR 1+	541-374-8427	.5 .0395
7/13	8:50A	D	THE DALLES	OR 1+	541-296-2248	4.8 .3792
7/13	8:56A	D	CASCADELKS	OR 1+	541-374-8421	.8 .0632
7/13	8:57A	D	CASCADELKS	OR 1+	541-374-8619	1.2 .0948
7/13	7:23P	E	MILES CITY	MT 1+	406-232-4272	4.3 .3397
7/14	8:42A	D	THE DALLES	OR 1+	541-296-2248	1.0 .0790
7/14	8:57A	D	THE DALLES	OR 1+	541-296-2248	.9 .0711

DATE	TIME	*	CALLED LOCATION	PHONE NUMBER	MINUTES	AMOUNT
CALLS FOR 541-354-1130 CONTINUED						
7/15	2:45P	N	WH SALMON	VA 1+	509-493-1712	.8 .0632
7/17	2:16P	D	HOOD RIVER	OR 1+	541-490-3233	4.0 .3160
7/18	11:19A	D	DIAMOND	MO 1+	417-325-7123	.5 .0395
7/18	11:47A	D	THE DALLES	OR 1+	541-506-7966	.5 .0395
7/18	2:05P	D	ADDISON	TX 1+	972-687-4844	9.1 .7189
7/18	2:15P	D	WH SALMON	VA 1+	509-493-1152	3.7 .2923
7/19	10:55A	D	MOSIER	OR 1+	541-478-3220	1.4 .1106
7/19	2:36P	D	BEAVERTON	OR 1+	503-531-9352	15.0 1.1850
7/19	7:22P	E	BEAVERTON	OR 1+	503-531-9352	13.3 1.0507
7/19	7:37P	E	MILES CITY	MT 1+	406-232-4272	.5 .0395
7/19	7:37P	E	MILES CITY	MT 1+	406-951-1279	.8 .0632
7/19	7:41P	E	WH SALMON	VA 1+	509-493-1037	1.8 .1422
7/19	8:25P	E	WH SALMON	VA 1+	509-493-4374	2.5 .1975
7/19	8:36P	E	WH SALMON	VA 1+	509-493-3624	.5 .0395
7/19	8:51P	E	BEAVERTON	OR 1+	503-533-9747	.5 .0395
7/19	8:53P	E	MILES CITY	MT 1+	406-232-4272	17.8 1.4062
7/20	8:17A	D	BEAVERTON	OR 1+	503-533-9747	.6 .0474
7/20	10:19A	D	PORTLAND	OR 1+	503-286-6400	.5 .0395
7/20	1:30P	D	SALEM	OR 1+	503-364-4450	4.2 .3318
7/20	1:43P	D	PORTLAND	OR 1+	503-229-5300Dir	.6 .0474
7/20	1:47P	D	PORTLAND	OR 1+	503-229-5213Dir	.7 .0553
7/20	2:16P	D	PORTLAND	OR 1+	503-229-6044	1.3 .1027
7/20	2:28P	D	SALEM	OR 1+	503-378-6760	3.2 .2520
7/20	2:32P	D	SALEM	OR 1+	503-378-4620	.5 .0395
7/20	2:35P	D	JOHN DAY	OR 1+	541-575-1548	1.6 .1264
7/20	6:41P	E	DIAMOND	MO 1+	417-325-7123	.9 .0711
7/20	6:43P	E	ORCHARDS	VA 1+	360-891-0979	.5 .0395
7/20	6:44P	E	ORCHARDS	VA 1+	360-891-0979	.5 .0395
7/20	6:46P	E	ORCHARDS	VA 1+	360-891-0979	.7 .0553
7/20	6:51P	E	WH SALMON	VA 1+	509-493-1037	1.4 .1106
7/20	6:54P	E	MILES CITY	MT 1+	406-232-4272	3.6 .2844
7/20	7:20P	E	WH SALMON	VA 1+	509-493-4076	.8 .0632
7/20	7:28P	E	GRESHAM	OR 1+	503-674-2106	.7 .0553
7/20	7:43P	E	WH SALMON	VA 1+	509-493-3862	10.9 .8611
7/20	7:55P	E	MOSIER	OR 1+	541-478-2794	.5 .0395
7/20	8:18P	E	WH SALMON	VA 1+	509-493-4069	1.9 .1501
7/20	8:20P	E	WH SALMON	VA 1+	509-493-3237	.5 .0395
7/20	8:21P	E	WH SALMON	VA 1+	509-493-4527	1.5 .1185
7/20	8:38P	E	MOSIER	OR 1+	541-478-2908	1.0 .0790
7/20	8:39P	E	WH SALMON	VA 1+	509-493-3788	.8 .0632
7/20	8:42P	E	DIR ASST	OR 1+	541-555-1212	1.0 .9500
7/20	8:52P	E	WH SALMON	VA 1+	509-493-3237	.5 .0395
7/20	9:01P	E	GLENWOOD	VA 1+	509-364-3379	.7 .0553
7/21	8:55A	D	BEAVERTON	OR 1+	503-531-9352	22.7 1.7933
7/21	3:41P	D	PRINEVILLE	OR 1+	541-447-2178	.7 .0553
7/21	4:06P	D	PORTLAND	OR 1+	503-721-6071	6.2 .4898
7/21	5:48P	E	MILES CITY	MT 1+	406-232-4272	.5 .0395
7/21	6:10P	E	MILES CITY	MT 1+	406-951-1279	1.7 .1343
7/21	6:13P	E	BEAVERTON	OR 1+	503-531-9352	2.7 .2133
7/22	2:16P	N	WH SALMON	VA 1+	509-493-1037	2.1 .1659
7/23	5:15P	E	MILES CITY	MT 1+	406-232-4272	6.4 .5056
7/24	9:11A	D	GOLDENDALE	VA 1+	509-773-5894	.5 .0395
7/24	9:20A	D	BEAVERTON	OR 1+	503-645-6087	.5 .0395
7/24	11:55A	D	ADDISON	TX 1+	972-687-6300	1.8 .1422
7/24	1:16P	D	THE DALLES	OR 1+	541-296-2248	1.0 .0790
7/24	3:16P	D	THE DALLES	OR 1+	541-296-2248	3.5 .2765
7/24	3:20P	D	DIR ASST	OR 1+	503-555-1212	1.0 .9500
7/24	3:20P	D	PORTLAND	OR 1+	503-252-0188	1.0 .0790
7/25	7:07A	N	MOSIER	OR 1+	541-478-3008	3.6 .2844
7/25	7:11A	N	CASCADELKS	OR 1+	541-374-8811	.5 .0395
7/25	9:26A	D	BEAVERTON	OR 1+	503-531-9352	.5 .0395

# TELE/SHARE Communications, Inc.

For Customer Service, please call  
800-747-8660.

Account Number  
132686- PG 2

AUG 15, 2000

Payments received after the billing date will be reflected on your next bill. A \$15 return fee will be assessed for all returned checks.

## Detail of Payments and Adjustments

Date	Description	Adjustments	Payments
<b>Totals</b>			
	Balance Forward		2.00

## Current Charges Long Distance Service

	Quantity	Minutes	Amount
<b>Switched 1+</b>			
Intralata Usage	124	281.4	22.23
Intrastate Usage	7	43.1	3.40
Interstate Usage	45	119.0	9.40
Directory Assistance	8	10.0	9.50
<b>Total Switched 1+</b>	<b>184</b>	<b>453.5</b>	<b>44.53</b>
<b>Calling Card Usage</b>			
Intrastate Usage	2	4.0	.56
<b>Total Calling Card Usage</b>	<b>2</b>	<b>4.0</b>	<b>.56</b>
<b>Monthly Service</b>			
FCC PICC Tax-Multi Line Bus	2	4.35	8.70
<b>Total Monthly Service</b>			<b>8.70</b>
<b>Taxes</b>			
Federal Excise Tax	1.67	P.U.C. Fee .06	
Fed USF Combined	1.53	Fed TRS Surcharge .03	
<b>Total Taxes</b>			<b>3.29</b>
<b>Total Current Charges</b>			<b>57.08</b>

## DEPARTMENT OF ENVIRONMENTAL QUALITY HEARINGS

IMPORTANT INFORMATION FOR PREPARING FOR YOUR HEARINGNOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Under ORS 183.413(2), you must be informed of the following:

1. Law that applies. The hearing is a contested case and it will be conducted under ORS Chapter 183 and Oregon Administrative Rules of the Department of Environmental Quality, Chapters 137 and 340.
2. Rights to an attorney. You may represent yourself at the hearing, or be represented by an attorney or an authorized representative, such as a partner, officer, or an employee. If you are a company, corporation, organization or association, you must be represented by an attorney or an authorized representative. Prior to appearing on your behalf, an authorized representative must provide a written statement of authorization. If you choose to represent yourself, but decide during the hearing that an attorney is necessary, you may request a recess. About half of the parties are not represented by an attorney. DEQ will be represented by an Assistant Attorney General or an Environmental Law Specialist.
3. Hearings officer. The person presiding at the hearing is known as the hearings officer. The hearings officer is an employee of the Central Hearing Officer Panel under contract with the Environmental Quality Commission. The hearings officer is not an employee, officer or representative of the agency.
4. Appearance at hearing. If you withdraw your request for a hearing, notify either DEQ or the hearing officer that you will not appear at the hearing, or fail to appear at the hearing, a final default order will be issued. This order will be issued only upon a prima facie case based on DEQ's file. No hearing will be conducted.
5. Address change or change of representative. It is your responsibility to notify DEQ and the hearings officer of any change in your address or a withdrawal or change of your representative.
6. Interpreters. If you have a disability or do not speak English, the hearings officer will arrange for an interpreter. DEQ will pay for the interpreter if (1) you require the interpreter due to a disability or (2) you file with the hearings officer a written statement under oath that you are unable to speak English and you are unable to obtain an interpreter yourself. You must provide notice of your need for an interpreter at least 14 days before the hearing.
7. Witnesses. All witnesses will be under oath or affirmation to tell the truth. All parties and the hearings officer will have the opportunity to ask questions of all witnesses. DEQ or the hearings officer will issue subpoenas for witnesses on your behalf if you show that their testimony is relevant to the case and is reasonably needed to establish your position. You are not required to



issue subpoenas for appearance of your own witnesses. If you are represented by an attorney, your attorney may issue subpoenas. Payment of witness fees and mileage is your responsibility.

8. Order of evidence. A hearing is similar to a court trial but less formal. The purpose of the hearing is to determine the facts and whether DEQ's action is appropriate. In most cases, DEQ will offer its evidence first in support of its action. You will then have an opportunity to present evidence to oppose DEQ's evidence. Finally, DEQ and you will have an opportunity to rebut any evidence.

9. Burden of presenting evidence. The party who proposes a fact or position has the burden of proving that fact or position. You should be prepared to present evidence at the hearing which will support your position. You may present physical, oral or written evidence, as well as your own testimony.

10. Admissible evidence. Only relevant evidence of a type relied upon by reasonably prudent persons in the conduct of their serious affairs will be considered. Hearsay evidence is not automatically excluded. Rather, the fact that it is hearsay generally affects how much the Commission will rely on it in reaching a decision.

There are four kinds of evidence:

- a. Knowledge of DEQ and the hearings officer. DEQ or the hearings officer may take "official notice" of conclusions developed as a result of its knowledge in its specialized field. This includes notice of general, technical or scientific facts. You will be informed should DEQ or the hearings officer take "official notice" of any fact and you will be given an opportunity to contest any such facts.
- b. Testimony of witnesses. Testimony of witnesses, including you, who have knowledge of facts may be received in evidence.
- c. Writings. Written documents including letters, maps, diagrams and other written materials may be received in evidence.
- d. Experiments, demonstrations and similar means used to prove a fact. The results of experiments and demonstrations may be received in evidence if they are reliable.

11. Objections to evidence. Objections to the consideration of evidence must be made at the time the evidence is offered. Objections are generally made on one of the following grounds:

- a. The evidence is unreliable;
- b. The evidence is irrelevant or immaterial and has no tendency to prove or disprove any issue involved in the case;
- c. The evidence is unduly repetitious and duplicates evidence already received.

12. Continuances. There are normally no continuances granted at the end of the hearing for you to present additional testimony or other evidence. Please make sure you have all your evidence ready for the hearing. However, if you can show that the record should remain open for additional evidence, the hearings officer may grant you additional time to submit such evidence.

13. Record. A record will be made of the entire proceeding to preserve the testimony and other evidence for appeal. This will be done by tape recorder. This tape and any exhibits received in the record will be the whole record of the hearing and the only evidence considered by the hearings officer. A copy of the tape is available upon payment of a minimal amount, as established by DEQ. A transcript of the record will not normally be prepared, unless there is an appeal to the Court of Appeals.

14. Proposed and Final Order. The hearing officer has the authority to issue a proposed order based on the evidence at the hearing. The proposed order will become the final order of the Environmental Quality Commission if you do not petition the Commission for review within 30 days of service of the order. The date of service is the date the order is mailed to you, not the date that you receive it. The Department must receive your petition seeking review within 30 days. See OAR 340-011-0132.

15. Appeal. If you are not satisfied with the decision of the Commission, you have 60 days from the date of service of the order, to appeal this decision to the Court of Appeals. See ORS 183.480 *et seq.*

**True Line Trenching and Boring**

4120 BARTLETT DR  
HOOD RIVER, OR 97031

Phone (541)351-1130  
Fax (541)354-3933

State of Oregon  
Department of Environmental Quality

**Received**  
SEP 18 2000  
September 13, 2000

Department of Environmental Quality  
Attn: Landon Marsh  
811 S.W. 6th Avenue  
Portland, OR 97204

OFFICE OF THE DIRECTOR

EXHIBIT #   B  

Dear Mr. Marsh,

1.) This letter is to give DEQ and DOJ legal notice as per ORS 183.310 and OAR 340-11-0098 as to my request for a contested case hearing concerning the renewal of my sewage disposal service license. I am formally doing so now and I am also requesting the hearing be held at the employment office in The Dalles, Oregon.

2.) My "answer" to DEQ's "denial" as per OAR 340-011-0107 to renew my license is as follows;

- a.) all OAR's
- b.) all ORS's
- c.) DEQ's, OAR's
- d.) any and all information that pertains to my case enlight of the fact I will be representing myself and not retaining legal counsel at this time.

Sincerely,

*George H. True*

George H. True  
President/True Line Trenching and Boring  
Secretary/Treasurer of Hood River Underground Council  
And on behalf of all Oregon Licensed Sewage Service Contractors

**RECEIVED**  
**OCT 02 2000**  
**EMPLOYMENT HEARINGS**

cc: Larry Knudsen, DOJ  
Phil Graham, DOJ  
Ed Woods, WQ  
Senator, Ted Ferriolli  
Governor John Kitzhaber  
Hood River County/Scott Fitch  
Jack Dent/Public Utility Commission  
Susan Grecco/Rules Coordinator

HARDY MYERS  
Attorney General



Attachment F

DAVID SCHUMAN  
Deputy Attorney General

DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

November 7, 2000

EXHIBIT #     C    

George True  
True Line Trenching and Boring  
4120 Bartlett Drive  
Hood River, OR 97031

Re: Amended Notice of Proposed Refusal to Renew Sewage Disposal License No. 38051.  
DOJ File No. 340310-GN0410-00

Dear Mr. True:

On July 31, 2000, the Oregon Department of Environmental Quality (DEQ) issued a notice that it was proposing to refuse to renew your Sewage Disposal License, number 38051 (License). That notice identified the pertinent administrative rules upon which it based its proposed decision as OAR 340-071-0660(1) and OAR 340-071-0140(1)(h).

As a result of a typographical error, the first rule cited should have been OAR 340-071-0600(1) (emphasis has been added to identify the typographical error). I do not believe that this error was material or misleading because the sole issue in this case centers around the non-renewal of your License, and OAR 340-071-0600(1) simply states that you must be licensed to operate a sewage disposal business (a matter not in dispute in this case).

I am enclosing a copy of a letter to Rebecca Osborne of the Central Hearing Panel Office who today requested information regarding the proper framing of the issue for hearing. Responding to Ms. Osborne's request first brought the typographical error to my attention.

Finally, I understand that you will not be represented by an attorney in this matter. If I am in error, please provide your attorney's name, address, and phone number at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Wirth".

Justin Wirth  
Assistant Attorney General  
Natural Resources Section

JXW:cws/GEN66715

Enclosure

c: Central Hearings Panel Office  
Sherman Olson, DEQ  
Susan Greco, DEQ

Ref No: G60416  
Agency Case No: 38051  
Case Type: DEQ

**STATE OF OREGON**  
**Before the Hearing Officer Panel**  
**For the**

Date Mailed: 11/17/00  
Mailed By: LMV

**DEPT OF ENVIRONMENTAL QUALITY**  
875 Union Street NE  
Salem, Oregon 97311

**NOTICE OF HEARING**

TRUE LINE TRENCHING AND BORING  
4120 BARTLETT DR  
HOOD RIVER OR 97031 9432

DEPT OF ENVIRONMENTAL QUALITY  
811 SW 6TH AVE  
PORTLAND OR 97204 1334

EXHIBIT #     D    

JUSTIN WIRTH  
ASST ATTORNEY GENERAL  
1162 COURT ST NE  
SALEM OR 97310 1320

**HEARING DATE AND TIME**

MONDAY, DECEMBER 4, 2000  
10:00 AM PT

**HEARING PLACE**

DEPT OF ENVIRONMENTAL QUALITY  
811 SW 6<sup>TH</sup> AVE  
CONFERENCE ROOM 5B  
PORTLAND OREGON

**ADMINISTRATIVE LAW JUDGE**

BETTERTON

***If you have questions prior to your hearing, call toll-free: 1-800-311-3394.  
If you are calling from the Salem area, please use: 947-1515.***

***BE PROMPT AT TIME OF HEARING. INQUIRE IN LOCATION'S LOBBY AREA REGARDING HEARING ROOM. If you need directions, call the above number.***

The issue(s) to be considered are:

DID THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) CORRECTLY INTERPRET OAR 340-071-0140(1)(h) AND OAR 340-071-0060(1) WHEN DEQ PROPOSED TO REFUSE TO RENEW SEWAGE DISPOSAL LICENSE NUMBER 38051 (LICENSE) ISSUED TO GEORGE H. TRUE AND ERICA N. TRUE dba TRUE LINE TRENCHING & BORING (LICENSEE), WHEN LICENSEE PAID ONLY A \$400 RENEWAL FEE, BUT SHOULD HAVE PAID AN \$800 FEE FOR A NEW BUSINESS LICENSE BECAUSE OF LICENSEE'S FAILURE TO TIMELY RENEW THE LICENSE RESULTING IN EXPIRATION OF THE LICENSE?

Ref No: G60416  
 Agency Case No: 38051  
 Case Type: DEQ

**STATE OF OREGON**  
**Before the Hearing Officer Panel**  
**For the**

Date Mailed: 11/22/00  
 Mailed By: LMV

**DEPT OF ENVIRONMENTAL QUALITY**  
 875 Union Street NE  
 Salem, Oregon 97311

## AMENDED NOTICE OF HEARING

TRUE LINE TRENCHING AND BORING  
 4120 BARTLETT DR  
 HOOD RIVER OR 97031 9432

DEPT OF ENVIRONMENTAL QUALITY  
 811 SW 6TH AVE  
 PORTLAND OR 97204 1334

EXHIBIT #     E    

JUSTIN WIRTH  
 ASST ATTORNEY GENERAL  
 1162 COURT ST NE  
 SALEM OR 97310 1320

**HEARING DATE AND TIME**

MONDAY, DECEMBER 4, 2000  
 10:00 AM PT

**HEARING PLACE**

DEPT OF ENVIRONMENTAL QUALITY  
 811 SW 6<sup>TH</sup> AVE  
 CONFERENCE ROOM 5B  
 PORTLAND OREGON

**ADMINISTRATIVE LAW JUDGE**

BETTERTON

*If you have questions prior to your hearing, call toll-free: 1-800-311-3394.  
 If you are calling from the Salem area, please use: 947-1515.*

***BE PROMPT AT TIME OF HEARING. INQUIRE IN LOCATION'S LOBBY AREA REGARDING HEARING ROOM. If you need directions, call the above number.***

The issue(s) to be considered are:

DID THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) CORRECTLY INTERPRET OAR 340-071-0140(1)(h) AND OAR 340-071-0600(1) WHEN DEQ PROPOSED TO REFUSE TO RENEW SEWAGE DISPOSAL LICENSE NUMBER 38051 (LICENSE) ISSUED TO GEORGE H. TRUE AND ERICA N. TRUE dba TRUE LINE TRENCHING & BORING (LICENSEE), WHEN LICENSEE PAID ONLY A \$400 RENEWAL FEE, BUT SHOULD HAVE PAID AN \$800 FEE FOR A NEW BUSINESS LICENSE BECAUSE OF LICENSEE'S FAILURE TO TIMELY RENEW THE LICENSE RESULTING IN EXPIRATION OF THE LICENSE?

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 29, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item B, Rule Adoption: Title V Permitting Program CPI Fee Increase  
June 22, 2001 EQC Meeting

**Need for Rulemaking** Costs of implementing and administering the Title V permitting program have increased due to salary increases, and inflation. Oregon's Operating Permitting Program is required to be fully funded by fees from sources subject to Title V of the Clean Air Act (CAA) in order to retain federal approval status.

**Effect of Rule** Oregon statute allows the Department to increase Title V source fees by the Consumer Price Index (CPI) each year. All Title V permitting fees will increase 3.3 percent in response to the 2000 CPI.

**Commission Authority** The Commission has authority to take this action under ORS468.065, ORS468A.040, and ORS468A.315.

**Stakeholder Involvement** The Department discussed the proposed increase with representatives of Associated Oregon Industries, and the Pulp and Paper and Electronics Industries. These Industries represent the bulk of Title V sources in Oregon.

**Public Comment** A public comment period extended from February 16 to March 23, 2001 and included a public hearing in Portland. No written or oral public comments were received for this rulemaking.

**Key Issues**

- The Department is not proposing to increase Synthetic Minor permitting fees because Synthetic Minor provisions were repealed when the EQC adopted Air Quality's permit streamlining rule package on May 4, 2001. A proposal to increase Synthetic Minor permitting fees was included in the public notice for this rulemaking only in the event the streamlining rules were not approved.
- No external issues were raised during the development of this rule. The Department provided information regarding the fee amendment proposal to fee payer representatives during rule development and received no adverse comment. CPI adjustment information was provided by the State

Economist's office. Staff salary information was provided by Department budget staff.

**Next Steps** This proposal will be filed with the Secretary of State as soon as possible after adoption by the EQC. The Department will begin billing existing Title V sources July 1, 2001. No procedural changes will be necessary. The Rule Implementation Plan is available upon request.

**Department Recommendation** The Department recommends the Commission adopt the proposed rule revisions to increase permitting fees for Title V sources as presented in Attachment A.

**Attachments**

- A. Proposed Rule for Adoption
- B. Relationship to Federal Requirements
- C. Fiscal and Economic Impact Statement
- D. Presiding Officer's Report on Public Hearings
- E. Land Use Evaluation Statement

**Available Upon Request**

- 1. Legal Notice of Hearing
- 2. Cover Memorandum from Public Notice
- 3. Rule Implementation Plan

Approved:

Section:

Wendy Anderson for Pat Vernon

Division:

Andrew Ginsberg

Report Prepared By: Scott Manzano

Phone: (503) 229-6821



## Attachment A

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

### Rulemaking Proposal for Oregon Title V Operating Permit Fee Increase

## Proposed Rule Changes

### DIVISION 220

### OREGON TITLE V OPERATING PERMIT FEES

#### 340-220-0030

##### Annual Base Fee

(1) The Department ~~shall~~ will assess an annual base fee of ~~\$2,8842,977~~ for each source subject to the Oregon Title V Operating Permit program. The fee covers

~~(2) The annual base fee shall be paid to cover~~ the period from November 15 of the current calendar year to November 14 of the following year.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00

#### 340-220-0040

##### Emission Fee

(1) The Department ~~shall~~ will assess an emission fee of ~~\$33-6334.72~~ per ton to each source subject to the Oregon Title V Operating Permit Program.

(2) The emission fee ~~shall~~ will be applied to emissions from the previous calendar year based on the elections made according to OAR 340-220-0190.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00

#### 340-220-0050

##### Specific Activity Fees

The Department will assess sSpecific activity fees ~~shall be assessed by the Department for an Oregon Title V Operating Permit program source with any one of the following activities as follows:~~

(1) Existing Source Permit Revisions:

(a) Administrative\* -- ~~\$288~~298;

(b) Simple -- ~~\$1,154~~1,191;

(c) Moderate -- ~~\$8,651~~8,932;

(d) Complex -- ~~\$17,303~~17,863.

(2) Ambient Air Monitoring Review -- ~~\$2,307~~2,392.

\*includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00

## Attachment B

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

### Rulemaking Proposal for Oregon Title V Operating Permit Fee Increase

#### Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.

**1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?**

Yes. Title V of the Clean Air Act and EPA rules (40 CFR Part 70) require that Title V fees fully pay for the cost of the Title V program. Federal law requires that fees be increased to keep pace with inflation. Federal law also specifies which sources must obtain Title V permits.

EPA rules (40 CFR Part 51) specify requirements for establishing and amending the State Implementation Plan. The proposed rules do not differ from federal requirements.

**2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

Not applicable.

**3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?**

Yes

**4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

Not Applicable.

**5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?**

Not Applicable

**6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?**

Not Applicable

**7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)**

Not Applicable

**8. Would others face increased costs if a more stringent rule is not enacted?**

Not Applicable

**9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?**

Not Applicable

**10. Is demonstrated technology available to comply with the proposed requirement?**

Not Applicable

**11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain?**

Not Applicable

## Attachment C

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Oregon Title V Operating Permit Fee Increase

### Fiscal and Economic Impact Statement

#### Introduction

As required by federal law, the Oregon Operating Permit Program must be fully funded by fees from all sources subject to Title V of the Clean Air Act. Program administration and implementation costs have increased due to salary increases and inflation. Based on the 2000 Consumer Price Index, the Department proposes to increase fees 3.3 percent for fiscal year 2002 (July 1, 2001 through June 30, 2002) in order to implement the program and maintain federally required self-supporting status. Oregon Operating Permit Program sources will pay more for each ton of regulated air pollution released, and for annual compliance assurance work and permit modification work. The Department does not project an increase in overall program revenue for fiscal year 2001 because of an anticipated decrease in overall Title V chargeable emissions.

#### Proposed Fees

**Title V Base Fees and Emission Fees:** In 2000, the Annual Base Fee and per-ton Emission Fees were charged to 131 major industrial sources. Our records indicate Title V Base and Annual Emission fees will be assessed to 126 sources by the Department in 2001. If the amendment is approved, the Base Fee will increase from 2,884/year to \$2,977/year, and the annual fee paid per ton of pollution will increase from \$33.63 to \$34.72. Emission and Base fee revenue is expected to decrease for fiscal year 2002 because fewer sources are expected to pay these fees compared to FY 2001.

**Title V Modification Fees:** For fiscal year 2002, the Department estimates assessing fees for fifty Administrative Amendments; a \$10 increase to \$298 each, fifteen Simple Title V Modifications; a \$37 increase to \$1,191 each, five Moderate Title V Modifications; an \$281 increase to \$8,932 each, five Complex Title V Modifications; a \$560 increase to \$17,863 each,

and one ambient Air Monitoring Reviews: \$75 increase to \$2,382 each. Title V modification workload is not expected to significantly change from fiscal year 2001.

**Synthetic Minor Fees:** It is important to note that the Department will ask that the Commission adopt this proposal without increasing fees to synthetic minor sources if the Department's proposed Industrial Source Permitting Rules (aka PSEL Rules) are adopted in May, 2001. Though synthetic minor sources are now subject to this proposal, and the projected increases are provided below, the proposed Industrial Source Permitting Rules eliminate synthetic minor source fees. That revenue will be integrated in the new fee structure proposed in the PSEL rules.

The Annual Compliance Assurance Fee will increase from \$1,154 to \$1,191. 131 Synthetic Minor sources are currently charged an Annual Compliance Assurance Fee. The Department also expects 131 sources to be assessed the Annual Compliance Assurance Fee in fiscal year 2002. These sources are large industrial sources that elected to have emission limits on their operation in order to avoid obtaining a more costly Title V permit. Although these sources are not required to obtain Title V Operating Permits, the fees for their Synthetic Minor limits are required by Title V rules.

For fiscal year 2002, the Department anticipates 22 Synthetic Minor sources will also have to pay the Synthetic Minor Application Processing Fee because their permits will be expiring. It is also estimated that there will be approximately 10 applications for modifications and 3 new applications, all requiring the payment of Application Processing Fees. The Application Processing Fee will increase from \$2,192 to \$2,263. Application processing workload is not expected to be significantly different than in fiscal year 2001.

### **General Public**

Higher permit fees are expected to be passed on to consumers through proportionately higher costs of goods and services produced by Title V sources.

### **Small Business**

Title V and Synthetic Minor Permits are based on the amount of pollutants discharged, not the number of employees. Some major industrial sources of air pollution may be small businesses. In general, these companies tend to emit less than 100 tons per year of air pollutants but are considered "major" because of their potential to emit 100 or more tons per year. The proposed fee increase would raise the fees of a 100 ton/year source by a total of \$206 (from \$6,247 to \$6,453) as long as the source does not need any modifications to its permit, and does not need an ambient monitoring review done. This increase includes the increased base fee and the higher emission fee rate.

Many of the sources that received Synthetic Minor Permits are small businesses. The fee increase would be \$37 for the annual compliance assurance fee and \$71 for the application processing fee, which pays for permit renewals and modifications.

### **Large Business**

Most major sources of air pollution subject to Title V permitting and the associated fees are large industrial facilities. The largest source of air pollution in Oregon emitted approximately 9,316 tons of assessable emissions and paid \$316,181 in 2000. Assuming emissions remain the same in 2001, this source would pay \$326,612 because of the increase. In 2000, approximately 62 percent of Title V sources emitted more than 1,000 tons per year, 36 percent from 100 to 1,000 tons per year, and 2 percent emitted less than 100 tons per year.

### **Local Governments**

Currently, Coos County is the only local government agency required to have a Title V Operating Permit. Their applicable fees would also increase by 3.3 percent. We anticipate Coos County will pay annual fees in 2001 of approximately \$9,129, an increase of \$292 over 2000 fees.

The Lane Regional Air Pollution Authority is the only other air permitting agency in Oregon. They also must also demonstrate to the EPA that their Title V Operating Permit Program is self-supporting. They establish their own fee schedule, and this rule amendment will not necessarily affect them.

### **State Agencies**

The Oregon State University and Oregon Health Sciences University currently are the only state agencies required to have Title V Operating Permits. Oregon State University will pay estimated annual fees in 2001 of \$8,642, an increase of \$276 over 2000 fees. In 2001, the Oregon Health Sciences University will pay estimated annual fees of \$18,991, an increase of \$607 over 2000 fees.

As previously provided, the Oregon Department of Environmental Quality does not project an increase in revenue as a result of the CPI adjustment, and does not anticipate any personnel adjustments to implement and administer the Oregon Title V Operating Permit Program.

### **Residential Development**

The Department has determined that this rule making proposal will have no impact on the cost of developing a 6,000 square foot parcel and the construction of a 1,200 square-foot single-family, detached dwelling on that parcel.

## Assumptions

Estimated Title V program revenue forecasts and expenditures are based on the assumption that all facilities subject to this program in Oregon have been identified. A total of 126 sources are currently subject to Title V permitting and fee requirements.

Revenues from the 3.3 percent CPI fee increase and from the expected permit modifications will be used solely to fund the Oregon Title V Operating Permit Program. The proposed increase will not result in an increase in staff, and is necessary to retain federal approval status. Information regarding the Consumer Price Index (CPI) used for this analysis is provided below:

<u>Year</u>	<u>CPI</u>
1980	1.24
1993	1.446
1999	1.667
2000	1.722



Attachment D

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date: March 22, 2001**

To: Environmental Quality Commission

From: Scott Manzano

Subject: Presiding Officer's Report for Rulemaking Hearing  
Hearing Date and Time: March 22, 2001, beginning at 3:00 p.m.  
Hearing Location: 811 SW 6<sup>th</sup> Ave. Room 3A, Portland OR.

Title of Proposal: Title V Permitting Program CPI Fee Increase

The rulemaking hearing on the above titled proposal began at 3:00 p.m. The hearing officer was present but no one else attended the hearing.

There was no oral or written testimony, and the hearing was closed at 3:30 p.m.

Attachment E

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Oregon Title V Operating Permit Fee Increase

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

Costs of implementing and administering the Title V Operating Permit Program in Oregon have increased due to inflation. The Oregon Operating Permit program is required to be fully funded by fees from all sources subject to Title V of the Clean Air Act in order to retain federal approval status. An increase in the fees charged is necessary to implement the program and maintain self supporting status.

The fee increase will not result in an increase in staff. Regulated facilities will pay more for each ton of regulated air pollution released, and for annual compliance assurance work and permit modification work. The fee increase is based on a 3.3 percent increase in the U.S. Consumer Price Index since the last rule adoption.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes  No

**a. If yes, identify existing program/rule/activity:**

Oregon's Federal Operating Permit Program, which regulates air emissions from major industrial sources.

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes  No  (if no, explain):

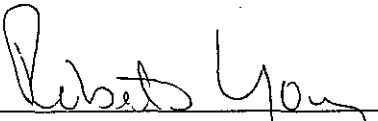
The proposed rules would be implemented through the Department's existing stationary source permitting program. An approved land use compatibility statement is required from local government before an air permit is issued.

**c. If no, apply the following criteria to the proposed rules.**

Not applicable

**3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

Not applicable

  
Intergovernmental Coordinator

2/13/01  
Date

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 29, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item C, Rule Adoption: Underground Injection Control (UIC) Rules  
June 21-22, 2001 EQC Meeting

**Need for Rulemaking** Regulation of underground injection to protect underground sources of drinking water is federally mandated by the Safe Drinking Water Act [42 U.S.C. 300f *et seq.*]. Oregon rules, last revised in 1983, must be consistent with federal rules to maintain program primacy.

**Effect of Rule** Revisions to UIC Rules, summarized in Attachment A1, will: (1) update existing Oregon UIC rules to incorporate 1999 federal rule changes, (2) add provisions that provide basic UIC program elements, and (3) clarify existing state regulatory requirements for underground injection.

**Commission Authority** The Commission has authority to take this action under ORS 454.625, ORS 468.020, ORS 468B.020, and ORS 468B.165. Proposed rules implement ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053, ORS 468B.155, and ORS 468B.160.

**Stakeholder Involvement** The UIC Task Force provided input to the Department in drafting proposed rule revisions. Task Force members and recommendations are provided in Attachment B. The Task Force recommended proceeding with the rule revisions and supported the rule revision language proposed for public comment.

**Public Comment** A public comment period extended from July 14 to August 31, 2000 and included public hearings in Portland, Medford, and Bend. In response to public input, the comment period was extended through December 15, 2000 and an additional hearing was held in Portland. Results of public input are provided in Attachment C.

**Key Issues**

Key issues (presented in Attachment C1) were:

- Whether all storm water injection systems should be authorized by rule rather than permit. The Task Force and public comments supported authorization by rule for storm water injection systems, subject to specific design and management requirements. The Department resolved this issue by proposing that storm water systems meeting specific requirements be authorized by rule.
- Whether municipalities with more than 500 storm water injection systems would be eligible for authorization by rule as an alternative to regulation by permit. Comments objected to the basic requirement that municipalities with more than 500 injection systems obtain a permit. The Department resolved this issue by revising proposed rules to allow all storm water injection systems that meet the general and category specific requirements to qualify for authorization by rule. This solution enables UIC program staff to focus on priorities including system registration and industrial system compliance, and permitting staff to focus on other water quality priorities. The Department has concerns that the proliferation in construction of storm water injection wells as a solution to storm water management issues may have a long-term detrimental effect on groundwater quality.
- Whether Maximum Contaminant Levels (MCLs) for drinking water should be used as reference levels in review of municipal storm water injection monitoring data. Comments objected to the requirement that MCLs be used for comparison. The Department resolved this issue by eliminating this requirement for municipalities. The proposed rules require municipalities to report to the Department in 2004 on how they have implemented storm water management plans and how effective their best management practices are in eliminating storm water contamination. A regional or statewide study may be accepted by the Department.
- Whether limited Department resources could fully implement both existing and new requirements of the UIC rules. The Department will prioritize UIC program activities to be consistent with regional and Water Quality program priorities and timelines. Regional and headquarters program staff will be assigned as available.

**Next Steps** If the EQC adopts the proposed UIC rules, they will be effective 90 days after adoption. The delayed effective date will allow the Department to notify and train staff and the regulated community on the rule revisions. The Department will complete the program primacy revision package for submittal and approval by EPA. Registration and inventory of UIC systems will continue to be a program priority. The Department will notify registered system owners of new rule requirements and timelines for storm water injection. Current UIC program staffing levels will continue, requiring the Department to focus on the highest priorities for program and regional implementation. Program priorities will focus on compliance for industrial injection systems and issuance of permits as necessary.

**Department Recommendation** The Department recommends the Commission adopt proposed Underground Injection Control (UIC) rule revisions in OAR 340-044 as provided in Attachment A.

- Attachments**
- A. Proposed Rule Revisions
    - 1. Summary of Proposed Rule Revisions
    - 2. Proposed Rule Revisions
  - B. Advisory Committee Membership and Report
  - C. Public Input and Department Response
    - 1. Summary of Key Issues and Department Response
    - 2. Public Input and List of Commenters
    - 3. Summary of Comments
    - 4. Department Response to Comments
  - D. Federal Requirements
    - 1. Relationship to Federal Requirements
    - 2. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
  - E. Fiscal and Economic Impact Statement
  - F. Presiding Officer's Report on Public Hearings
  - G. Land Use Evaluation Statement

- Documents Available Upon Request**
- 1. Legal Notice of Hearing
  - 2. Cover Memorandum from Public Notice
  - 3. Written Comments Received
  - 4. Rule Implementation Plan
  - 5. 3/23/2001 Letter from Oregon Association of Clean Water Agencies

Agenda Item C, UIC Rule Adoption  
June 21-22, 2001 EQC Meeting  
Page 4 of 4

Approved:

Section:

Mark D. Charles

Division:

[Signature]

Report Prepared By: Karla Urbanowicz  
Phone: 503-229-6099

## **Attachment A 1**

### **Summary of Proposed Rule Revisions**

Proposed Underground Injection Control (UIC) rule revisions accomplish the following:

- 1) Incorporation of 1999 federal rule changes to prohibit and phase out use of two types of high risk Class V injection wells – large capacity cesspools and motor vehicle waste disposal wells (OAR 340-044-0015).
- 2) Addition of basic UIC program elements including provisions to authorize injection systems by rule (OAR 340-044-0018), requirements to submit inventory and registration information (OAR 340-044-0018 and 0020), and classifications for injection system (OAR 340-044-0011).
- 3) Clarifications and updates to existing state rule requirements including:
  - Definitions (OAR 340-044-0005);
  - Policy and purpose to conform to Safe Drinking Water Act and state groundwater quality protection policy and effective date (OAR 340-044-0010);
  - Requirement for authorization by rule or permit (OAR 340-044-0012);
  - Scope of UIC rules (OAR 340-044-0013);
  - Prohibition of groundwater contamination (OAR 340-044-0014);
  - Prohibited injection systems (OAR 340-044-0015);
  - Prohibitions on sewage drainholes and conditions for repair (OAR 340-044-0015 and -0017);
  - Categories and requirements for authorization by rule (OAR 340-044-0018);
  - Expansion of authorization by rule to include on-site systems and injection for environmental cleanups, and broaden the storm water injection category (OAR 340-044-0018);
  - Specify authorization by rule requirements for storm water injection systems (OAR 340-044-0018)(3); and
  - Decommissioning requirements for all types of regulated injection systems (OAR 340-044-0040).



**DIVISION 44**

**CONSTRUCTION AND USE OF WASTE DISPOSAL WELLS OR OTHER  
UNDERGROUND  
INJECTION ACTIVITIES  
(UNDERGROUND INJECTION CONTROL)**

**340-044-0005**

**Definitions**

As used in these regulations unless the context requires otherwise:

(1) "Absorption Facility" means a system receiving the flow from septic tanks or other treatment units to distribute wastewater for oxidation and absorption by the soil within the zone of aeration.

~~(1)~~(2) "Aquifer" means an underground stratum—zone holding water which—that is capable of yielding a significant amount of water to a well or spring.

(3) "Aquifer Storage and Recovery" means the storage of water from a separate source that meets drinking water standards in a suitable aquifer for later recovery and not having as one of its primary purposes the restoration of the aquifer.

~~(2)~~(4) "Authorized Representatives" means the staff of the Department or of the local unit of government performing duties for and under agreement with the Department as authorized by the Director to act for the Department.

(5) "Best Management Practices (BMPs)" for storm water means schedules of activities, prohibitions of practices, maintenance procedures or other management practices to prevent or reduce the pollution of waters of the state. BMPs for storm water may include operational and structural source controls that minimize and prevent contaminants from entering storm water as well as treatment BMPs that remove contaminants contained in storm water runoff before disposal or discharge.

(6) "Cesspool" means a receptacle that receives sewage, allows separation of solids and liquids, retains the solids and allows liquids to seep into the surrounding soil through perforations in the lining or an open bottom.

(7) "Commercial" means a type of business activity that may distribute goods or provide services, but does not involve the manufacturing, processing or production of goods.

~~(3)~~ "Commission" means the Environmental Quality Commission.

(8) "Confinement Barrier" means a naturally occurring zone in subsurface soil or bedrock that prevents the movement of liquids and contaminants into the underlying groundwater aquifer and which may act as a confining unit to an underlying groundwater aquifer.

~~(4)~~(9) "Construction" includes installation, alteration, repair or extension.

(10) "Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in groundwater or that occurs naturally but at a lower concentration.

(11) "Contamination" means introduction of a contaminant.

~~(5)~~(12) "Department" means the Department of Environmental Quality.

(6)(13) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

~~(7) "Exempted Aquifer" means an aquifer which contains water with fewer than 10,000 mg/l total dissolved solids, is not currently used as a source of drinking water, and has been excluded as a possible source of drinking water because of one or more of the following:~~

~~(a) Its mineral content, hydrocarbon content or physical characteristics, such as temperature, makes its use for drinking water impractical;~~

~~(b) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical; or~~

~~(c) The water or aquifer exhibit other characteristics which makes the aquifer unusable for drinking water.~~

(14) "Drywell" means a well, other than a subsurface fluid distribution system, completed so that its bottom and sides are typically dry except when receiving fluids.

(15) "Fluid" means any material or substance that flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

(16) "Governmental Unit" means the state or federal government or any agency thereof.

(17) "Groundwater Point Source" means any confined or discrete source of pollution where contaminants can either enter into, or be conveyed by the movement of water, to public waters.

(18) "Hazardous Substance" means:

(a) Hazardous waste.

(b) Any substance defined as a hazardous substance pursuant to section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act.

(c) Oil or petroleum products.

(d) Any substance designated by the Environmental Quality Commission under ORS 465.400.

(19) "Hazardous Waste" means a waste as defined in ORS 466.005 or 40 CFR 261.3.

(20) "Improved Sinkhole" means a naturally occurring depression, rock fracture, or other natural crevice, found in volcanic or other types of bedrock formations, that has been modified for the purpose of directing and emplacing fluids into the subsurface.

(21) "Industrial Activities" for the purpose of storm water injection control means, but is not limited to, manufacturing, processing and material handling activities and those areas of an industrial facility associated with such activities. Material handling activities include the storage, loading and unloading, transport or conveyance of any raw material, intermediate product, final product or waste product, and specifically includes hazardous substances, toxic materials and petroleum products.

(22) "Industrial Waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

(23) "Injection" or "Underground Injection" means the emplacement or discharge of fluids into the subsurface.

(24) "Injection System" or "Underground Injection System" means a well, improved sinkhole, sewage drain hole, subsurface fluid distribution system or other system or groundwater point source used for the subsurface emplacement or discharge of fluids.

(25) "Low-Temperature Geothermal Fluid" means any groundwater used for its thermal characteristics that is encountered in a well with a bottom hole temperature of less than 250 degrees Fahrenheit.

(26) "Mine Backfill" means mine tailings, sand or other solids with fluids used to fill mined-out portions of subsurface mines.

~~(8)(27) "Municipal Sanitary Sewerage System Service" means any part of a sanitary sewage waste collection, transmission, or treatment facility that is owned and operated by an incorporated city municipality.~~

~~(9) "Municipal Sewer Service Area" means an area which has been designated by an incorporated city for sewer service and for which preliminary sewer planning has been completed.~~

~~(10)(28) "Municipality" means an incorporated city only any county, city, special service district, or other governmental entity.~~

(29) "North American Industry Classification System" or "NAICS" means the system used for classifying businesses and reporting industry statistics adopted in 1997 for United States federal agency implementation that replaces the Standard Industrial Code (SIC) system.

(30) "On-Site Sewage Disposal System" means a sewage disposal system such as a standard subsurface, alternative or experimental system as defined in OAR 340-071 that is installed on land of the owner of the system or on other land on which the owner of the system has the legal right to install the system.

~~(11)(31) "Owner or Operator" means any person who alone, or jointly, or severally with others:~~

~~(a) Any person who alone, or jointly, or severally with others: Owned, leased, operated, controlled or exercised significant control over the operation of a facility;~~

~~(A)(b) Has legal title to any lot, dwelling, or dwelling unit; or~~

~~(B)(c) Has care, charge, or control of any real property as agent, executor, executrix, administrator, administratrix, trustee, lessee or guardian of the estate of the holder of legal title; or~~

~~(C)(d) Is the contract purchaser of real property.~~

~~(b) Each such person as described in paragraphs (a)(B) and (C) of this section, thus representing the holder of legal title, is bound to comply with the provisions of these minimum standards as if he were the owner.~~

(32) "Permit" means a written authorization from the Director or the Director's authorized designees to discharge wastes or construct, install, modify or operate a disposal system. A Water Pollution Control Facilities (WPCF) permit is one type of permit.

(12)(33) "Person" means the United States and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

(34) "Pollution" means alteration of the physical, chemical or biological properties of any waters of the state, including changes in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.

~~(13) "Property" means any structure, dwelling or parcel of land that contains or uses a waste disposal well for disposing of wastes.~~

~~(14) "Public Health Hazard" means a condition whereby there are sufficient types and amounts of biological, chemical, or physical, including radiological, agents relating to water or sewage which are likely to cause human illness, disorders, or disability. These include, but are not limited to, pathogenic viruses and bacteria, parasites, toxic chemicals, and radioactive isotopes. A malfunctioning or surfacing subsurface sewage disposal system constitutes a public health hazard.~~

~~(15) "Public Waters" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.~~

(35) "Radioactive Waste" means waste as defined in ORS 469.300 or that contains radioactive material in concentrations that exceed those listed in 10 CFR Part 20, Appendix B, Table II, Column 2.

(36) "Sanitary Waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations and sinks or washing machines where food and beverage serving dishes, glasses and utensils are cleaned. Sources of these wastes may include, but are not limited to, single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities and industrial facilities provided the waste is not mixed with industrial waste. The combination of industrial waste and sewage is not considered sanitary waste.

~~(16)(37) "Seepage Pit" means a lined pit which receives partially treated sewage which seeps into the surrounding soil through perforations in the lining type of absorption facility that is a covered pit with an open-jointed lining through which septic tank effluent may seep or leach into surrounding soil.~~

(38) "Septic System" means a system used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution or disposal system.

~~(17)(39) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such groundwater~~

infiltration, and surface water or industrial waste as may be present. ~~The admixture with sewage as above defined of industrial wastes or wastes shall also be considered "sewage" within the meaning of these rules.~~

~~(18)(40) "Sewage Drain Hole" or "Sewage Drill Hole" means a specialized type of waste disposal well consisting of a drilled, or hammered or blasted borehole well or natural lava crack or fissure used for sewage or sanitary waste disposal, and that may include a septic tank ahead of the disposal well, in the lava terrain of Central Oregon; but does not include a conventional seepage pit regulated by OAR 340-071-0335.~~

~~(19) "Standard On-Site Sewage Disposal System" means a drainfield or approved alternative disposal system that complies with the requirements of OAR Chapter 340 Division 71.~~

~~(41) "Storm Water" means water from precipitation or snow melt that collects on or runs off outdoor surfaces such as buildings, roads, paved surfaces and unpaved land surfaces.~~

~~(42) "Subsurface Fluid Distribution System" means an assemblage of perforated pipes, drain tiles or other mechanisms intended to distribute fluids below the surface of the ground.~~

~~(43) "Surface Infiltration" means fluid movement from the ground surface into the underlying soil material without the use of a subsurface fluid distribution system or injection system.~~

~~(44) "Time-of-Travel" means the amount of time it takes groundwater to flow within an aquifer to a given well.~~

~~(45) "Toxic Material" means any material that will cause or can reasonably be expected to cause a hazard to aquatic, human or animal life.~~

~~(20) "Underground Injection Activity" means any activity involving underground injection of fluids including, but not limited to, waste disposal wells, petroleum enhanced recovery injection wells, liquid petroleum storage wells, in situ mining wells, groundwater recharge wells, saltwater intrusion barrier wells, sand backfill wells, and subsidence control wells.~~

~~(21)(46) "Underground Source of Drinking Water" means an aquifer or its portion groundwater source which that supplies or potentially could supply drinking water for human consumption, or is an aquifer in which the groundwater contains fewer than 10,000 mg/L total dissolved solids, and is not an exempted aquifer.~~

~~(22)(47) "Vehicle Trips" means a one-direction vehicle movement either entering or exiting a facility.~~

~~(48) "Waste Disposal Well" means a well used to dispose of wastes, any a bored, drilled, driven or dug hole, whose depth is greater than its largest surface dimension which is used or is intended to be used for disposal of sewage, industrial, agricultural or other wastes and includes drain holes, drywells, cesspools and seepage pits, along with other underground injection wells, but does not apply to single family residential cesspools or seepage pits nor to nonresidential cesspools or seepage pits which receive solely sanitary wastes and serve less than 20 persons per day, an improved sinkhole, or a subsurface fluid distribution system.~~

~~(23)~~(49) "Wastes" means sewage, industrial wastes, agricultural wastes, and all other liquid, gaseous, solid, radioactive or other substances which will or may cause pollution or tend to cause pollution of any waters of the state.

(50) "Waters of the State" or "Public Waters" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(51) "Well" means a bored, drilled, driven or dug hole whose depth is greater than its largest surface dimension, an improved sinkhole, a sewage drain hole, or a subsurface fluid distribution system.

~~(24)~~(52) "WPCF Permit" means a Water Pollution Control Facilities permit as defined in OAR 340-045 to construct and operate a disposal system with no discharge to navigable waters, as defined in Division 45-

Stat. Auth.: ~~ORS 183 & ORS 468~~ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.605 & ORS 468.005

Hist.: SA 41, f. 5-15-69; DEQ 35-1979, f. & ef. 12-19-79; DEQ 15-1983, f. & ef. 8-26-83

### **340-044-0010**

#### **Policy, Purpose and Effective Date**

(1) These rules set forth requirements for the State of Oregon Underground Injection Control (UIC) program adopted in conformance with Part C of the federal Safe Drinking Water Act (SDWA) in effect on the date of this rule adoption. It is the policy of the Environmental Quality Commission that the injection of wastes to the subsurface shall be limited and controlled in a manner that protects existing groundwater quality for current or potential beneficial uses including use as an underground source of drinking water.

(2) ~~Whereas the discharge~~The injection of untreated or inadequately treated sewage or wastes to waste disposal wells and particularly to waste disposal wells in the lava terrain of Central Oregon constitutes a threat of serious, detrimental and irreversible pollution of valuable groundwater resources and a threat to public health, ~~it is hereby declared to be.~~ †The policy of the Environmental Quality Commission is to restrict, regulate or prohibit the further construction and use of waste disposal wells in Oregon and to phase out completely the use of waste disposal wells as a means of disposing of untreated or inadequately treated sewage or wastes as rapidly as possible in an orderly and planned manner.

(3) These rules as adopted, amended and repealed by the Environmental Quality Commission on June 22, 2001 are effective on September 20, 2001. The rules previously in effect are effective and enforceable until September 20, 2001.

Stat. Auth.: ~~ORS 468~~ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ~~ORS 468.020~~ ORS 454.607, ORS 468B.015, ORS 468B.080 & ORS 468B.160

Hist.: SA 41, f. 5-15-69; DEQ 35-1979, f. & ef. 12-19-79

### **340-044-0011**

#### **Classification of Underground Injection Systems**

Injection systems are classified as follows:

(1) Class I. Injection systems that inject hazardous waste, radioactive waste or other fluids beneath the lowermost formation containing an underground source of drinking water. This includes the disposal of fluids containing hazardous waste or radioactive waste into wells, drill holes, sinkholes and cesspools regardless of their capacity or flow rate.

(2) Class II. Injection systems that inject fluids:

(a) Produced by natural gas storage operations, or conventional oil or natural gas production;

(b) Used to enhance recovery of oil or natural gas; or

(c) For storage of hydrocarbons that are liquid at standard temperature and pressure.

(3) Class III. Injection systems that inject fluids for extraction of minerals or other natural resources including sulfur, uranium, metals, salts or potash by methods such as solution mining, in-situ production or stopes leaching.

(4) Class IV. Injection systems that inject hazardous waste or radioactive waste into or above a formation containing an underground source of drinking water. This includes the disposal of fluids containing hazardous waste or radioactive waste into septic systems, drill holes and cesspools regardless of their capacity or flow rate.

(5) Class V. Injection systems not included in Classes I, II, III or IV that inject fluids other than hazardous waste or radioactive waste into the subsurface. Types of Class V injection systems include, but are not limited to, the following:

(a) Sanitary waste injection systems that inject sanitary waste fluids into subsurface fluid distribution or injection systems such as septic systems, drainfields, disposal trenches, seepage pits, cesspools, or sewage drain holes or drill holes.

(b) Industrial/commercial injection systems that inject waste fluids from industrial or commercial business activities. Typical North American Industry Classification System (NAICS) industrial sectors that may produce waste fluids include manufacturing, agriculture, mining and transportation. Injection systems that combine or mix any amount of industrial or commercial wastewater or animal waste with storm water or sanitary waste are considered industrial/commercial injection systems.

(c) Fluid return injection systems that re-inject spent geothermal fluids into the source aquifer following extraction of heat energy or electric power generation, spent brines after extraction of salts, or non-contact heat pump and air conditioning return fluids. Irrigation return flows are not considered fluid return flows.

(d) Storm water injection systems that inject only storm water runoff from residential, commercial or industrial facilities or roadways.

(e) Groundwater management injection systems that inject fluids to manage groundwater quality, groundwater levels, groundwater flow, or groundwater quantity. Injection systems may be used for aquifer recharge, aquifer storage and recovery, subsidence control, saltwater intrusion control, aquifer remediation, aquifer characterization, water well maintenance, groundwater table management, landslide

stabilization or special experimental purposes. In general, fluids being injected have water quality equivalent to the background groundwater, or have only localized effects around the well bore when used in aquifer remediation or water well maintenance, or are beneficial to the aquifer remediation.

Stat. Auth.: ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053 & ORS 468B.160

Hist.:

### **340-044-0012**

#### **Authorization of Underground Injection**

(1) Any underground injection activity, including the construction, modification, operation, or maintenance of any injection system, is prohibited unless it is:

(a) Excluded from this regulation in OAR 340-044-0013;

(b) Authorized by rule in OAR 340-044-0018 with inventory and registration information submitted to the Director; or

(c) Authorized by a permit issued by the Director or authorized representative.

(2) Permits shall not be issued for construction, maintenance or use of an underground injection system where any other treatment or disposal method that affords better protection of public health or water resources is reasonably available or possible.

Stat. Auth.: ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053 & ORS 468B.160

Hist.:

### **340-044-0013**

#### **Exclusions from Underground Injection Control Regulations**

The following injection activities are not covered by OAR 340-044:

(1) Single family residential septic systems and cesspools; or non-residential septic systems and cesspools handling only human sanitary wastes and designed to serve less than 20 people per day or with a design flow of less than 2,500 gallons per day. Such systems are still subject to the requirements of OAR 340-071. This exclusion does not apply to sewage drain holes or drill holes.

(2) Injection for the purpose of storing hydrocarbons that are gases at standard pressure and temperature.

(3) Any dug, blasted or drilled hole or bored shaft that is not used for the subsurface emplacement of fluids.

Stat. Auth.: ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053 & ORS 468B.160

Hist.:

### **340-044-0014**

#### **Prohibition of Groundwater Contamination**



(1) No person shall construct, operate, maintain, convert, plug or abandon any injection system or conduct any injection activity that allows the direct or indirect movement of fluids containing contaminants into groundwater if the presence of that contaminant may cause a violation of any primary drinking water regulation under the federal Safe Drinking Water Act, or fails to comply with groundwater quality protection requirements specified in OAR 340-040. The person owning or operating an injection system shall have the burden of showing that these requirements are met.

(2) If an injection activity has the potential to cause or causes a violation of primary drinking water regulations, adversely impacts groundwater quality or otherwise adversely affects human health or the environment, the owner or operator of the injection system shall:

(a) Take all appropriate action including closure of the injection system if necessary to prevent the violation;

(b) Apply for and obtain a permit if the injection activity was previously authorized by rule; and

(c) Be subject to enforcement action if appropriate.

Stat. Auth.: ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 468.090 through ORS 468.140, ORS 468.943, ORS 468B.155, & ORS 468B.160

Hist.:

### **340-044-0015**

#### **Construction or Use of Waste Disposal Wells Restricted Prohibited Underground Injection**

~~(1) After the effective date of these rules, no person shall construct, place in operation, or operate any waste disposal well without first obtaining a WPCF permit from the Department, unless the waste disposal well is exempted by section (2) of this rule.~~

~~(2) The following types of waste disposal wells do not require a WPCF permit, although they are regulated as indicated:~~

~~(a) Cesspool and seepage pits of less than 5,000 gallons per day capacity (See OAR 340-071-0335.);~~

~~(b) Storm water drains from residential or commercial areas, which are not affected by toxic or industrial wastes (See OAR 340-044-0050);~~

~~(c) Sewage drain holes serving less than 20 persons per day, (See prohibitions and other limitations in sections (5), (7), (9) and (10) of this rule).~~

~~(3) In addition to those waste disposal wells in section (2) of this rule which are exempt from a WPCF permit, the following types of waste disposal wells may be exempted from the permit requirement on a case by case basis:~~

~~(a) All cesspools and seepage pits which were constructed before January 1, 1982, and which dispose of only domestic waste;~~

~~(b) All sewage drain holes which were constructed before January 1, 1980, and which dispose of only domestic waste;~~

~~(c) Geothermal reinjection wells which return uncontaminated water to the same aquifer or to one of equivalent quality; and~~

~~(d) Reinjection of air conditioning water or heat pump transfer water to the same aquifer or one of equivalent quality.~~

~~(4)(1) No person shall cause or allow the following types of Class I – IV underground injection activities are prohibited:~~

~~(a) Class I injection systems. Wells used to dispose of hazardous waste, as defined in OAR Chapter 340, Division 63, or radioactive waste, as defined in ORS 469.300, into, above, or below a formation which contains an underground source of drinking water, within 1/4 mile of the disposal well hole;~~

~~(b) Wells used to dispose of other industrial or municipal wastewater into or below a formation which contains an underground source of drinking water within 1/4 mile of the disposal well hole, excluding wells used for injection of salt water brought to the surface as a result of oil or gas production;~~

~~(e)(b) Class II injection systems injecting fluids for Wells used for underground injection activities, other than disposal, which cause or tend to cause pollution of underground waters of the state. These activities include liquid hydrocarbon storage, and injection of fluids for mineral extraction. This does not prohibit the injection of fluids for conventional or enhanced oil or natural gas production, or fluids such as saltwater produced during oil or natural gas recovery.~~

~~NOTE: Because of the widespread availability of usable underground waters in the state, the Department has determined that these underground injection activities are a potential threat to underground waters in all parts of the state and are, therefore, all subject to regulation by the Department. If, at some future date, there is a demonstrated need for any of these other underground injected activities, the Department will initiate procedures to remove the prohibition, provided a program and procedures for adequately protecting underground waters from the activity has been adopted.~~

~~(d) Wells used for underground injection activities that allow the movement of fluids into an underground source of drinking water if such fluids may cause a violation of any primary drinking water regulation promulgated under the Federal Safe Drinking Water Act or may otherwise create a public health hazard or have the potential to cause significant degradation of public waters.~~

~~(c) Class III injection systems injecting fluids for mineral or natural resource extraction.~~

~~(d) Class IV injection systems, except for wells reinjecting treated groundwater into the same formation from which it was drawn as part of a removal or remedial action if the injection has prior approval from the Environmental Protection Agency (EPA) or the Director under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA).~~

~~(2) No person shall cause or allow the following types of Class V injection systems injecting:~~

~~(a) Fluids into residential cesspools, or non-residential cesspools designed to serve 20 or more people per day or with a design flow of 2,500 gallons or more per day after April 5, 2005. Construction of new cesspools of any capacity is prohibited by OAR 340-071.~~

(b) Fluids from industrial or commercial processes that use hazardous substances or toxic materials including petroleum products. The Director may grant exceptions to this prohibition and issue a permit if:

(A) No other reasonable alternative to injection is available;

(B) Treatment of wastewater will remove hazardous substances and toxic materials to background groundwater quality levels prior to injection of wastewater; and

(C) Reliable and adequate treatment can be demonstrated with effluent monitoring and sampling prior to each batch injection of wastewater, and with groundwater monitoring for immediate detection of releases of inadequately treated wastewater.

(c) Fluids from industrial or commercial operation areas where hazardous substances or toxic materials including petroleum products are stored, used or handled, except as allowed in OAR 340-044-0018(3).

(d) Fluids directly from floor pits or floor drains at industrial or commercial facilities, including injection into subsurface fluid distribution systems.

(e) Motor vehicle waste from vehicle repair or maintenance activities.

(f) Industrial or municipal wastewater directly into an underground source of drinking water.

(g) Agricultural drainage.

(3) No person shall cause or allow Class V injection systems injecting sanitary waste, sewage, or industrial or commercial waste into sewage drain holes or sewage drill holes, except as allowed under OAR 340-044-0015(3)(b), OAR 340-044-0017, or OAR 340-044-0018(3).

(a) New sewage drain holes or sewage drill holes are prohibited.

~~(5)(b) After January 1, 1983, use of *existing* sewage drain holes or sewage drill holes is prohibited unless the disposal well is outside the boundaries of an incorporated city, sanitary district, or county service district and municipal sanitary sewer service is not available to the property. Except for single family residences, use of an existing sewage drain hole must be authorized by a permit; or unless the Director grants a waiver pursuant to section (6) of this rule.~~

(A) Sanitary sewer service shall be deemed available to a property when:

(i) A sanitary sewer is extended to within 300 feet from the property boundary for a single family dwelling or other establishment with a maximum design flow of not more than 450 gallons per day, or 200 feet multiplied by the number of dwellings or dwelling equivalents for other establishments or greater flows, and

(ii) A sanitary sewer system is not under a connection permit moratorium and the system owner is willing or obligated to provide sewer service.

~~(6)(B) Within 90 days following written notification by the Department that after sanitary sewer service is available to a property, the owner of that property shall make connection to the sewer and shall abandon and plug-decommission the sewage drain hole in accordance with OAR 340-044-0040. Sewer service shall be deemed available to a property when a sewer is extended to within 75 feet from the property boundary. On a case-by-case basis, the Director may waive the requirement to connect to sewer if he the Director determines that connection to the sewer is impracticable or unreasonably burdensome. Any waiver granted by the Director shall be temporary and may be revoked when or if the use of the waste disposal well is modified or expanded.~~

~~(7) Construction and use of new sewage drain holes is prohibited except those new sewage drain holes that meet the following conditions:~~

~~(a) The sewage drain hole is constructed to augment a failing on-site disposal system which was constructed before January 1, 1979; the failing on-site system cannot reasonably be corrected by expansion or replacement with an approved alternative system; all possible leach field area has been fully utilized and water conservation measures instituted; and, there is no reasonable alternative available to dispose of sewage on the lot or adjacent property.~~

~~(b) Where conditions warrant, the Department may require additional sewage treatment before a new sewage drain hole will be permitted. In addition, new sewage drain holes shall be constructed within the following limitations:~~

~~(A) Sewage drain holes shall not be constructed closer than 500 feet from a natural stream or lake;~~

~~(B) Sewage drain holes shall not be constructed greater than 100 feet deep;~~

~~(C) Sewage drain holes shall not be closer than 1,000 feet from a domestic water well; and~~

~~(D) Any new sewage drain hole shall terminate at least 100 feet above any known groundwater aquifer.~~

~~(e) Any sewage drain hole constructed shall be abandoned and plugged whenever a feasible alternative on-site system or off-site sewers become available, unless a waiver is granted by the Director pursuant to section (6) of this rule. No authorization for construction of a sewage drain hole within a sewer service area will be granted unless the property owner agrees in writing not to remonstrate against connection to the sewer and abandonment of the sewage drain hole when notified that sewer service is available. This agreement shall be recorded in county deed records and shall run as a covenant with the land.~~

~~(8) A permit to construct a waste disposal well shall not be issued if the Director or his authorized representative, determines that the waste disposal well has the potential to cause significant degradation of public waters or create a public health hazard.~~

~~(c) (9) Without first obtaining written authorization from the Director or his authorized representative, no person shall modify any structure or change or expand any use of a structure or property that utilizes a sewage drain hole. Except as allowed in section (10) of this rule, the authorization shall not be issued unless:~~

~~(a) The property cannot qualify for a standard on-site sewage disposal system including the reserve area requirement; and~~

~~(b) The property is inside a designated, municipal sewer service area; and~~

~~(e) The owner of the property and the municipality having jurisdiction over the municipal sewer service area shall enter into a written agreement. The agreement shall include the owner's irrevocable consent to connect to the municipal sewerage service when it becomes available and to not remonstrate against formation of and inclusion into a local improvement district if such a district is deemed necessary by the municipality to finance sewer construction to the property; and~~

~~(d) The property is a single family dwelling that is not closer than 100 feet to a municipal sewerage system. (The proposed changes or expansion of the use of the waste~~

~~disposal serving the single family dwelling shall not be for the purpose of serving a commercial establishment or multiple unit dwelling.); or~~

~~(e)The property is not a single family dwelling, is not closer than 300 feet from a municipal sewerage system, and the proposed change or expansion of the use of the waste disposal well would not create an increased waste flow; or~~

~~(f)The property is not a single family dwelling; existing sewer is not deemed available based upon the criteria established in OAR 340-071-0160 and based upon the total average daily flow estimated from the property after the proposed modification or expansion of the use of the waste disposal well and a municipality has committed in writing to provide sewers to the property within two years.~~

~~(10)The Director shall grant authorization to connect a replacement structure to a sewage drain hole if:~~

~~(a)The waste disposal well previously served a structure that was unintentionally destroyed by fire or other calamity; and~~

~~(b)The property cannot qualify for a standard on-site sewage disposal system, including the reserve area requirement; and~~

~~(c)There is no evidence that the waste disposal well had been failing; and~~

~~(d)The replacement structure is approximately the same size as the destroyed structure and the use has not been significantly changed.~~

~~(4) After the effective date of these rules, no person shall construct, place in operation or operate any allowable injection system without first obtaining a permit from the Director, unless the injection system is authorized by rule under OAR 340-044-0018.~~

~~Stat. Auth.: ORS 468.025, ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165~~

~~Stats. Implemented: ORS 454.215, ORS 454.615, ORS 454.645, ORS 454.655, ORS 454.675, ORS 468.020 & ORS 468B.025, ORS 468B.050, ORS 468B.080 & ORS 468B.160~~

~~Hist.: SA 41, f. 5-15-69; DEQ 35-1979, f. & ef. 12-19-79; DEQ 22-1981, f. & ef. 9-2-81; DEQ 15-1983, f. & ef. 8-26-83~~

### **340-044-0017**

#### **Repairs of Existing Sewage Drain Holes or Sewage Drill Holes**

~~(1) Without first obtaining a Waste Disposal Well Repair Permit from the Director or his representative, No person shall repair or attempt to repair a plugged or otherwise failing sewage drain hole or sewage drill hole unless a repair permit is issued according to the terms and conditions in OAR 340-071-0215.~~

~~(2)The Director or his authorized representative shall not issue a Waste Disposal Well Repair Permit and shall require connection to a municipal sewerage system if, for a single family dwelling, the property is within 100 feet from the municipal sewerage system or if, for other than a single family dwelling, the property is within 300 feet from the municipal sewerage system.~~

~~(3)The Director or his authorized representative shall not issue a Waste Disposal Well Repair Permit if the property can successfully accommodate a standard on-site sewage disposal system. If the Director or his authorized representative determines that a drainfield can be installed and that it can be expected to function satisfactorily for an extended period of time, the property owner shall install a drainfield and abandon the waste disposal well. The Director or his authorized representative may waive the~~

~~requirement to install a standard on-site sewage disposal system if a municipality provides written commitment to provide sewers to the property within two years and if the failing waste disposal well can be repaired or operated without causing a public health hazard.~~

~~(4)(2) A Waste Disposal Well Repair Permit repair permit shall be a written document and shall issued by the Director shall specify these methods by which the waste disposal well may be used for sewage treatment, disposal and drain hole repaired. Deepening or repair of a sewage drain hole shall be approved only if the Director determines that no other on-site or off-site option for sewage treatment and disposal is feasible. Possible methods for repair shall include, but not be limited to, introduction of caustic or acid, use of explosives, or deepening the waste disposal well. Deepening the waste disposal well sewage drain hole shall be limited to a maximum depth of 100 feet, and shall only be permitted if: the drain hole shall terminate at least 100 feet above groundwater.~~

~~(a) The property served by the failing waste disposal well shall be inside a recognized urban growth boundary; and~~

~~(b) There is a written agreement between the owner of the property and the municipality having jurisdiction over the urban growth boundary. The written agreement shall include the property owner's irrevocable consent to connect to a sewer when it becomes available and to abandon the waste disposal well. The agreement shall also include the owner's irrevocable consent to participate in the formation and be included in a local improvement district if the municipality determines that such a district is necessary to finance extension of sewer to the property.~~

~~(3) Any other requirement specified by the Director to protect groundwater from contamination shall be met.~~

~~Stat. Auth.: ORS 468.025, ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165~~

~~Stats. Implemented: ORS 454.615 & ORS 454.655, ORS 468B.025, ORS 468B.050 & ORS 468B.155~~

~~Hist.: DEQ 35-1979, f. & ef. 12-19-79; DEQ 15-1983, f. & ef. 8-26-83~~

### **340-044-0018**

#### **Authorization of Underground Injection by Rule**

~~(1) A person is authorized by this rule to construct and operate an injection system if all of the following conditions are met:~~

~~(a) The injection is not prohibited by OAR 340-044-0015 or by any other applicable local, state or federal law.~~

~~(b) The owner or operator submits the inventory information required in OAR 340-044-0020 and registers the injection system with the Director in a format approved by the Director.~~

~~(c) The injection does not cause the direct or indirect movement of contaminants into groundwater if the resulting concentration of that contaminant may cause a violation of any primary drinking water regulation under the federal Safe Drinking Water Act or may exceed background groundwater concentrations.~~

(d) The injection system is listed in section (2) of this rule, or the owner or operator meets the requirements of section (3) of this rule, or the injection is allowed by section (4) of this rule.

(e) The owner or operator complies in a timely manner with all requests for information made by the Director pursuant to OAR 340-044-0018(5) and OAR 340-044-0020.

(2) The following types of injection systems are authorized by this rule:

(a) Class IV injection systems reinjecting treated groundwater into the same formation from which it was drawn as part of an environmental cleanup action if the injection is overseen by and has prior approval from the Environmental Protection Agency or the Director under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA), and meets the groundwater quality protection requirements of OAR 340-040.

(b) Class V injection systems in compliance with other local, state or federal law only as follows:

(A) On-site sewage disposal systems including standard, alternative or experimental systems receiving residential or non-residential sanitary waste. The authorization for underground injection under this rule does not exempt such systems from any construction permit or other permit required under OAR 340-071. Injection systems mixing sanitary waste with industrial waste, storm water or other wastes are not included.

(B) On a case-by-case basis, wells returning low-temperature geothermal fluids into the same aquifer or one of equivalent quality.

(C) Wells returning fluids to the supply aquifer after use for non-contact heating or cooling in heat pumps or air conditioning systems.

(D) Injection systems injecting fluids, materials or treated groundwater as part of an environmental cleanup action if the injection is overseen by and has prior written approval from the Environmental Protection Agency or the Director under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), or OAR 340-122 Hazardous Substance Remedial Action Rules, and meets the groundwater quality protection requirements of OAR 340-040.

(E) Injection systems injecting groundwater removed by dewatering activities and reinjected into the same aquifer.

(F) Injection systems injecting storm water runoff from rooftops. Storm water shall drain directly from the roof into an injection system that does not accept, mix with or allow disposal of any other storm water or fluid. These injection systems are not subject to requirements in OAR 340-044-0018(3)(a) through (h).

(G) Wells temporarily injecting fluids or other material for the purpose of maintaining a properly functioning water extraction well.

(H) Wells injecting fluids to control subsidence or salt water intrusion.

(3) Injection systems injecting storm water are authorized by this rule if the owner or operator is in compliance with the following requirements, as applicable:

(a) **Basic requirements for all storm water injection systems authorized by rule** – Storm water injection systems authorized by this rule shall meet all the following

requirements, and the owner or operator shall verify and shall submit with registration and inventory information a certification that:

(A) No other waste, including agricultural drainage, industrial waste or sanitary waste, is mixed with storm water.

(B) Site development, design, construction and management practices have minimized storm water runoff.

(C) No other method of storm water disposal, including construction or use of surface discharging storm sewers or surface infiltration designs, is appropriate. An appropriate method shall protect groundwater quality and may consider management of surface water quality and watershed health issues.

(C)(D) No domestic drinking water wells are present within 500 feet of the injection system.

(D)(E) The injection system is not located within the 2 year time-of-travel zone as delineated by the Oregon Health Division or closer than 500 feet to a public water supply well, whichever is more protective.

(E)(F) No soil or groundwater contamination is present that will be impacted by the construction or use of a storm water injection system. The owner or operator shall immediately notify the Director if soil or groundwater contamination is discovered after initial inventory information submittal and certification.

(F)(G) The injection system does not exceed a depth of 100 feet and does not discharge directly into groundwater or below the highest seasonal groundwater level.

(G)(H) A confinement barrier or a natural or engineered filtration medium is present between the base of the injection system and the highest seasonal groundwater level and prevents contaminants from reaching groundwater, or the owner or operator implements best management practices that prevent or treat storm water contamination before injection.

(H)(I) The injection system is designed and operated in a manner that protects groundwater from accidentally or illicitly disposed wastes or contaminants, and can be temporarily blocked to prevent drainage into the injection system in the event of an accident or spill.

(b) **Municipal injection systems** - For municipalities or other governmental units with 50 or more storm water injection systems, the owner or operator shall:

(A) Submit the following with registration and inventory information, prior to construction of new injection systems or within 90 days of the effective date of this rule for existing and previously registered injection systems:

(i) An evaluation of potential impacts of storm water injection on groundwater quality based on the storm water volume and quality, local geology, density of injection systems, injection system design, and drainage area land use.

(ii) A plan and schedule to decommission existing storm water injection systems that do not meet the basic requirements in OAR 340-044-0018(3)(a), or a permit application for those injection systems.

(B) Submit with registration and inventory information, prior to construction of new injection systems, a certification that the injection system does not receive storm water from areas where hazardous substances and toxic materials are used, handled or stored. For existing and previously registered municipal injection systems, this certification shall



be submitted by July 1, 2002 or a permit application shall be submitted by that date. (Note: Facilities owned by municipalities or other governmental units where hazardous substances and toxic materials are used, handled or stored are required to comply with OAR 340-044-0018(3)(d).)

(C) Prepare and implement, prior to construction of new injection systems or by July 1, 2002 for existing and previously registered injection systems, a written storm water management plan, based on current conditions and updated routinely, that includes the following:

(i) Storm water system-wide assessment that includes the location and construction details of all injection systems and other storm water management controls, an evaluation of the land use and activities in all areas draining into the storm water injection systems, and an identification based on available information of areas within the drainage catchment where hazardous substances and toxic materials are used, handled or stored.

(ii) System controls that include best management practices for source control and treatment, and shall include measures to prevent storm water drainage from areas where hazardous and toxic materials are used, handled or stored; a spill prevention and response plan; a maintenance plan and schedule; an employee and public education plan; and the identification of personnel or contractors responsible for implementing these plans. The maintenance plan shall specify the frequency of maintenance activities, including visual inspections and physical maintenance.

(iii) Monitoring to evaluate the effectiveness of the best management practices in eliminating contamination prior to storm water injection into the subsurface. The monitoring plan shall use information developed in the system-wide assessment to identify representative locations and types of best management practices that will be routinely monitored and sampled. At a minimum, sampling shall be conducted twice within the first 12 months of implementation of the storm water management plan, followed by annual sampling during a representative storm event at the onset of wet weather conditions. Criteria for selection of representative storm events shall follow available guidance protocols. Grab samples shall be collected at the last available sampling point prior to storm water injection into the subsurface. Sampling protocols shall follow standard quality assurance and quality control (QA/QC) procedures for environmental sampling and shall use analytical methods that achieve detection limits that are below drinking water standards or risk-based levels. Samples shall be analyzed for contaminants of concern identified in the system-wide assessment, and shall at a minimum include benzene, ethylbenzene, toluene, xylenes, benzo(a)pyrene, lead (unfiltered), total chromium (unfiltered), cadmium (unfiltered), total nitrogen and fecal coliform bacteria.

(iv) A plan for record keeping and reporting. Monitoring and sampling results shall be available for review on request.

(D) On or before June 30, 2004, a summary report shall be submitted to the Director on the municipal storm water management plan implementation, monitoring and sampling with supporting records and laboratory documentation. The report shall also include an assessment of the effectiveness of best management practices. With approval from the Director, this assessment may be done as a regional or statewide study.

(c) **Municipal injection systems (small)** - For municipalities or other governmental units with fewer than 50 storm water injection systems, the owner or operator shall:

(A) Submit with registration and inventory information, prior to construction of new injection systems, a certification that the injection system does not receive storm water from areas where hazardous substances and toxic materials are used, handled or stored. For existing and previously registered municipal injection systems, this certification shall be submitted by July 1, 2002 or a permit application shall be submitted by that date.

(B) Prepare and implement, prior to construction of new injection systems or by July 1, 2002 for existing and previously registered injection systems, a written storm water management plan, based on current conditions and updated routinely, that uses best management practices including operational and structural source controls that minimize and prevent pollution from entering storm water and treatment that removes pollutants contained in storm water runoff. The storm water management plan shall include a system-wide assessment; plans for operational control measures including spill prevention, spill response, maintenance, employee and public education; and routine evaluation of the effectiveness of the storm water management plan.

(d) **Industrial and commercial facilities** - For industrial and commercial facilities including facilities owned by municipalities or other governmental units where hazardous substances, toxic materials and petroleum products are used, handled or stored, the storm water draining into the injection system shall not be exposed to these materials. Storm water is not exposed to hazardous substances, toxic materials and petroleum products if all manufacturing, processing and material handling activities and those areas of and industrial or commercial facility associated with such activities are protected by a storm resistant shelter to prevent contact with rain, snow, snowmelt and/or runoff. The owner or operator of the facility shall:

(A) Submit with registration and inventory information, prior to construction of new injection systems or within 180 days of the effective date of this rule for existing and previously registered injection systems, a certification that storm water is not exposed to industrial activities and hazardous substances and toxic materials, and shall renew this certification every 5 years. The certification shall include:

(i) Site assessment information including location and type of industrial activities, types and location of all hazardous substances and toxic materials on-site, description and location of all storm water discharges, and methods used to prevent storm water exposure to industrial activities and hazardous substances and toxic materials.

(ii) Analytical results from a representative grab sample collected from the injection system prior to discharge into the subsurface. Samples shall be analyzed for priority pollutants listed in Appendix A to 40 CFR Part 423, total nitrogen, fecal coliform bacteria, and any other potential contaminants identified in the site assessment. Sample analysis for re-certification may be modified with approval from the Director.

(iii) A list of site control measures and best management practices that are implemented at the facility including spill prevention and response plans, injection system maintenance plan and schedule, employee education plan, monitoring plan, and dates of revisions to such plans.

(iv) A list and date of all accidents, spills or releases of the materials identified in (i) and all response actions taken.

(B) Prepare and implement, prior to construction of new injection systems or within 180 days of the effective date of this rule for existing and previously registered injection systems, a written storm water management plan, based on current conditions and updated routinely, that includes the following:

(i) Site assessment that includes the location and construction details of all injection systems and other storm water management controls, an evaluation of the use and activities of all areas of the facility exposed to storm water, and the identification and location of all hazardous substances and toxic materials that are used, handled or stored at the facility.

(ii) Site controls that include best management practices implemented at the facility for source control and treatment. Best management practices shall include measures to segregate areas of hazardous and toxic material storage or handling from storm water run-off and run-on, a spill prevention and response plan, a maintenance plan and schedule, an employee education plan, and the identification of personnel or contractors responsible for implementing these plans. Minimum maintenance activities shall include monthly visual inspections and semi-annual physical maintenance of all injection systems.

(iii) Monitoring to evaluate the effectiveness of the best management practices in eliminating contamination prior to injection into the subsurface. The monitoring plan shall use information developed in the site assessment to identify locations that will be routinely monitored. At a minimum, sampling shall be conducted twice within the first 12 months of implementation of the storm water management plan, followed by annual sampling during a representative storm event at the onset of wet weather conditions. Samples shall be collected within the first 30 minutes of discharge from a storm greater than 0.1 inches in accumulation that is preceded by 72 hours of dry weather. An alternate protocol for sampling may be utilized if approved by the Director. Grab samples shall be collected at the last available sampling point prior to storm water injection into the subsurface. Sampling protocols shall follow standard quality assurance and quality control (QA/QC) procedures for environmental sampling and shall use analytical methods that achieve detection limits that are below drinking water standards or risk-based levels. Samples shall be analyzed for contaminants of concern identified in the site assessment and all contaminants detected in the certification analysis required in OAR 340-044-0018(3)(d)(A).

(iv) A list of reference levels to which monitoring data will be compared. Reference levels shall be selected as the primary and secondary drinking water maximum contaminant levels (MCLs) if available, or acceptable risk-based concentrations for drinking water beneficial use. A reference level for microorganisms is not required. If monitoring results exceed reference levels, the owner or operator shall review best management practices for source control and treatment and shall implement appropriate corrective measures to minimize contaminants from storm water prior to injection.

(v) A plan for record keeping and reporting. Results of all sampling must be available on-site. Any monitoring results that exceed reference levels shall be reported to the Director within 30 days after receipt of sampling results, along with any action and follow-up control measures taken by the owner or operator to prevent further releases of contaminants into the injection system.

(e) **Industrial and commercial facilities with no hazardous substances** - For industrial and commercial facilities including facilities owned by municipalities or other governmental units where hazardous substances and toxic materials are not used for industrial activities or handled or stored above reportable quantities or commercial consumer quantities, the owner or operator shall:

(A) Submit with registration and inventory information, prior to construction for new injection systems or within 90 days of the effective date of this rule for existing and previously registered injection systems, and every 5 years after, a certification that hazardous substances and toxic materials are not used, handled or stored at the facility.

(B) Prepare and implement, prior to construction for new injection systems or within 180 days of the effective date of this rule for existing and previously registered injection systems, a written *storm water management plan* based on current conditions and updated routinely, that uses best management practices including operational and structural source controls that minimize and prevent pollution from entering storm water and treatment that removes pollutants contained in storm water runoff. The storm water management plan shall include a system assessment; plans for operational control measures including spill prevention, spill response, maintenance and employee education; and routine evaluation of the effectiveness of the storm water management plan.

(f) **Industrial, commercial and residential facilities with large parking lots and/or high traffic areas** - For industrial, commercial and residential facilities or facilities owned by municipalities or other governmental units with parking lots and/or traffic areas handling an average of 1000 or more vehicles trips per day and not subject to OAR 340-044-0018(3)(d), the owner or operator shall:

(A) Submit with registration and inventory information, prior to construction for new injection systems or within 90 days of the effective date of this rule existing and previously registered injection systems, and every 5 years after, a certification that the storm water is not exposed to industrial activities or areas where hazardous substances and toxic materials are used, handled or stored.

(B) Prepare and implement, prior to construction for new injection systems or within 180 days of the effective date of this rule for existing and previously registered injection systems, a written storm water management plan, based on current conditions and updated routinely, that includes the following:

(i) Site assessment that includes the location and construction details of all injection systems and other storm water management controls, an evaluation of the use and activities of all areas draining into the storm water system, and an evaluation based on available information of areas at high risk for accidental or illicit disposal of wastes or contaminants.

(ii) Site controls that include best management practices for source control and treatment, and shall include measures to eliminate storm water drainage from areas with high risk for accidental or illicit disposal, a spill prevention and response plan, a maintenance plan and schedule, an employee and public education plan, and the identification of personnel or contractors responsible for implementing these plans. Minimum maintenance activities shall include monthly visual inspections and semi-annual physical maintenance of all injection systems.

(iii) Monitoring to evaluate the effectiveness of the storm water management plan in eliminating contaminants prior to storm water injection into the subsurface. The monitoring plan shall use information developed in the site assessment to identify representative locations that will be routinely monitored. At a minimum, sampling shall be conducted twice within the first 12 months of implementation of the monitoring plan, followed by annual sampling during a representative storm event at the onset of wet weather conditions. Samples shall be collected within the first 30 minutes of discharge from a storm greater than 0.1 inches in accumulation that is preceded by 72 hours of dry weather. An alternate protocol for sampling may be utilized if approved by the Director. Grab samples shall be collected at the last available sampling point prior to storm water injection into the subsurface. Sampling protocols shall follow standard quality assurance and quality control (QA/QC) procedures for environmental sampling and shall use analytical methods that achieve detection limits that are below drinking water standards or risk-based levels. Samples shall be analyzed for contaminants of concern identified in the site assessment, and shall at a minimum include analyses for benzene, ethylbenzene, toluene, xylenes, benzo(a)pyrene, lead (unfiltered), total chromium (unfiltered), cadmium (unfiltered), total nitrogen and fecal coliform bacteria.

(iv) A list of reference levels to which monitoring data will be compared. Reference levels shall be selected as the primary and secondary drinking water maximum contaminant levels (MCLs) if available, or acceptable risk-based concentrations for drinking water beneficial use. A reference level for microorganisms is not required. If monitoring results exceed reference levels, the owner or operator shall review best management practices for source control and treatment and shall implement appropriate corrective measures to minimize contaminants from storm water prior to injection.

(v) A plan for record keeping and reporting. Results of all sampling must be available for review on request by the Director. Any monitoring results that exceed reference levels shall be reported to the Director within 30 days after receipt of sampling results, along with any action and follow-up control measures taken by the owner or operator to prevent further releases of contaminants into the injection system.

(g) **Industrial and commercial facilities with small parking lots** - For industrial and commercial facilities or facilities owned by municipalities or other governmental units with parking lots or traffic areas handling an average of less than 1000 vehicle trips per day, the owner or operator shall:

(A) Submit with registration and inventory information, prior to construction for new injection systems or within 90 days of the effective date of this rule existing and previously registered injection systems, a certification that the storm water is not exposed to industrial activities or areas where hazardous substances and toxic materials are used, handled or stored.

(B) Prepare and implement, prior to construction for new injection systems or within 180 days of the effective date of this rule for existing and previously registered injection systems, a written *storm water management plan* or implement an appropriate storm water management plan approved by the Director, based on current conditions and updated routinely, that uses best management practices including operational and structural source controls that minimize and prevent pollution from entering storm water and treatment that removes pollutants contained in storm water runoff. The storm water

management plan shall include a system assessment; plans for operational control measures including spill prevention, spill response, maintenance, and education; and routine evaluation of the effectiveness of the best management practices in eliminating contamination.

(h) Residential - For residential properties, parking lots, or driveways, the owner or operator shall:

(A) Use injection system designs that prevent storm water contamination and remove pollutants including petroleum products, metals, fertilizers, pesticides, herbicides, fecal coliform bacteria and animal waste.

(B) Use best management practices to prevent and/or treat storm water contamination that shall assure that the injection system does not discharge contaminated storm water. Best management practices include operation and maintenance of the injection system with monthly visual inspection and semi-annual maintenance.

(i) The Director at any time may request and review any and all information and elements of a storm water management plan. The Director may determine that results of monitoring or exceedences of reference levels require regulation of the injection system under a permit or may determine that enforcement action is warranted. The Director may determine that the volume and quality of storm water injection and cumulative impact of multiple storm water injection systems has the potential to cause contaminant concentrations in groundwater to exceed those concentrations found in background groundwater or impact other sensitive waters of the state, and may require the owner or operator to apply for a permit as specified in OAR 340-044-0035.

(4) Additional Class V injection systems may be authorized by rule on a case-by-case basis if the requirements of section (1)(a), (b) and (c) of this rule are met.

(5) The Director may require the owner or operator of an injection system authorized by this rule to submit information to determine whether the injection system may cause a violation of any primary drinking water regulation under the federal Safe Drinking Water Act or may exceed those concentrations found in groundwater that is unaffected by the facility. The owner or operator shall submit this information within the time frame provided in the request for information. The owner or operator is prohibited from injecting into the injection system if the owner or operator does not comply with the request for information within the specified time frame. Information requirements may include, but are not limited to:

(a) Performance of groundwater monitoring and the periodic submission of monitoring reports;

(b) An analysis of injected fluids, and periodic submission of analytical reports; and

(c) A description of the subsurface geology in the area of the injection system.

Stat. Auth.: ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053 & ORS 468B.165

Hist.:

**340-044-0020**

**Issuance of Permits Without Director Approval Prohibited Registration and Inventory and Other Information Requirements**

~~After the effective date of these rules, no person shall issue permits for the construction, modification, maintenance, or use of waste disposal wells unless that permit has been approved by the Director.~~

(1) Any owner or operator of an injection system that is not excluded by OAR 340-044-0013 must submit inventory information to register with the Director. If an owner or operator is applying for a permit, the inventory information is submitted with the permit application. If inventory information is not submitted, an owner or operator is prohibited from discharging to the injection system.

(2) Inventory information must be submitted in a format approved by the Director and prior to construction and operation of new injection systems, and, at a minimum, shall include:

- (a) Facility name and location;
- (b) Name and address of legal contact;
- (c) Ownership of facility;
- (d) Nature and type of injection system; and
- (e) Operating status of injection system.

(3) For certain injection systems, the Director may require additional information including, but not limited to, the following:

(a) A listing and description of all wells and injection systems owned or operated at a facility (a single description of wells and injection systems at a single facility with substantially the same characteristics is acceptable);

(b) Information on the facility water supply source;

(c) Location of each injection system given by Township, Range, Section, and Quarter-Section, according to the conventional practice in the State of Oregon, and by latitude and longitude to the nearest second;

(d) Date of completion of each injection system;

(e) Identification and depth of the geologic formation(s) into which each injection system is injecting;

(f) Total depth of each injection system;

(g) Depth to groundwater;

(h) Casing and cementing record, casing size, and depth of packer;

(i) Nature of the injected fluids;

(j) Average and maximum injection pressure at the wellhead;

(k) Average and maximum injection rate;

(l) For Class II systems only, the field name(s);

(m) Date of the last mechanical integrity test (required for Class II wells); and

(n) Any additional information necessary to determine that the injection system meets the requirements of OAR 340-044-0018 for authorization by rule.

(4) After reviewing inventory information, the Director may determine that the injection system does not meet the requirements of OAR 340-044-0018. The owner or operator shall then apply for a permit or find alternative disposal methods.

(5) The Director may request additional information to determine that the injection system meets the requirements of OAR 340-044-0018 for authorization by rule or to determine that the injection system complies with OAR 340-044-0012. The owner or operator shall submit such information within the time frame provided in the request for

information. The owner or operator is prohibited from injecting into the injection system if the owner or operator does not comply with the request for information within the specified time frame. The owner or operator may resume injection 90 days after submittal of the requested information unless the Director notifies the owner or operator that injection may not resume or may resume sooner.

Stat. Auth.: ORS 468ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050, ORS 468B.053 & ORS 468B.165

Hist.: SA 41, f. 5-15-69; DEQ 35-1979, f. & ef. 12-19-79; DEQ 15-1983, f. & ef. 8-26-83

### **340-044-0030**

**Repealed. See OAR 340-044-0012(2) and OAR 340-044-0035(2)**

**Waste Disposal Wells Prohibited Where Better Treatment or Protection is Available**

~~— Permits shall not be issued for construction, maintenance or use of waste disposal wells where any other treatment or disposal method which affords better protection of public health or water resources is reasonably available or possible.~~

~~— Stat. Auth.: ORS 468~~

~~— Stats. Implemented: ORS 468B.015~~

~~— Hist.: SA 41, f. 5-15-69~~

### **340-044-0035**

**Authorization by Permit Conditions**

~~(1) Permits for construction or use of waste disposal wells shall include, in addition to other reasonable provisions, minimum conditions relating to their location, construction or use and a time limit for authorized use of said waste disposal wells.~~

~~(2) Permits for construction or use of waste disposal wells used to inject salt water produced as a result of oil or gas extraction shall include conditions as necessary to prevent migration of fluids into an underground source of drinking water. These conditions could include casing and cementing requirements, fluid and fluid pressure monitoring requirements, and maximum injection pressure limitations. If other existing wells penetrate the zone which may be affected by the injection activity, conditions will also be included to ensure that these other wells will not serve as a conduit for the movement of fluids into an underground source of drinking water.~~

~~(1) No person shall construct, place in operation or operate any allowable underground injection system without first obtaining a permit from the Director or an authorized representative unless the system is excluded by OAR 340-044-0013 or is authorized by rule according to OAR 340-044-0018.~~

~~(2) Permits shall not be issued for construction, maintenance or use of an underground injection system where any other treatment or disposal method that affords better protection of public health or water quality is reasonably available or possible.~~

~~(3) In no case shall a permit to construct or operate an injection system be issued if the injection activity will cause a violation of any primary drinking water regulation under the federal Safe Drinking Water Act or does not comply with the groundwater protection requirements of OAR 340-040.~~



(4) Permits for construction or use of underground injection systems shall be developed in accordance with OAR 340-045, OAR 340-040 and OAR 340-071; OAR 690-230 for low-temperature geothermal wells, OAR 690-350 for aquifer storage and recovery wells, OAR 632-010 for oil and gas wells or OAR 632-020 for geothermal wells as appropriate; and any other applicable state rule. Permits for aquifer storage and recovery wells shall be issued by the Oregon Water Resources Department.

(5) Permits shall be developed in conformance with applicable federal laws including the Wild and Scenic Rivers Act, the National Historic Preservation Act of 1966, the Endangered Species Act, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act, and other Executive orders.

Stat. Auth.: ~~ORS 468~~ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165  
Stats. Implemented: ORS 454.655, ORS 468B.025, ORS 468B.050 & ORS 468B.165~~ORS 468.020 & ORS 520.095~~  
Hist.: SA 41, f. 5-15-69; DEQ 15-1983, f. & ef. 8-26-83

### **340-044-0040**

#### **Abandonment and Plugging of Waste Disposal WellsDecommissioning and Conversion Requirements for Underground Injection Systems**

(1) When an underground injection system is no longer in use for injection or is abandoned, the owner or operator shall decommission the system or convert the system to another type of well in a manner that will prevent the movement of contaminants into groundwater.

(2) The owner or operator shall notify the Director of the owner's or operator's intent to decommission or convert the injection system 30 days prior to closure or conversion.

~~(1)(3) A waste disposal well upon discontinuance or use-~~The owner or operator shall comply with all reporting, licensing and design requirements of all applicable state and local laws when decommissioning or converting an injection system. These include OAR 340-071 for on-site sewage disposal systems, OAR 690-200 and OAR 690-220 for water supply wells, OAR 690-240-030 for other holes and OAR 632-020 for geothermal wells.

(a) Any soil, gravel, sludge, biosolids, liquids or other material removed from or adjacent to the injection system shall be characterized and disposed in a manner consistent with all applicable local, state and federal laws.

(b) Except for on-site sewage disposal systems decommissioned according to OAR 340-071 and injection systems for storm water runoff from rooftops, proper decommissioning of an injection system shall be certified by a professional geologist, engineering geologist, or professional engineer registered in the State of Oregon.

(c) The following decommissioning requirements apply to drilled wells, boreholes and sewage drain holes or sewage drill holes unless waived in writing by the Director:

~~(A) or abandonment-~~The owner or operator shall immediately be-rendered the system to be completely inoperable by plugging and sealing the hole to prevent the well from being a channel allowing the vertical movement of water and a possible source of contamination of the groundwater supply fluids.

(2)(B) All portions of the well that are surrounded by "solid wall" formation shall be plugged and filled with cement grout or concrete; or

~~(3)(C)~~ The top portion of the well must be effectively sealed with cement grout or concrete to a depth of at least 18 feet below the surface of the ground, or wherever this

method of sealing is not practical, effective sealing must be accomplished in a manner approved in writing by the Director ~~or his authorized representative.~~

(4) If the Director determines that the injection system is high risk or potentially contaminated, the Director may require submission of a closure plan for review and approval prior to decommissioning. The owner or operator shall perform any sampling requested by the Director. The results of such sampling shall be reported to the Director. Detection of soil or groundwater contamination from the injection system shall be reported to the Director within 14 days of observation or receipt of sampling results.

Stat. Auth.: ~~ORS 468~~ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165

Stats. Implemented: ~~ORS 468.020 & ORS 520.095~~ ORS 454.655, ORS 468B.025, ORS 468B.050 & ORS 468B.165

Hist.: SA 41, f. 5-15-69; DEQ 35-1979, f. & ef. 12-19-79

### **340-044-0050**

**Repealed. See OAR 340-044-0018(3)**

#### **Waste Disposal Wells for Surface Drainage**

~~— (1) Waste disposal wells for storm drainage shall only be used in those areas where there is an adequate confinement barrier or filtration medium between the well and an underground source of drinking water; and where construction of surface discharging storm sewers is not practical.~~

~~— (2) New storm drainage disposal wells shall be as shallow as possible but shall not exceed a depth of 100 feet.~~

~~— (3) They shall not be located closer than 500 feet of a domestic water well.~~

~~— (4) Using a waste disposal well for agricultural drainage is prohibited.~~

~~— (5) Using a waste disposal well for surface drainage in areas where toxic chemicals or petroleum products are stored or handled is prohibited, unless there is containment around the product area which will prevent spillage or leakage from entering the well.~~

~~— (6) Any owner or operator of a waste disposal well for storm drainage shall have available a means of temporarily plugging or blocking the well in the event of an accident or spill.~~

~~— (7) Any parking lot which is drained by waste disposal wells shall be kept clean of petroleum products and other organic or chemical wastes as much as practicable to minimize the degree of contamination of the storm water drainage.~~

~~— Stat. Auth.: ORS 468~~

~~— Stats. Implemented: ORS 468.020~~

~~— Hist.: DEQ 15-1983, f. & ef. 8-26-83~~

### **340-044-0055**

#### **Other Underground Injection Activities Agreements with Other Jurisdictions**

~~(1) Any underground injection activity which may cause, or tend to cause, pollution of groundwater must be approved by the Director, in addition to other permits or approvals required by other federal, state, or local agencies.~~

~~(2) Except for construction and use of waste disposal wells, <sup>t</sup>The Director may enter into a memorandum of agreement with another state agency or local jurisdiction which stipulates that ~~the~~that allows the agency's or jurisdiction to act as an agent for the ~~Department~~Director with regard to underground injection systems. ~~approval of a type of~~~~

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~~underground injection activity will also constitute his approval, provided he determines that their approval and control program contains adequate safeguards to protect groundwaters from pollution. The agreement shall specify the responsibilities of each agency and the procedures for coordination between both agencies. The agreement may also include provisions for providing information necessary for the Department Director to comply with program reporting requirements of 40 CFR 144.8.~~

Stat. Auth.: ~~ORS 468~~ ORS 454.625, ORS 468.020, ORS 468B.020 & ORS 468B.165  
Stats. Implemented: ORS 454.655, ORS 454.795, ORS 468B.020, ORS 468B.050,  
ORS 468B.053 & & ORS 468B.160  
Hist.: DEQ 15-1983, f. & ef. 8-26-83

**ATTACHMENT B**  
**Advisory Committee Membership and Report**

<b>Underground Injection Control (UIC) Task Force</b>		
<i>Members</i>	<i>Organization</i>	<i>Address</i>
Barry Beyeler	City of Boardman	PO Box 229 Boardman, OR 541-481-9252
Terry Bounds	Orengo Systems	814 Airway Ave Sutherlin, OR 97479-9012 541-459-4449
Jim Krahn	Oregon Dairy Association	10505 SW Barbur Blvd Portland, OR 97219 503-229-5033
Ralph Christensen	EGR	2535 B Prairie Road Eugene, OR 97402 541-688-8322
Mary Meloy	City of Redmond	Director of Public Works PO Box 726 875 SE Sisters Ave. Redmond, OR 97756 541-504-2001
Nancy Moreno	Springfield Utility Board	Springfield Utility Board 202 South 18 <sup>th</sup> St Springfield, OR 97477 541-744-3745
Mary Stephens	Association of Clean Water Agencies	City of Portland Bureau of Environmental Services 1120 SW Fifth Ave Room 1000 Portland, OR 97204 503-823-7580
Willie Tiffany	League of Oregon Cities	PO Box 928 Salem, OR 97308 503-588-6550
Christine Vail	Pacific Automotive Trades Association	1710 NE 82 <sup>nd</sup> Ave Portland, OR 97220 503-253-9898
Patricia Vernon	Fred Meyer	PO Box 42121 Portland, OR 97242 3800 SE 22 <sup>nd</sup> Ave Portland, OR 97202 503-797-5617

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Jan Wick	Avion Water Co., Inc.	60813 Parrell Rd Bend, OR 97702 541-382-5342	
<b>Alternates</b>			
Paul Eckley	City of Salem	Public Works Department 555 Liberty Street SE Room 325 Salem, OR 97301-3503 503-588-6211	Alternate for League of Oregon Cities
John Smits	Smits & Associates, Inc.	PO Box 116 Clackamas, OR 97015 503-699-2696	Alternate for Terry Bounds
<b>Adjunct Members</b>			
Erick Burns	Oregon Department of Agriculture	635 Capitol St NE Salem, OR 97301-2532 503-986-4777 <a href="mailto:eburns@oda.state.or.us">eburns@oda.state.or.us</a>	
Peggy Collins	Oregon Building Codes Division	PO Box 14470-0404 Salem, OR 97309 503-373-1258 <a href="mailto:Peggy.A.COLLINS@state.or.us">Peggy.A.COLLINS@state.or.us</a>	
Donn Miller	Oregon Water Resources Department	158 12 <sup>th</sup> Street NE Salem, OR 97310 503-378-8455 ext 205 <a href="mailto:Donn.W.Miller@state.or.us">Donn.W.Miller@state.or.us</a>	
Dennis Nelson	Oregon Health Division	442 A Street Springfield, OR 97477 541-726-2587 <a href="mailto:donelson@oregonvos.net">donelson@oregonvos.net</a>	
Dan Wermiel	Oregon Department of Geology and Mineral Industries	800 NE Oregon St. Suite 965 Portland, OR. 97232 503-731-4100 x227 <a href="mailto:dan.wermiel@state.or.us">dan.wermiel@state.or.us</a>	

**May 18, 2000**  
**UIC Task Force Recommendations**

The Department of Environmental Quality (DEQ) convened an advisory group in November 1999 to provide input on revising OAR 340-044 - Construction and Use of Waste Disposal Wells or Other Underground Injection Activities. These rules are the basis for Oregon's Underground Injection Control (UIC) Program. The UIC Task Force met seven times to discuss current state rules, federal UIC rule changes, program implementation issues, and proposed revisions to OAR 340-044. These recommendations were developed at the final meeting of the UIC Task Force on May 18, 2000.

- (1) The UIC Task Force recommended proceeding with revisions to OAR 340-044. The Task Force generally supported the revised rule language drafted in May 2000. The Task Force offered the following specific recommendations pertaining to the draft rule language:
  - (a) The Task Force recommended defining "toxic chemicals" as those that affect aquatic, human, and animal life rather than specifically citing "fish".
  - (b) The proposed rule revisions allow stormwater disposal systems to be authorized by rule if certain design and management requirements are met. The Task Force recommended that requirements specific to parking lot run-off be incorporated into general stormwater requirements and that technical guidance be developed. They recommended that the requirement for management plans and activities to reduce contamination in parking lots be maintained in the general design and management requirements.
  - (c) The Task Force recommended that DEQ and the Oregon Department of Agriculture continue discussions regarding the definition of "agricultural drainage" which is currently prohibited from injection. The Task Force recommended to not define the term at this time and to establish a group to continue discussions outside the Task Force. The Task Force asked to be informed of the outcome of the discussions.
  - (d) The Task Force recommended that repair of existing sewage drain holes be prohibited, that failing sewage drainholes be decommissioned and replaced by alternate methods of waste disposal, and that exceptions to this prohibition be allowed only if the wastewater could be treated to a specific standard before being injected into a drill hole.
- (2) The following recommendations on revisions to OAR 340-044 did not receive consensus from the Task Force, with individual comments as noted:

- (a) Mary Stephens, Association of Clean Water Agencies representative, suggested substituting the term Underground Source of Drinking Water (USDW) for the term "groundwater" in the draft Division 44 rules. She recommended this as a way to focus the requirements of Division 44 on USDWs rather than all groundwater. She commented that source control and best management practices should be used to protect all groundwater but that differentiation between groundwater and USDWs would help identify where more stringent best management practices may be appropriate, or areas where infiltration may not be appropriate in any case. Mary Stevens stated that this approach is consistent with federal UIC requirements for groundwater protection which would be more achievable, would help prioritize regulatory efforts, and would provide direction and consistency for the regulated community. Mary Meloy, City of Redmond, supported these comments.

Other Task Force members did not support this recommendation as a focus for the 340-044 rule revisions. Nancy Moreno, City of Springfield, and Peggy Collins, Building Codes Division, commented that drinking water was not the only water needing protection. Dennis Nelson, Oregon Health Division, commented that the definition of USDW includes all groundwater which potentially could supply drinking water. This does not protect just public drinking water, but includes protection for rural Oregonians using groundwater for private domestic drinking water. He also commented that other groundwater such as perched/discontinuous groundwater or near surface aquifers should not be considered as less in need of protection and that Oregon's groundwater should not be classified for protection purposes. Donn Miller, Oregon Water Resources, concurred with this comment.

- (b) The Task Force recommended inserting language<sup>1</sup> that would allow exceptions to prohibited Class V injections if discharges were treated to a specific standard. The Task Force was not recommending allowing exceptions to prohibitions of Class I, II, III, and IV injection, but left it to DEQ to review the prohibited Class V injections to determine where it might be appropriate to allow exceptions. Dennis Nelson, Oregon Health Division, agreed with the intent of this recommendation, but was concerned about where the point of compliance would be set, and what standards might be used. He noted that secondary standards are needed to maintain groundwater for drinking water use, and that using Maximum Contaminant Levels would result in no action being taken until groundwater contamination has already occurred.

- (c) Mary Stephens expressed reservations about how the term "toxic waste" is used in the authorization by rule of stormwater injection. If this term is not defined it will

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<sup>1</sup> Recommended by Ralph Christensen: "...except for those facilities where permits are issued and the fluids being injected can be treated such that it does not result in the concentration of any contaminant which causes a violation of any primary Drinking Water Regulation under Federal Safe Drinking Water Act or adversely impacts groundwater quality. Temporary experimental systems may also be permitted. No reasonable alternative to injection can be available."

be subject to considerable interpretation. It is possible that any chemical could be considered toxic at some level and could prevent some stormwater injection wells from being considered rule authorized. Erick Burns and Ralph Christensen seconded this concern.

- (3) The Task Force recommended a review of legal issues that might effect rule implementation and policy relating to:
  - (a) Enforcement provisions referenced as OAR 340-012;
  - (b) Review of the term "or possible" as potentially too broad and not allowing the consideration of cost; and
  - (c) Review of other regulations, such as Aquifer Storage and Recovery well permitting and building codes, for consistency with the UIC rules.
  
- (4) The Task Force and individuals as noted provided the following recommendations on issues relating to UIC program implementation, guidance development, and other rules outside the scope of OAR 340-044 rule language revision:
  - (a) The Task Force recommended DEQ review the groundwater protection requirements in Division 40 for compatibility with Division 44 rules. Mary Stephens, Erick Burns, Mary Meloy, and Ralph Christensen suggested that strict interpretation of Division 40 may make implementation of Division 44 difficult or cost prohibitive. They suggested a strict application of Division 40 might prohibit some of the current uses of injection wells, or require a concentration limit variance. Mary Stephens recommended the UIC program emphasize using best management practices to attain groundwater protection compliance. The Task Force suggested DEQ review Division 40 after the state has completed the source water vulnerability assessments for public drinking water supplies which are mandated by the federal Safe Drinking Water Act. Dennis Nelson, Oregon Health Division, commented that the vulnerability assessments being completed by his agency are not directly related to the protections strategies in Division 40. He noted that the Health Division studies are being completed only for public drinking water suppliers and look only at a 10 year groundwater supply and are not being done to identify a subset of groundwater requiring protection.
  
  - (b) The Task Force recommended the following components as key elements for UIC program implementation in order of general priority:
    - (A) Coordination between DEQ programs, such as pollution prevention and the UIC program, and consistency in interpreting and applying the UIC rules by permit writers including those in other agencies;
    - (B) Technical guidance development, especially for stormwater disposal best management practices which allow flexibility in design and practices for land uses such as parking lots; and
    - (C) Education, outreach, technical assistance, and flexibility of timelines especially for small communities and small businesses effected by UIC rules and for those owner/operators attempting to register their injection wells.



## ATTACHMENT C 1 Summary of Key Issues and Department Response

### UIC Task Force

Key recommendations of the UIC Task Force and Department response:

- 1) *Authorize storm water disposal systems by rule rather than permit if design and management requirements are met.*

Initial rule revisions (drafted in July 2000) allowed authorization by rule for storm water from residential, industrial, or commercial areas if specific design and location requirements were met. Final proposed rules were revised in response to public comment (see below).

- 2) *Do not define "agricultural drainage" in rule revisions and continue discussions on the definition.*

The Department does not recommend a definition at this time but will continue discussions at a future date. The prohibition on injection of agricultural drainage is maintained in proposed rules.

- 3) *Prohibit repair of existing sewage drainholes and drillholes used for sewage disposal unless strict treatment standards are met.*

The Department recommends allowing repair of sewage drain holes only if no other on-site or off-site option for sewage treatment and disposal is feasible.

### August 2000 Public Comment

Key issues raised during the August 2000 public comment period focused on storm water injection. Comments recommended:

- 4) *Modifying proposed rule language to put greater emphasis on the use of design criteria and best management practices.*
- 5) *Clearly authorizing all storm water injection systems by rule subject to a management plan that details specific facility requirements for operation, maintenance, and effectiveness evaluation.*
- 6) *Developing technical guidance to identify the sources, design requirements, and management practices that the Department considers appropriate to warrant authorization by rule.*

The Department made significant revisions to requirements for storm water injection systems and extended the public comment period through December. The Department identified categories of storm water runoff posing various levels of risk for contaminating groundwater. Highest risk categories were identified as systems with more than 500 injection wells or where storm water is exposed to hazardous materials. The Department proposed these systems be regulated under a permit. Other categories of municipal, industrial, commercial, and residential storm water systems were identified and different sets of requirements were

proposed depending on the level of risk in each category. All categories authorized by rule required the use of best management practices to prevent or eliminate contamination from storm water before injection. Riskier categories were required to develop storm water management plans with monitoring of injected storm water.

### **December 2000 Public Comment**

Key issues raised during the December 2000 public comment period focused on requirements for municipal storm water injection systems, including:

- 7) *Objection to the requirement that municipalities with more than 500 storm water injection wells obtain authorization under a permit.*

The Department recommends eliminating this proposed requirement and allowing all storm water injection systems that meet the general, basic, and category specific requirements to qualify for authorization by rule. This would allow the Department to focus UIC staff resources on program priorities including registration and industrial injection system compliance, and focus permitting staff resources on other water quality priorities.

- 8) *Recommendation for more flexibility for municipal systems to develop monitoring plans and evaluate the effectiveness of best management practices.*

The Department recommends modified requirements in OAR 340-044-0018 (3) that give municipalities flexibility in selecting appropriate representative storm events, locations, and types of best management practices to monitor.

- 9) *Objection to the requirement to use drinking water Maximum Contaminant Levels (MCLs) as reference levels for review of injection system monitoring data.*

The Department recommends eliminating this proposed requirement for municipal systems. Municipalities will be required to submit a report on the implementation of their storm water management plan and an evaluation of the effectiveness of their best management practices (BMPs) in 2004. An option will be to combine resources to evaluate comparative BMP effectiveness through a statewide or regional study such as that proposed by the Association of Clean Water Agencies. (Proposal letter available on request.)

- 10) *Concerns about multiple regulatory programs and timelines relating to storm water management.*

The Department has made several revisions that are intended to accommodate other programs involved with storm water management. The proposed rule encourages best management practices that prevent or eliminate contaminants in storm water before it is disposed and that are protective of groundwater if the chosen disposal option is injection into the subsurface. The Department has not resolved its concerns that the proliferation in construction of storm water injection wells as a solution to storm water management issues may have a long-term detrimental effect on groundwater quality.

**ATTACHMENT C 2**  
**Public Input and List of Commenters**

**Summary of Public Input (year 2000)**

July 12 Director authorized the Water Quality Division to proceed to a rulemaking hearing on proposed UIC rules.

July 14 Hearing notice and informational materials mailed to persons who have asked to be notified of rulemaking actions and persons known by the Department to be potentially affected by or interested in the proposed rulemaking action.

August 1 Hearing notice published in Secretary of State's Bulletin.

August 15 Public hearing held in Portland, Oregon by James Cowan, Presiding Officer.

August 16 Public hearing held in Medford, Oregon by Jonathan Gasik, Presiding Officer.

August 17 Public hearing held in Bend, Oregon by Walter West, Presiding Officer.

August 31 Public comment period closed. Department evaluated comments and extended comment period through December 15.

December 12 Public hearing held in Portland, Oregon by Ranei Nomura, Presiding Officer.

December 15 Public comment period closed.

**List of Commenters**

UIC Rule Public Comment - List of Commenters						
Commenter Number	Commenter Name	Affiliation	Oral Testimony August 2000	Written Comment August 2000	Oral Testimony December 2000	Written Comment December 2000
1	Michael Read	Clackamas County Water Environment Services		X		X
2	Andrew Swanson	Clackamas County Water Environment Services			X	
3	Ernest Laurence Marbott	Private Citizen	X			
4	Wendy Jones	Private Citizen	X			
5	Ray Johnson	City of Redmond	X		X	
6	Mary Meloy	City of Redmond		X		X
7	Richard Zwiener	Private Citizen		X		
8	Dennis Nelson	Oregon Health Division		X		
9	Richard Sawaya	USDA Forest Service Pacific Northwest Region		X		
10	Kenneth Vogeney	City of Springfield Public Works		X		
11	Willie Tiffany	League of Oregon Cities		X		X

Agenda Item C, UIC Rule Adoption  
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12	Janet Gillespie	Oregon Association of Clean Water Agencies		X		X
13	Randy Smith	US EPA Region 10				X
14	Jeff Moore	ODOT				X
15	Michael Elmore	City of Bend Public Works				X
16	Dean Marriott	City of Portland Environmental Services				X
17	Curt Ireland	City of Portland Bureaus of Water Works				X
18	Michael Wolf	Oregon Dept of Agriculture				X
19	Mark Morford	Stoel Rives				X

### ATTACHMENT C 3 Summary of Comments

UIC Rule Public Comment – Summary of Comments	
# COMMENTER NAME, AFFILIATION	See Response #
<b>#1 Michael Read, Clackamas County Water Environment Services</b> a. <b>August</b> – Exclude residential roof drainage from UIC regulation. b. Include a definition of infiltration, a natural process that should not be regulated under Division 44. c. Exclude systems using infiltration from definition of injection system. d. Authorize by rule all publicly owned storm water injection devices within an area covered by an area-wide permit issued to a municipality. e. Do not require owner to prove that a water quality violation has occurred. f. Retain language allowing the state to designate “exempted aquifers”. g. Allow a grace period for inventory and registration of publicly owned devices discovered after 12/31/2000. h. <b>December</b> – Consider modifying provisions that require an injection system to prove that a system is causing or contributing to water quality violations. Entire burden should not be on the owner without good cause. i. Allow a grace period to inventory publicly owned injection wells discovered after 12/31/2000. j. Authorization by rule provides an operation framework for municipalities with less than 499 injection wells. k. Rule appears to favor surface discharging storm sewers. This should be a case-specific decision. l. Alter language that requires system design to “prevent accidental or illicit disposal of wastes” to “limit”. m. Consider modifying dates for submittal of additional registration-related information. n. Modify minimum maintenance requirement. o. Modify requirement that BMPs eliminate storm water drainage from areas with industrial activities. p. Relax detail for monitoring requirements and allow municipalities to tailor the monitoring plan. q. Include a broad compliance schedule.	40 13 4, 13, 34 2, 8, 41, 42 25 12 4, 5, 57 25 4, 57 2, 8 34 37 4, 57 46 39 32, 47, 48 5, 43
<b>#2 Andrew Swanson, Clackamas County Water Environment Services</b> a. <b>December</b> oral testimony highlighted points h through q submitted in written comments #1. b. Concern about linking storm water runoff to Safe Drinking Water numeric limits. Suggested encouraging use of BMPs as an alternative. Should require septic systems be linked to numeric limits as well.	See above 7, 27
<b>#3 Ernest Laurence Marbott, Private Citizen</b> a. Concerns about policing dry wells and follow up to potential problems. b. Businesses not well informed and would like to get more information. c. Rule revisions would be a financial burden on some businesses.	1, 30 1 1
<b>#4 Wendy Jones, Private Citizen</b> a. Concern about storm drain requirements on residences. Difficult and expensive process for those required to have a permit. b. Double standard compared to other waste disposal methods. Owners with history of noncompliance should be looked at more closely rather than automatically extend permit.	40, 56 27
<b>#5 Ray Johnson, City of Redmond</b> a. <b>August</b> oral testimony highlighted points b, d, e, and j submitted in written comments #6. b. <b>December</b> oral testimony highlighted points n, o, p, and s submitted in written comments #6.	See below

UIC Rule Public Comment – Summary of Comments	
# COMMENTER NAME, AFFILIATION	See Response #
<p><b>#6 Mary Meloy, City of Redmond</b></p> <ul style="list-style-type: none"> <li>a. <b>August</b> – Redmond endorses revisions to UIC rules with consideration of the following comments.</li> <li>b. Protect groundwater with rules that are achievable, enforceable, beneficial, and economically realistic.</li> <li>c. Restrictions on sewage drainholes should be clear that they do not apply to storm water.</li> <li>d. Treatment of storm water to background groundwater quality would be unattainable.</li> <li>e. Use BMPs for storm water to protect drinking water sources.</li> <li>f. Distinguish between drinking water and all groundwater in the UIC rules.</li> <li>g. Define “Adverse Impact”.</li> <li>h. Authorization by rule should require applicant take responsibility if they find that they do not need a permit because there is no adverse impact on drinking water. DEQ would review and concur or decline.</li> <li>i. Define confinement barrier and filtration medium.</li> <li>j. Would Haz Mat Team response procedures fulfill requirement to have a means to temporarily plug or block a well in event of an accident or spill?</li> <li>k. Requirement to not have storm water injection closer than 500 feet to a domestic or public drinking water well is not consistent with OAR 333-061-0050(2).</li> <li>l. Rule should be clear on what systems require additional information for inventory and registration.</li> <li>m. Redmond supports comprehensive UIC rule and implementation program.</li> <li>n. <b>December</b> – Regulatory rules must be achievable, enforceable and economically realistic.</li> <li>o. Redmond operates 630 storm water dry wells since there is no surface water is available to discharge to.</li> <li>p. No technical basis to selecting 500 wells as criterion for regulatory category. Large number of wells does not equate to higher potential risk to groundwater.</li> <li>q. A new type of area wide permit tailored after MS4 storm water with ground water monitoring would require storm water to meet drinking water standards. Storm water regulations have historically been based on BMPs.</li> <li>r. Questions about accomplishing water quality monitoring, cost of permit and annual renewal fee and cost of storm water sampling and treatment. This is a financial burden on Redmond.</li> <li>s. A permit based on a BMP approach would allow a UIC program to be environmentally beneficial, economically and operationally feasible.</li> <li>t. Remove language about violation of primary drinking water regulations under the SDWA from the permit process. Operate using BMPs and storm water management plans.</li> <li>u. Write a UIC rule that meets the minimum requirements and time frame for federal compliance. Then address balance between surface and ground storm water discharge.</li> </ul>	<p>1</p> <p>1</p> <p>See OAR 340-044-0015(6) 19, 26, 27, 45 2, 7, 32, 44, 59</p> <p>12, 19, 26, 27 Term deleted</p> <p>1, 2, 8, 41</p> <p>See OAR 340-044-0018(3)(a)(H)</p> <p>37</p> <p>35</p> <p>57</p> <p>1</p> <p>1</p> <p>42</p> <p>33, 42</p> <p>7, 32, 45, 59</p> <p>45, 47, 48, 49</p> <p>7, 32, 45, 49</p> <p>59</p> <p>2, 3, 4, 5, 8</p>
<p><b>#7 Richard Zwiener, Private Citizen</b></p> <ul style="list-style-type: none"> <li>a. Everyone needs to make effort to protect, enhance, and increase the production of potable water.</li> <li>b. Because of hardpan in Oregon, cesspool and waste disposal wells should be closed entities.</li> <li>c. Problem with locating wells for potable water and septic tanks in the same drainage.</li> <li>d. Comment on trying to maintain livestock on too small an area, and using potable water to maintain lawns.</li> </ul>	<p>1, 12, 19</p> <p>27</p> <p>27</p> <p>No response</p>
<p><b>#8 Dennis Nelson, Oregon Health Division</b></p> <ul style="list-style-type: none"> <li>a. Definition of “municipality” too broad.</li> </ul>	<p>41</p>

UIC Rule Public Comment – Summary of Comments	
# COMMENTER NAME, AFFILIATION	See Response #
<ul style="list-style-type: none"> <li>b. Support including groundwater sources that potentially could supply drinking water in definition of ‘Underground Source of Drinking Water’.</li> <li>c. Well is not “water of the state”.</li> <li>d. Strongly support policy to limit and control UICs for ground water protection as stated in rules.</li> <li>e. Support linking UIC rules to Division 40. Division 40 is framework for groundwater protection strategies.</li> <li>f. Confusion about terms confinement barrier or filtration medium. May need to elaborate or define.</li> <li>g. Strongly support retaining the 500 foot or 2-year time-of-travel setback for public water systems, and 500 foot setback for domestic wells.</li> </ul>	<p>1, 12, 19</p> <p>Statute 1, 12 19, 59</p> <p>See OAR 340-044-0018(3)(a)(H) 35</p>
<p><b>#9 Richard Sawaya, USDA Forest Service, Pacific Northwest Region</b></p> <ul style="list-style-type: none"> <li>a. Supports objectives of the UIC program and has strategy for compliance.</li> <li>b. Significant financial and resource impact to register all Class V injection wells.</li> <li>c. Overlap with state’s Wellhead Protection and Drinking Water Protection Program. Simultaneously doing both programs would achieve efficiency in data collection.</li> <li>d. Only federal requirement for inventory information should be required, and the remaining data be identified as optional.</li> <li>e. Some injection activities are low risk and should be excluded from UIC regulation at remote Forest sites.</li> <li>f. Exclude pit toilets in remote areas from UIC regulations since there is no other reasonable alternative.</li> </ul>	<p>1 57 36 57 24, 43 22, 24</p>
<p><b>#10 Kenneth Vogeney, City of Springfield Public Works</b></p> <ul style="list-style-type: none"> <li>a. Exclude storm water injection from roof areas from UIC regulations including inventory requirements.</li> <li>b. DEQ should provide all property owners with educational material.</li> <li>c. Provide exemption for existing systems when owners have incomplete construction information.</li> <li>d. Agencies providing information to the public should be held harmless if data is not available or leads to denial to operate a system.</li> <li>e. Provide section on enforcement.</li> <li>f. Rules are inconsistent with other rules and programs that direct municipalities to use infiltration technologies.</li> <li>g. Revise policy to protect existing and potential beneficial uses of the groundwater sources. Some groundwater not usable as drinking water.</li> <li>h. Allow injection into sewage drain holes if system can meet requirements of On-site rules in OAR 340-071.</li> <li>i. Concern about prohibiting injection if other methods providing better protection are available.</li> <li>j. Limited resources may limit what kind of discharges can be regulated or permitted.</li> <li>k. Issues with tying prohibition of groundwater contamination to drinking water regulations.</li> <li>l. Prohibiting sewage drain hole use and repair may force moratorium on building construction.</li> <li>m. Concern about ambiguities in groundwater protection requirements for rule authorized systems.</li> <li>n. Restrict placing storm water injection wells near drinking water supply well to within 100 feet rather than 500 feet.</li> </ul>	<p>40</p> <p>40, 24</p> <p>57, 36</p> <p>OAR 340-012 3, 4, 34</p> <p>12, 19, 26</p> <p>20</p> <p>3 2, 8 1, 12, 19, 27, 59</p> <p>28 21 35</p>
<p><b>#11 Willie Tiffany, League of Oregon Cities</b></p> <ul style="list-style-type: none"> <li>a. <b>August</b> – Concurred with ACWA August comments.</li> <li>b. <b>December</b> – Oppose rules unless funded for provisions exceeding federal requirements.</li> <li>c. New regulatory program not prudent.</li> <li>d. Concern with monitoring requirements for storm water injection and costs.</li> </ul>	<p>9 8 7, 32, 45, 47,</p>

UIC Rule Public Comment – Summary of Comments	
#, COMMENTER NAME, AFFILIATION	See Response #
e. Monitor effectiveness of BMPs.	48
f. Confusing message about storm water and choice of priorities (TMDL, ESA, NPDES).	7, 32, 45
g. Violation of Section 15 of Article X of Oregon Constitution.	3, 58
h. Adopt minimum federal regulations for motor vehicle drain wells and large cesspools.	9
i. Storm water control low priority with no impact on drinking water supplies.	8
	1, 8
<b>#12 Janet Gillespie, Oregon Association of Clean Water Agencies</b>	
a. <b>August</b> – Significant improvement over current regulations	1
b. Concern about storm water drainage wells.	2
c. Efficiently integrate state rules and municipal building review process.	2
d. Integrate with storm water NPDES, ESA, TMDL goals and objectives.	2, 3, 5, 58
e. Lack of clarity on which storm water UICs will be permitted and what permit requirements will be.	2, 8
f. Requirement to regulate all groundwater as drinking water.	1, 12, 19, 27, 59
g. Lack of clarity on how standards in Division 40 apply to facilities regulated under Division 44.	19, 27, 59
h. Modify rule language to emphasize use of design criteria and BMPs.	7, 44, 59
i. Authorize all storm water injection wells by rule, subject to a management plan that details facility operation, maintenance, and effectiveness evaluation.	33, 44
j. Develop technical guidance to identify the design and management practices appropriate for rule authorization.	6
k. Retain definition of “exempted aquifer”.	12
l. Exempt residential storm water systems for rooftop runoff.	40
m. Division 40 standards exceed federal UIC requirement to protect USDWs.	12
n. Municipalities deal with customers that infiltrate storm water.	4, 13, 34
o. Resources needed will exceed those available and reduce flexibility to prioritize groundwater protection efforts.	1, 3
p. A cost-effective mechanism to address groundwater not suitable for drinking water not provided.	19, 26, 27
q. Division 71 for on-site systems is not subject to Division 40.	27
r. Remove references to Division 40.	19, 26, 27, 59
s. Adopt USDW definition that is consistent with federal definition.	12
t. Use language to allow injection for groundwater recharge or other beneficial uses.	4
u. Rule authorize storm water drainage subject to conditions for design, pretreatment, source control, and maintenance plans.	42, 44
v. Substitute “source control” for “spill control”.	Addressed
w. Delete requirement to show no cumulative impact from multiple injection wells.	Addressed
x. Make set back requirement apply to active water supply wells, and use 100 feet rather than 500 feet.	35
y. Permitted facilities should have a management plan.	3, 5
z. <b>December</b> – Current draft rule authorizing majority of UICs is a positive step.	1
aa. Rule authorizing local governments with 499 UICs allows good flexibility.	2
bb. Concern about incorporating ESA requirements and need for greater infiltration to recharge groundwater.	3, 4
cc. Add a reasonable compliance schedule similar to NPDES Phase II storm water schedule.	5
dd. Implementation, outreach and education program.	6
ee. Revising the monitoring program to focus on BMP effectiveness rather than characterizing pollutant loading.	7, 32
ff. Adding a compliance point definition in groundwater not at point of injection.	45
gg. Comments on definitions of “industrial activities”, “toxic”, and “vehicle trips”.	14, 16, 17



UIC Rule Public Comment – Summary of Comments	
# COMMENTER NAME, AFFILIATION	See Response #
hh. Clarify conditions for rule authorization.	21
ii. Term about groundwater unaffected by the facility is too broad.	Deleted
jj. Apparent preference for surface water discharges rather than infiltration.	34
kk. Information on location relative to drinking water wells is not available.	36
ll. Location relative to soil or groundwater contamination is not available.	36
mm. No way to prevent illicit discharges.	37
nn. Uncomfortable with requiring registration of roof drains. Consider separate form. Should not be subject to conditions.	40
oo. Use BMP-based monitoring.	7, 32
pp. Inspection and maintenance cycle too frequent. Address in storm water management plan submitted to DEQ.	46
qq. 40 CFR 423 refers to steam generation.	50
rr. Substitute language for eliminating storm water drainage from areas with industrial activities.	39
ss. Require submission of accident within previous 12 months rather than entire site history.	51
tt. Add requirement for maintenance plan for industrial and commercial facilities.	52
uu. Is it reasonable for homeowners to install pretreatment systems?	56
vv. Add language for ESA balance.	58
ww. Have simplified approach for decommissioning roof drains.	60
<b>#13 Randy Smith, US EPA Region 10</b>	
a. Proposed rules clarify existing UIC regulations by cross-referencing joint regulations.	1, 27
b. Proposed rules provide owners/operators with information on responsibility to protect groundwater.	1, 25
c. Proposed rules collect injection well information so data can be used to protect drinking water sources.	1
d. Concern about implementation and ensuring compliance.	30
e. Storm water is a source of contamination and the rules will help with better storm water management.	1
f. Include definition of “Exempted Aquifer” unless exemptions precluded.	12
g. Delete “seepage pit”.	Defined
h. Include federal criteria for defining USDW.	12
i. Describe quality of waste fluid in Class V injection wells.	Addressed
j. Federal exclusion for non-residential sewage systems for 20 persons per day should not be equated with design flow of 2500 gallons per day.	22
k. Prohibition of groundwater contamination should reference OAR 340-040.	Addressed
l. Clarify the type of permit for sewage drain holes.	Definition
m. Define failing sewage drain hole.	Addressed
n. Indicate inventory information should be submitted on a specific form and outline time frame.	Addressed
o. Storm water management plan activities should be properly overseen by DEQ.	30
p. Require construction-level drawings for inventory submittal.	57
q. Include equivalents to CFR 40 Part 144.26 and 144.27.	Addressed
<b>#14 Jeff Moore, ODOT</b>	
a. ODOT may not be able to control all pollutants discharged to its drainage system.	38
b. Will spill BMPs be acceptable to meet requirement to temporarily block well to prevent drainage into the well in the event of an accident?	37
c. Municipal UIC concerns may not apply to all ODOT UIC systems.	41
d. ODOT expect to use portions of existing storm water management plans to meet UIC requirements.	41
e. Not all ODOT UICs will have construction specifications.	57
f. Optimal maintenance schedules may be from 1 to 15 years depending on facility specifics.	46
g. Monitoring specific storms for many pollutants is excessive and unrealistic.	7

UIC Rule Public Comment – Summary of Comments	
# COMMENTER NAME, AFFILIATION	See Response #
h. Some ODOT systems may better fit in small municipal or small parking lot facilities.	53, 54
i. ODOT expects to address many concerns through an ODOT specific permit.	No response
<b>#15 Michael Elmore, City of Bend Public Works</b>	
a. Concerns about proposed rule changes placing burden on City resource, and resources need for compliance with the rules. Intent of rules could be achieved with methods that are less resource intensive.	1
b. No technical basis for choosing 500 as the number to differentiate categories. Allow review of systems individually to determine if rule authorization or a permit is necessary.	2, 33, 42
c. Rule sets storm water monitoring requirements with stringent numerical limits.	45
d. City of Bend could not comply with regulations that require treatment prior to injection.	2, 45
e. Monitoring deep groundwater in Bend area is expensive.	No response
f. Reword reference to SDWA and groundwater monitoring requirements.	27, 32, 45
g. Ensure use of BMPs and adherence to an approved Storm Water Management Plan.	7, 32, 44
h. Rule more stringent than federal requirements and would be an unfunded mandate. Bend would need state funding to cover costs above the federal standard.	8
<b>#16 Dean Marriott, City of Portland Environmental Services</b>	
a. [November] draft shows progress toward UIC program that builds on NPDES requirements.	2
b. Add language to address ESA requirements for clean storm water to naturally recharge groundwater.	4
c. Include as part of the storm water management plan – BMPs, methods to evaluate BMP effectiveness, record keeping, reporting, employee training, construction and decommissioning requirements.	44
d. Storm water will not meet drinking water standards. Comparison of storm water sampling to drinking water standards does not assess potential groundwater impacts. Monitor BMPs to reduce pollutants to the maximum amount practicable.	32, 45
e. Monitoring costs estimated at \$2000 per well. Portland would spend \$200,000 to monitor 1% of their wells.	32, 47
f. Sampling land-use types would not give better information on the types of contaminants.	32, 48
g. Evaluate BMP effectiveness.	7, 32
h. Require monitoring by local governments as part of the storm water management plan with flexibility in monitoring strategies.	7, 32
i. Storm sampling requirements should outline a methodology. Specified storm event can be difficult to achieve.	32
j. Allow waiver of monitoring for systems that operate 2 years without exceeding standards.	49
k. Two-year maintenance schedules are not appropriate. Allow this to be addressed by storm water management plan submitted to DEQ.	46
l. Regulating roof drains is onerous relative to the risk posed by these systems.	40
m. Roof drains and residential dry wells should not be subject to conditions A through H of 3(a).	40
n. More than one category may apply at industrial and commercial facilities. Establish a hierarchy.	53, 54
o. Industrial sampling requirements may not be appropriate for some types of systems. DEQ should require storm water management plans and work to refine the list of facilities that must include sampling and analysis plans.	55
p. Rules could establish standards that are not technically attainable or financially achievable.	1
q. Rules could conflict with existing regulatory requirements.	1
r. Rule could stretch resources and act as deterrent to use injection wells as tool in holistic storm water management	1
s. Rule could encumber and conflict with the municipal building review process.	1
t. Rules could create monitoring and maintenance requirements that are unnecessary and costly.	7, 32, 46, 47, 48

UIC Rule Public Comment – Summary of Comments	
#, COMMENTER NAME, AFFILIATION	See Response #
u. Rule go beyond minimum federal requirements with regard to regulation of storm water drainage wells.	8
v. Request only minimum federal standards for UICs be adopted.	8
<b>#17 Curt Ireland, City of Portland Bureau of Water Works</b>	
a. Portland Wellfield potentially threatened with contamination via subsurface injection activities.	1
b. Proposed changes protective of groundwater. Bureau approves and concurs with majority of changes.	1
c. Comments on definitions – Aquifer storage, injection, and subsurface fluid distribution system.	11, 13, 15
d. Request excluding some types of vaults and chambers used by the Water Bureau.	24
e. Issues about well disinfection and well installation practices.	24
f. Reference to 40 CFR 144.8.	61
<b>#18 Michael Wolf, Oregon Department of Agriculture</b>	
a. No definition of agricultural drainage. Adopt an interim definition until stakeholder group can address issue.	10
b. Exempt irrigation systems from UIC rules.	23
<b>#19 Mark Morford, Stoel Rives</b>	
a. Rule appears to prevent infiltration of storm water into soil. DEQ instead should be encouraging this.	4, 34
b. Why would minimizing storm water runoff be a good thing? Hard to imagine when discharge to a sewer system would be more appropriate than into the ground.	34
c. Standard to protect groundwater in (H) is confusing.	19, 27, 45
d. How can an owner prevent illicit disposal?	37
e. Specific requirements for residential systems have no clear environmental benefit. What sort of pretreatment systems would the average homeowner employ?	56
f. Why should regular inspection or maintenance of residential systems be necessary to protect groundwater?	56
g. Residential storm water should be exempted.	40
h. No industrial/commercial facilities could satisfy description for category with no hazardous substances.	54
i. All storm water runoff has some vehicular traffic, so no storm water could be certified as not being exposed to hazardous substances.	54
j. Categories (e) and (g) have similar requirements that could be combined.	54
k. Rule authorization for injecting fluids for remedial action should include all DEQ approved actions.	29
l. Do not prohibit use of dry well if site contamination discovered, but require owner to notify DEQ and allow time to investigate.	31

## **Attachment C 4**

### **Department Response to Public Comment**

Written and oral comments, received during the public comments period, are summarized below with the Department's response.

#### **General**

*1. Several comments supported the rule revisions and overall objectives of the UIC program as being generally protective of groundwater. Commenters indicated rules should be achievable, enforceable, and economically realistic.*

The Department agrees. Proposed rule revisions clarify regulations for injection systems and protect groundwater. They provide a framework to regulate systems with a high risk for causing groundwater pollution with a high level of oversight through permits or prohibitions. The framework allows regulation of lower risk systems and storm water injection systems through authorization by rule in lieu of a permit. This approach is appropriate and achievable given resources currently available.

*2. Several comments supported authorizing the majority of UICs by rule and recognized local governments with less than 500 storm water UICs will have flexibility of authorization by rule or permit. Commenters said the rules efficiently built upon existing National Pollution Discharge Elimination System (NPDES) storm water requirements.*

The Department believes proposed rules satisfy the federal UIC requirement to impose sufficient regulation on systems that may endanger groundwater. Consistent with the Department's mandate to regulate wastewater discharges through a permit, underground injection systems will be regulated through a state permit unless specifically authorized by rule in OAR 340-044-0018. Specific requirements for rule authorized storm water injection systems categorize storm water systems based on potential risk to the groundwater. Larger systems or systems with discharges from industrial activities are required to self-implement a storm water management plan with general requirements to use best management practices and monitoring. Smaller systems or systems at facilities where hazardous and toxic materials are not likely to be used are required to use best management practices developed in a storm water management plan. Owners of systems that cannot meet basic general requirements for storm water or requirements for the facility category will be regulated under a permit specific to that system or facility.

*3. Several commenters raised the issue of environmental priorities for water quality. One commenter questioned whether rules would force communities to choose between a new UIC program and other priorities (establishment of TMDLs, listing of aquatic species under the Endangered Species Act (ESA), and emphasis on NPDES), indicating cities with limited budgets would prefer the highest priority and most effective program.*

The goal of proposed rules to prevent and eliminate contamination in storm water prior to disposal serves protection of groundwater, surface water, and beneficial uses for endangered species. UIC requirements should be viewed as one element in the overall strategy for municipal storm water management. Best management practices to prevent contamination of storm water are recommended for all systems irrespective of the ultimate disposal point for excess storm water runoff. The Department does not endorse substituting polluted discharges to surface water with discharges of the same pollutants to groundwater. The Department does endorse a strategy to manage storm water discharges that considers impacts to both surface water and groundwater and prevents pollution and degradation of both.

*4. Several commenters requested additional language to address direction from federal fisheries agencies that clean storm water be allowed to naturally recharge groundwater.*

Proposed rules (OAR 340-044-0018(3)(a)(B) and (3)(a)(C)) endorse methods to minimize runoff and use surface infiltration as a preferred option to injection wells. Practices that minimize the amount of storm water running off a site and that allow clean storm water to naturally recharge groundwater and surface water are preferred over disposal methods injecting excess storm water runoff. Language from the existing rule (OAR 340-044-0050(1)) has been modified to make this preference stronger and allow for consideration of surface water quality and watershed health issues.

*5. Several commenters requested a compliance schedule, similar to the NPDES Phase II schedule, to bring UICs into compliance and allow local governments time to develop comprehensive storm water management programs balancing pollution prevention for surface water, injection discharges, and ESA requirements. Commenters also requested a reasonable period of time to register wells discovered after an initial good faith effort to locate and register wells.*

Proposed rules for storm water systems authorized by rule (OAR 340-044-0018(3)) were modified to include timelines for compliance with new requirements. New injection systems must be registered, certified, and covered under a storm water management plan prior to construction. Existing and previously registered injection systems are subject to specific deadlines for meeting category requirements and preparing and implementing storm water management plans. The requirement and timeline for registering injection systems was federally established and effective with delegation of the program to the state in 1984. Thus a timeline for registering injection systems in Oregon is not specified in proposed rules. The Department expects to exercise some flexibility in allowing municipalities to add new injection wells to their inventory prior to construction or upon discovering additional existing systems after initial system-wide information is submitted.

The Department encourages municipalities to conduct a comprehensive survey of their storm water systems for compliance with both NPDES conditions for surface discharging systems and UIC rules for injection systems. Elements of a storm water management plan that control pollutant inputs to storm water and treat storm water before discharge should be useful for both surface water and injection requirements.

The timeline recommended in these rules differs slightly from the compliance schedule for the NPDES Phase II rules, which effect communities that discharge storm water to surface water. Based on a review of state inventory information, the Department anticipates that less than 10% of municipalities with storm water injection systems will be subject to NPDES Phase II compliance deadlines. The Department believes the timelines recommended in these rules are reasonable for the majority of owners with storm water injection systems to achieve a practical level of groundwater protection.

*6. One commenter offered to work with the Department to draft implementation guidance for the program.*

The Department appreciates the willingness of groups representing municipalities and community interests to assist in development of implementation guidance for the UIC program. The UIC program will consider ways to involve these groups as agency resources are used to develop implementation guidance. One potential for combining resources may be in evaluating the comparative effectiveness of best management practices used by communities throughout the state. OAR 340-044-0018(3)(b)(D) was modified to allow this if approved by the Director or Director's designees.

*7. Several commenters indicated that monitoring by municipalities should evaluate Best Management Practices (BMP) effectiveness and use data to improve design and application of various storm water treatment systems. Commenters suggested that monitoring proposed by local governments be included as part of the storm water management plan required by rule. Commenters requested flexibility in developing monitoring strategies that address regional, climatic, and site-specific issues.*

Proposed rule OAR 340-044-0018(3)(b)(C) was modified to indicate the goal of monitoring is to evaluate the effectiveness of BMPs in eliminating contaminants in storm water prior to underground injection. Monitoring requirements were modified to allow municipalities flexibility in choosing monitoring locations and BMPs based on their specific system and knowledge of the storm system drainage area, system design, and hydrogeology. The rule provides some general minimum requirements in lieu of specific permit requirements. Therefore, the rule attempts to set minimum guidelines for storm water management plans that will not be routinely reviewed or approved by the Department. Language was modified to allow municipalities to design monitoring protocols that follows available guidance. Additionally, the required constituent analysis was modified to allow municipalities to use knowledge of their system to select constituents with minimum analysis for contaminants typically associated with vehicle traffic on street systems. It is the ultimate responsibility of the owner or operator to effectively characterize and sample storm water discharge from an injection system and to use that information to monitor and modify BMPs to prevent discharge of contaminants to groundwater.

8. *Several commenters representing municipalities requested the Commission adopt minimum rules with respect to motor vehicle drain wells and large cesspools and convene a work group on storm water injection systems. One commenter stated that the draft rules go beyond federal requirements with regard to regulation of storm water drainage wells.*

Proposed rules meet Department goals for the rule review and respond to recommendations from the UIC Task Force and public comments. The Department did not initially contemplate changes to the rule provisions for storm water injection systems. Recommended revisions are in direct response to public comments received from municipalities in August 2000. The Department believes that the recommended revisions allow more storm water injection systems (specifically municipal and industrial systems) to be authorized by rule than are currently allowed. This approach is recommended only if basic requirements are met and adequate management practices are in place to prevent groundwater contamination from injected storm water. Proposed rules clearly state expectations for storm water management for different categories that represent different levels of risk to groundwater. Any owner or operator who cannot satisfy the requirements or finds that their system presents unique characteristics that do not readily fit under the rule authorized requirements may apply for authorization under a permit. This level of flexibility will allow municipalities and the Department to allocate limited program resources to meet the ultimate objective of the UIC program to protect groundwater resources. Federal regulations require that any system that has the potential to endanger groundwater be regulated under a permit or prohibited from injecting. Storm water injection systems were identified in early Oregon UIC program development in the 1980s as posing a high potential risk to groundwater. For this reason, only limited categories were allowed to inject without obtaining a permit. The Department believes these proposed rules represent the appropriate level of oversight considering the number of storm water injection systems, cumulative risk of contamination, and current program resources.

9. *One commenter stated opposition to the proposed rules unless the Department funds provisions that exceed minimum federal requirements. The commenter stated that adopting these rules is in violation of Section 15 of Article XI of the Oregon Constitution, which allows local government to not comply with state law or administrative rule that requires the expenditure of money by the local government for a new program or increased level of service for an existing program unless the Legislative Assembly provides reimbursement for such costs.*

The Department does not believe current or proposed rules require cities or municipalities to establish a program to provide a service to others. Municipalities, as well as industrial, commercial, and residential facilities injecting storm water, are directly regulated by the UIC rules because they are engaging in activities that may pose a threat to the environment by discharging contaminated storm water underground. Proposed rules specify requirements that municipalities, as owners and operators of storm water disposal systems, must meet to protect the environment.

**Definitions**

*10. One commenter noted rule revisions do not include a definition for "agricultural drainage". Defining this term was deferred during the [UIC Task Force] advisory process until a stakeholder group could be consulted. The commenter recommends DEQ adopt an interim definition to help agricultural stakeholders understand the scope of the rules.*

There is currently a prohibition in OAR 340-044-0050 on injection of agricultural drainage. The Department is maintaining this prohibition in proposed rules (OAR 340-0015(5)(g)). In the absence of a definition in rule, DEQ will rely on the plain language meaning for agricultural drainage, and the scope of the term as used in the 1999 EPA Class V Underground Injection Control Study, Volume 2, Agricultural Drainage Wells (EPA/816-R-99-014b), page 4:

"It is important to define exactly what is and what is not considered an ADW [Agricultural Drainage Well] for the purpose of this study. ADWs are wells that receive fluids such as irrigation tailwaters or return flow, other field drainage (i.e., resulting from precipitation, snowmelt, floodwaters, etc.), animal yard runoff, feedlot runoff, or dairy runoff. As described in more detail in Section 4.2 below, ADWs are generally part of a system consisting of a buried collection basin or cistern, one or more tile drainage lines buried a few feet beneath the land surface to collect water and channel it to the cistern, and a drilled or dug well typically located near low-lying areas of fields. The cistern collects drainage water that is released into the well. Some ADWs are open at the land surface or have surface intakes, allowing surface runoff to enter the well directly, either by design or as a result of poor repair. Others collect only subsurface drainage (percolated water) by a network of tiles. Many ADW systems receive both surface runoff and subsurface drainage."

*11. One commenter requested a definition for "Aquifer Storage and Recovery Well".*

See OAR 340-044-005(3) for the definition of aquifer storage and recovery. This definition is consistent with the Oregon Water Resources Department definition in OAR 690-350-0010(1)(a).



*12. Several commenters suggested the definition of "Exempted Aquifer" should be retained as possible future oil/gas or mineral production may necessitate the need for an "aquifer exemption" or an equivalent waiver action. Commenters also said the definition of "Underground Source of Drinking Water" should be consistent with and include all four federal criteria including the quality threshold of 10,000 mg/L total dissolved solids and status as "not an exempt aquifer".*

The Department carefully reviewed current state statutes and rules for both DEQ and the Oregon Water Resources Department with regard to classifying beneficial uses of waters of the state, protection of ground water for existing and future beneficial uses, and processes to grant waivers to these requirements. The Department determined the federal definition and use of "exempted aquifer" and "underground source of drinking water" is inconsistent and conflicts with current Oregon state regulations that impose broader and higher designations for beneficial uses and higher levels of protection for groundwater. Additionally, the state mechanisms to grant waivers to these regulations are established in statutes and rules that are not addressed by revisions to OAR 340-044.

When Oregon originally sought approval from EPA for the UIC program in 1983, the statement describing Oregon's UIC program noted that "The Department has no written procedures for exempting aquifers" and noted the unlikely need to exempt an aquifer. The program description stated that if necessary, the Department would "...work closely with the Water Policy Review Board if domestic water supply was a designated beneficial use of the aquifer" and exempt an aquifer through the rule making process. State UIC rules promulgated in 1983 included a definition for "exempted aquifer" similar to the federal UIC regulations (40CFR146.4) but did not establish procedures for exempting aquifers. The federal regulations (40CFR144.7) further specify that a state aquifer exemption requires EPA approval as a UIC program revision.

Current Oregon statutes designate the Water Resources Commission (formerly the Water Policy Review Board) as the authority responsible for designating beneficial uses for waters of the state. All groundwater in Oregon has a designated beneficial use as domestic water, which includes use as private drinking water supply. No water quality criteria, such as total dissolved solids content, are associated with this designation. Other state statutes protect all groundwater quality for all existing and future beneficial uses that the natural water quality allows. As noted in 1983, any waiver of these beneficial use designations or groundwater protection standards would require rule making that extends beyond the authority of DEQ and scope of the UIC rules. On a more limited extent for permitted point source operations, the Environmental Quality Commission or DEQ Director may grant a "concentration limit variance" allowing groundwater protection standards to be exceeded within the boundaries of a permitted facility. These procedures are specified in OAR 340-040 Groundwater Quality Protection rules and are cited as applicable in the UIC rules for authorization by permit.

The Department recommends "exempted aquifer" be deleted from the UICs rules since it is not appropriate or desired to specify these procedures in OAR 340-044. The Department also recommends a revised definition for "underground source of drinking water" consistent with current Oregon groundwater protection standards as described above.

*13. One commenter requested the definition of "Injection" exclude surface infiltration.*

Proposed rules (OAR 340-044-0005(22)) define "Injection" as emplacement or discharge into the subsurface and include a separate definition for "Surface Infiltration".

*14. One commenter requested the definition of "Industrial Activities" clearly exclude streets and all manufacturing. The commenter suggested adopting the federal definition of "industrial activities" used in the NPDES program.*

Proposed rules include requirements for storm water injection at industrial and commercial facilities (OAR 340-044-0018(3)). These requirements cover facilities included in the NPDES storm water program as well as all other commercial and industrial facilities where hazardous substances and toxic materials are used, handled, or stored. Streets and public right-of-ways are not included in this category since the common understanding of a "facility" is limited to industrial or commercial site boundaries. Street storm water systems are covered in the municipal storm water system category. The Department modified and simplified proposed rules by removing the references to the NPDES program idea of "industrial activities" making the category explicitly cover all facilities where hazardous substances, toxic materials, or petroleum products are used, handled, or stored.

*15. One commenter requested clarification of the definition of "subsurface fluid distribution system".*

Proposed rules (OAR 340-044-005(41)) adopt the federal definition that clearly applies this term to systems that discharge fluids into the ground. The term does not apply to piping systems that only route water to piped sewer systems.

*16. One commenter said that the "Toxic" definition is very broad.*

The definition of "toxic material" is similar to the definition of "toxic waste" in OAR 340-045. This term includes contaminants such as nitrates and fertilizers that are not included as "hazardous substances" but that have known toxic effects to human health and the environment.

*17. One commenter requested clarification of the definition for "Vehicle Trips".*

The definition of "Vehicle Trips" has not been modified, but the use of this term in OAR 340-0018(3)(f) and (g) has been clarified to apply to the average daily vehicle trips.

*18. One commenter requested clarifying the definition of "Well" with regard to depth compared to surface dimension, specifically the access port.*

As defined in 340-044-005(50), this term is consistent with the federal definition. A well with a depth greater than the diameter of the borehole is considered a "well" for the purposes of UIC rules, regardless of the diameter of the access port.

**Policy and Purpose**

*19. Several commenters said that not all groundwater sources are suitable as drinking water but may have other beneficial uses that require a lower quality of water. The policy should protect existing and potential beneficial uses of groundwater sources. There should be a mechanism to address circumstances where groundwater is not a suitable drinking water source.*

State laws set the groundwater protection policy goal to protect groundwater for current or potential beneficial uses. Groundwater is protected at background water quality levels. Rules in OAR 340-040 Groundwater Quality Protection provide a mechanism for considering background water quality and current and future beneficial uses other than drinking water.

*20. One commenter said the EQC policy to eliminate all sewage drain holes should be accompanied by funds to meet the policy. Sewage drain holes should be permissible if the system can be modified to meet requirements of OAR 340-071, On-site Sewage Disposal.*

This policy has been in effect since 1969. Sewage drain holes are not recognized in OAR 340-071, On-site Sewage Disposal, as suitable disposal methods for sanitary sewage.

**Authorization of Underground Injection**

*21. A commenter asked for clarification of the conditions that warrant rule authorization.*

Recommended conditions for rule authorization are given in OAR 340-044-0018(1). The types of rule authorized injection systems are listed in OAR 340-044-0018(2) or are allowed under OAR 340-044-0018(3) or OAR 340-044-0018(4).

**Exclusions from Underground Injection Control Regulations**

*22. Comments from EPA said that the federal 20 persons per day design criteria for non-residential large capacity onsite sewage systems must not be equated to the design flow rate of 2500 gallons per day. Situations may arise where an on-site sewage system serves more than 20 persons per day, but has a design flow of less than 2500 gallons per day.*

In the preamble to the December 7, 1999 Class V Revision Final Rule, EPA discusses the exclusion criteria for cesspools and septic systems. EPA received comments that the 20 persons-per-day threshold should be changed to a criterion based on a waste flow rate or septic tank size. EPA states, however, that "it was not clear to EPA if any of the alternative criteria that were suggested could be adopted on a national level without significantly disrupting many State programs nor that such a change was needed to improve USDW protection." Further, "EPA recognizes that the current criterion as written in [40 CFR] 144.1(g) has weaknesses." The Department reviewed Oregon's regulatory programs for septic systems and determined that equating 20 persons per day to a flow rate of 2500 gallons per day is an appropriate criterion for regulatory oversight under the state UIC program and adds needed clarity to the vague federal criterion. This flow rate criterion is used in Oregon's on-site rules to determine which on-site systems require WPCF permits for operation. Systems lower than 2500 can be installed with a construction permit if design specifications are met with delegation of oversight for these systems to county authorities. The Department determined that Underground Sources of Drinking Water (USDWs) are adequately protected with this level of oversight for systems distinguished by a flow rate and recommends using this as the exclusion criteria in OAR 340-044-0013 for UIC program oversight in addition to the 20 person per day criterion.

*23. One commenter recommended exempting irrigation systems from UIC regulations and pointed out that proposed rules would require individual WPCF permits for this irrigation practice since no general permit is available*

The scope of state UIC rules must be consistent with federal UIC rules in terms of the covered injection systems. There is no exemption in federal regulations for irrigation systems. DEQ will consider such an exemption if it is adopted in federal regulation. DEQ may also consider developing a general permit if there is a demonstrated need to cover this category of injection system, as allowed under OAR 340-045-0033. The Department has no information at this time on the need for permits for irrigation practices that use underground injection.

*24. A commenter recommended excluding additional types of underground structures such as underground vaults and injection into water supply wells for injection or reconditioning.*

As noted above, state rules cannot extend the scope of excluded well types beyond those excluded from federal regulations. In determining whether or not a specific underground structure would be regulated under the UIC rules, the owner or operator should contact the DEQ UIC Program Coordinator to discuss the design and function of the well. If subject to regulation under UIC rules, the federal regulations at a minimum require submission of inventory information. State rules must be consistent with this requirement. Proposed rules (OAR 340-044-0018(4)) enable the Department to consider rule authorization on a case-by-case basis upon review of inventory information if the structure is not explicitly rule authorized in OAR 340-044-001(2). Proposed rules do not apply to disinfection of new water supply wells required by Oregon Water Resources Department well construction rules because this standard construction technique does not involve injection of fluids into the aquifer. For other activities to maintain the productivity of water supply wells, owners or operators should contact the Department to determine what UIC regulations apply. Proposed rules (OAR 340-044-0018(2)(G)) allow temporary injection to maintain water extraction wells to be authorized by rule.

### **Prohibition of Groundwater Contamination**

*25. A commenter stated that the burden should not be placed on an owner to prove presence or absence of a water quality violation if the system is suspected to cause or contribute to a violation.*

Proposed rules (OAR 340-044-0014) are equivalent to the federal rule (40 CFR 144.12) placing responsibility on the owner or operator to show that groundwater protection requirements are met. The Department believes this is a key element in regulating the use of underground injection systems. Before authorizing use of an injection system, the Department must be able to request and obtain necessary information from an owner or operator that demonstrates the injection will not impact groundwater. The Department can request this information based on the potential that the endangerment prohibition is being violated. It is not the intent of this rule to force unreasonable investigations of environmental impacts, but to place the burden of showing compliance on the owner or operator of the injection system.

*26. Several commenters said there should be flexibility in permitting discharges that contain contaminants into a groundwater source that does not currently meet standards or will not be developed as a drinking water source. Owners should be protected if their injection contributes to contaminant transport in a downgradient source.*

A permit evaluation would consider the background water quality of the receiving groundwater system. Owners are liable if they contribute to the exacerbation of contamination.

27. *Commenters were concerned about how the citation of OAR 340-040 Groundwater Quality Protection would be applied and achieved by facilities regulated as UICs. Requiring UICs to meet OAR 340-040 standards is not consistent with OAR 340-071 rules for on-site septic systems that do not appear to be required to meet those standards.*

OAR 340-040 Groundwater Quality Protection mandates minimum groundwater quality protection requirements. UIC rules must be consistent with OAR 340-040, and permits issued for underground injection systems must meet these requirements. On-site systems are not exempt from groundwater quality protection requirements.

### **Prohibited Underground Injection**

No comments.

### **Repairs of Existing Sewage Drain Holes**

28. *One commenter said that prohibiting repair of a failing sewage drill hole would cause a building moratorium or force owners to continue using failed systems, and would require costly treatment systems.*

The requirement for owners to hook up to sewer service and upgrade treatment systems has been in place for more than 20 years and has not resulted in building moratoriums. An owner cannot continue to use a failing system without being in violation of law.

### **Authorization of Underground Injection by Rule**

29. *One commenter stated that rule authorization for injection of fluids for remedial action should include sites that receive DEQ approval of the remedial system under any of its various authorities.*

The rule authorization for Class IV remediation injection wells injecting hazardous waste is limited by federal regulations to actions that are approved only under RCRA and CERCLA authorities. The commenter is correct that it is not likely DEQ would have authority to approve these actions. This would require EPA approval.

It is more likely that a remedial action injection well would not inject hazardous waste and would be in the Class V category. The various authorities for DEQ-approved remedial actions are contained in OAR 340-122 and include cleanup activities that can be done as interim actions or removal actions. Proposed rules (OAR 340-044-0018(2)) were modified to allow injection as part of a state-approved cleanup action to be rule authorized. If an independent cleanup action is undertaken, specific written approval for the injection is required. Otherwise, the injection is subject to regulation as a permitted activity.

**Storm water**

*30. A commenter stated that there does not appear to be a method for ensuring compliance with the requirements for storm water injection wells. DEQ should continue to provide guidance and oversight to owners or operators to achieve compliance with UIC regulations rather than allowing them to individually determine and interpret their own level or degree of compliance.*

The Department will continue providing assistance to owners or operators as staff resources allow. With all permitted and rule authorized injection systems, DEQ will prioritize and select systems for inspection and enforcement as necessary to determine and encourage compliance. The Department recommends using rule authorization in lieu of individual permits for storm water systems as the most practical and efficient way to address the bulk of active injection systems in the state.

*31. A commenter suggested the language be modified to require notice to DEQ in the event that contamination is discovered at a facility where a storm water dry well is in use, and allow time to investigate the conditions before denying rule authorized use of the dry well.*

This suggestion was incorporated into the OAR 340-044-018(3)(a)(F).

*32. Several commenters raised issues regarding monitoring required for rule authorized municipal storm water injection systems. Issues included: focusing on evaluating BMP effectiveness, using monitoring to improve design, requiring monitoring as part of the required storm water management plan, allowing flexibility to develop monitoring strategies to address regional issues, the expense of monitoring, treating storm water to specific standards rather than using BMPs, and linking storm water runoff to Safe Drinking Water Act numeric limits.*

Proposed rules for monitoring requirements (OAR 340-044-0018(3)(b)(C)) were modified in response to these comments. For municipalities with large numbers of storm water injection systems, the required storm water management plan includes monitoring to evaluate the effectiveness of BMPs in eliminating contaminants in storm water prior to injection. Initial sampling for all potential contaminants as initially proposed was eliminated, but routine monitoring for typical and expected contaminants is required. Municipalities have the flexibility to develop a monitoring plan and select locations and BMPS that are representative of their system. Criteria for storm event selection are not specified for large municipal systems, but should follow available guidance. A system-wide evaluation is required to identify potential contaminants in storm water based on the activities and knowledge of the storm system drainage area. Analysis for a minimum list of contaminants associated with petroleum products and typical urban runoff pollutants is required. It is the ultimate responsibility of the municipality to effectively characterize and sample storm water discharged from an injection system, and to use that information to modify storm water management practices to prevent the discharge of all contaminants. Proposed rules do not require selection of reference levels to compare monitoring data to drinking water maximum contaminant levels (MCLs). Large municipalities are required to submit a summary report in 2004 on implementation of their storm water management plan. The option to combine resources in a regional study to compare the effectiveness of various BMPs was added. The Department does not expect to provide routine review of the facility storm water management plan until summary reports are submitted in 2004.

*33. One commenter questioned why the proposed rules require a permit for cities with more than 500 injection wells, how the distinctions were derived and the possibility of increased environmental impact from cities in the permitted category.*

Proposed rules for municipal storm water injection systems were modified to make any municipal storm water system eligible for rule authorization if the general, basic requirements, category specific requirements in OAR 340-044-0018 are met.

*34. Several commenters raised issues with proposed language in storm water injection basic requirements regarding a preference for surface water discharges, minimization of storm water runoff, and use of infiltration for storm water rather than injection system discharges.*

Storm water basic requirements (OAR 340-044-0018(3)(a)(B) and (C)) were modified to reflect a preference for methods that minimize the amount of site storm water runoff and promote disposal methods using surface infiltration or surface discharging storm sewer systems if appropriate. This is intended to allow system owners to consider the most appropriate disposal option given the specific characteristics of the site or geographic area or other environmental concerns related to surface water quality or watershed health. If injection of storm water is chosen, rules require that injected storm water not endanger groundwater. The minimization of storm water runoff will lessen the volume of water circumventing natural hydrologic processes and decrease discharges into groundwater or surface water.



*35. Several commenters addressed the prohibition of storm water injection within 500 feet of a domestic and public drinking water wells. Some commenters said this was not consistent with OAR 333-061 Public Water Systems or wellhead protection plans being developed by public water suppliers. Other commenters said this was consistent and appropriate.*

The Department recommends maintaining the current setback of 500 feet from private domestic drinking water wells, and using a setback of 500 feet or the 2-year time-of-travel from public drinking water supply wells. Calculations using current Source Water Protection methodologies confirmed these distances to be appropriately protective based on typical domestic drinking water well construction and pumping rates. The Oregon Health Division verified that they will calculate and delineate the 2-year time-of-travel for public water systems during the Source Water Assessment process now underway as mandated by the Safe Drinking Water Act. The 2-year time-of-travel was chosen to provide an estimate of the area within which sources of microbial contamination, a typical contaminant in storm water, could potentially impact water quality at the wellhead. The cited well construction specifications in OAR 333-061 also require comprehensive monitoring and disinfection at the wellhead for public water supply wells when potential contaminant sources are located as close as 100 feet to the well. The Department does not consider a 100-foot set back sufficient for general application to protect private domestic drinking water supplies from risks posed by storm water injection. Domestic private water supplies are not subject to the rigorous quality testing and disinfection requirements that public drinking water suppliers must meet in addition to siting and construction requirements.

*36. A commenter noted that information on the "time-of-travel" to public drinking water wells, well inventories, and location relative to soil or groundwater contamination is not readily available.*

The basic requirement in OAR 340-044-0018(3)(a)(E) was modified to indicate that the information about 2-year time-of-travel is delineated by the Oregon Health Division (OHD). If delineation has not been completed, a distance of 500 feet should be used. The Oregon Water Resources Department maintains a data base of all registered water wells which is publicly available and is accessible on-line (<http://www.wrd.state.or.us/groundwater/index.shtml>). OHD is mandated to complete well head delineation and time-of-travel determinations for all public drinking water wells by 2003. These will be publicly available and accessible on-line through DEQ or OHD when completed (<http://waterquality.deq.state.or.us/wq/dwp/dwphome.htm>). DEQ maintains the Environmental Cleanup Site Information (ECSI) database with documented soil and groundwater contamination information, available for public use and on-line (<http://www.deq.state.or.us/wmc/cleanup/sas0.htm>). Facility owners may have more information about soil and groundwater contamination at their sites than what is publicly available and should use that information to complete the required certification.

*37. Several commenters raised concerns that the basic requirement to "prevent illicit discharges" to a storm water injection system was unrealistic and confusing. Other commenters questioned whether spill BMPs that involve temporary flow control devices, such as mobile booms, would meet the requirement.*

Proposed rules (OAR 340-044-0018(3)(a)(I)) were modified to clarify the performance standard. The Department expects that all reasonable efforts will be taken by an injection system owner or operator to design and operate a system that prevents accidental or illicit release of contaminants into an injection system. The objective is to eliminate the opportunity for illicit discharges or the high risk for accidental drainage into injection systems to the extent possible with siting and design choices and spill response plans. The combination of system design and operation should accomplish temporary blocking to prevent accidental waste disposal into and from an injection system. The performance standard for groundwater protection for rule authorized storm water systems is stated in OAR 340-044-0018(1) with other basic requirements for rule authorization.

*38. A commenter raised the issue that highway drainage systems often drain adjacent properties and the injection system owner may not be able to control all pollutants that are discharged to its drainage system.*

The rule authorization requirement in OAR 340-044-0018(3)(a)(B) requires injected fluids to consist only of storm water. Mixtures of storm water with other waste fluids would be regulated under a permit as appropriate for the category of fluid representing the highest risk for groundwater contamination. It should be noted that the injection of agricultural drainage is currently prohibited. The owner or operator of an injection system is responsible for meeting these requirements.

*39. A commenter requested changing language in OAR 340-044-0018(3)(b)(C) to "eliminate storm water contamination" rather than "eliminate storm water drainage from areas with industrial activities".*

Proposed rules were modified to require measures to "prevent storm water drainage from areas where hazardous and toxic materials are used, handled or stored". The municipal category in section OAR 340-044-0018(3)(b) of the rule is designed to cover typical storm water from street systems, not storm water from industrial facilities. To be in this category, a municipality is required to submit a certification that the injection system does not receive storm water from areas where hazardous materials are handled. To remain in this category where a permit is not required, a municipality may eliminate a well serving such an area or use alternate means to dispose storm water. If alternatives are not available, the municipality may seek authorization under a permit. The storm water management plan must include measures to assure continued compliance with this certification condition.

*40. Several commenters had suggestions relating to roof drains for storm water, including using a separate form to register and decommission residential UICs and roof drains, not requiring roof drains to comply with the basic requirements for storm water injection, and not applying these rules to residential storm water.*

Oregon's rules must be consistent with the scope of the federal requirements for UICs which require owners of all injection systems to provide inventory information. Oregon cannot exempt roof drains injecting storm water or other residential storm water systems from this federal requirement. The Department will consider a streamlined registration form for residential roof

drains. It is not intended that roof drains comply with the basic requirements and certifications for storm water injection systems specified in OAR 340-044-0018(3)(a). Rule OAR 340-044-0018(2) has been modified to make this clear.

*41. Several commenters raised questions about whether a state agency will be considered the owner of a large municipal system, the use of existing storm water management plans, and the frequency of physical maintenance and monitoring.*

For the purpose of these rules, the definition of "municipality" includes government entities such as the Oregon Department of Transportation (ODOT). ODOT may be regulated through a statewide permit similar in scope to the statewide NPDES surface storm water permit. It is likely that many of the elements of storm water management plans previously developed by ODOT for surface water discharges would be appropriate elements in a storm water management plan for UIC discharges, including many common BMPs. For large municipal systems that cover large geographic areas with multiple injection system designs, specific details for monitoring and maintenance will need to be developed in an individual storm water management plan. Municipally owned industrial or commercial facilities, such as maintenance yards, will be subject to requirements appropriate for that rule authorized industrial or commercial category.

*42. Several commenters raised a concern that basing the requirement for a storm water permit on the number of injection wells is arbitrary without considering the risk and management of wells. Redmond has 630 dry wells and only one rain event last year. DEQ should review systems individually to determine the level of risk and appropriateness of rule authorization or permit.*

The Department reviewed the estimated types of storm water injection systems in the state, the likely number of injection wells, and the general geographic areas for these systems. Based on available information, a natural division point for municipal systems at 500 wells puts approximately 7 municipalities in this category, with the majority of municipalities likely to be in the "small" municipality category. Based on information about the systems within the state, the Department believes there is a higher potential for systems with 500 or more injection wells to endanger groundwater. The initial Oregon UIC program assessment conducted in the early 1980's recognized that the highest risk to groundwater came from storm water injection wells in the Bend and Redmond areas where injection systems discharged into fractured rock containing groundwater aquifers.

In response to comments and concerns of municipalities, the Department recommends municipalities with large injection systems be given the initial option to qualify as authorized by rule. The Department deleted the basic qualifying criteria that an owner have less than 500 injection systems from the proposed rule. Large municipal systems will be subject to all other general, basic, and category specific requirements for authorization by rule.

*43. A commenter requested adding a due date for submission of the additional registration and inventory-related information required by the proposed rule.*

Submission dates were added to OAR 340-044-0018(3).

*44. A commenter requested including all the following items as part of a storm water management plan: BMPs for source control, pollution prevention, and spill control; methods to evaluate BMP effectiveness; operation and maintenance practices; record keeping and reporting requirements; employee training; construction and decommissioning requirements.*

These items are required as part of the storm water management plan for rule authorized large municipal systems (50 or more injection systems), industrial/commercial systems, and large parking lots in OAR 340-044-0018(3).

*45. Commenters raised concerns that storm water will not routinely meet drinking water standards. Comparison of storm water BMP sampling results to drinking water standards does not provide a meaningful assessment of potential groundwater impacts. BMP monitoring should focus on reducing pollutants to the maximum extent practicable so municipalities can focus resources on improving treatment technologies.*

Proposed rules were modified to delete the requirement for municipalities to identify reference levels for comparison of monitoring data.

It should be noted that the objective of storm water BMPs is to keep contaminants out of storm water and treat contaminated storm water before injection. Measuring contaminant concentrations at the point of injection indicates pollutant concentrations that are being discharged after source control and treatment BMPs have had effect. In the absence of actual groundwater monitoring data, this measurement point serves as a surrogate for the standards that apply in groundwater. If groundwater were monitored, no degradation of the groundwater would be allowed from the discharge since background concentrations are the standard applied in groundwater. Given some potential for contaminant attenuation through a soil filtration media or confinement barrier, the use of drinking water standards at the injection point assumes this will be protective for background groundwater quality. If data from BMP monitoring indicates contaminant discharge concentrations exceed these levels, there may be potential groundwater impacts from the injection. It is not sufficient that BMPs simply reduce pollutants, but that the reduction achieves acceptable water quality standards before storm water is injected and moves to groundwater.

*46. Commenters requested allowing municipalities to develop inspection and maintenance schedules in storm water management plans submitted to DEQ and stated that a monthly inspection requirement is too high.*

The requirement in OAR 340-044-0018(3)(b) was modified and the monthly inspection requirement removed. As proposed, the rule does not require submission of the storm water management plan to the Department.

*47. One commenter estimated the costs of monitoring 1% of the City of Portland's infiltration sumps will be high (\$200,000 to monitor 100 sumps each year).*

The City of Portland has a large injection system distributed across a large geographic area where hydrogeologically sensitive aquifers supply public and private drinking water. Monitoring should be designed to determine the effectiveness of storm water BMPs to prevent or eliminate contaminants before storm water runoff is injected. Information submitted to the Department estimates the cost for sampling and analyzing the minimum monitoring parameters to be less than \$500 at each location. The Department recommends allowing municipal system operators to identify the appropriate locations and number of injection points to monitor.

*48. Several commenters said sampling requirements should outline a methodology to guide selection of representative sampling locations and have less stringent requirements on the type of storm event to monitor.*

The Department modified some elements of the required monitoring plan in OAR 340-044-0018(3)(b) to allow municipalities flexibility in determining a representative storm event and sampling locations. The Department provided an outline of the elements required in a storm water management plan to allow adjustments for the type of storm water system. Selection of a representative sampling location must be made by the system owner or operator using best professional judgement with review of information acquired for system inventory and system-wide assessment.

*49. A commenter said that NPDES permits allow waiver of monitoring requirements for systems that have operated a minimum of 2 years without exceeding standards. This concept should be extended to UICs with consistent BMPs.*

The Department recommends retention of the annual monitoring requirement for rule authorized larger and riskier storm water injection systems. Annual monitoring is particularly important for systems that may be subject to accidental or illicit discharges that might not be detected without minimum routine monitoring. Unlike a reliable process operation, pollutant inputs to storm water systems may not be consistent or adequate for minimum treatment BMPs to be guaranteed effective. The Department feels that minimum annual sampling is reasonable for discharges that could contain pollutants that would not otherwise be noticed or detected.

*50. A commenter said the citation of 40 CFR Part 423 points to source category for steam generation.*

This citation of Appendix A to 40 CFR Part 423 provides a list of the referenced 126 priority pollutants.

*51. A commenter suggested allowing reporting of accidents and spills at an industrial facility within the previous 12 months rather than over the entire site history.*

The Department believes that a complete and comprehensive history of spills and releases at an industrial or commercial facility is relevant and warranted to assess eligibility for rule authorization of an industrial or commercial storm water injection system.

*52. A commenter said the rules should require industrial and commercial facilities to prepare a maintenance plan.*

Proposed rules (OAR 340-044-0018(3)(d)) require an industrial or commercial facility to develop a storm water management plan that includes monitoring and maintenance plans. Because of the wide variety of hazardous substances, toxic materials and petroleum products that could be used, the Department believes each facility should initially characterize the pollutants found in storm water and develop a monitoring program based on those results. The Department believes the general requirement of monthly visual inspections and semi-annual physical maintenance to be reasonable.

*53. A commenter suggested establishing a hierarchy for industrial and commercial categories since several categories may apply.*

Proposed rules were modified. The most stringent of requirements in OAR 340-044-0018(3)(d), (e), and (g) will apply to an industrial or commercial facility.

*54. A commenter said that the category for low risk industrial or commercial facilities [with no hazardous substances] may not have any qualifying facilities since no facility could satisfy the description. It appears that category (e) and category (g) overlap and could be combined.*

Proposed rules were modified to clarify the scope of this category. The intent is that facilities that do not use hazardous substances or toxic materials in more than incidental consumer quantities, and which do not generate hazardous waste, would be included in this lower risk category. These facilities must certify with their inventory information submittal that this is the case. Facilities that do use these materials fall in the higher risk category under OAR 340-044-0018(3)(d), and certification that storm water is not exposed to these materials is required in addition to more detailed storm water management plan requirements. The presence of vehicle traffic is not inherently an "industrial activity" as defined in these rules or under NPDES storm water management. However, vehicles delivering hazardous or toxic materials or goods used for manufacturing would be considered industrial activity. Parking lots for large numbers of vehicles are regulated under a separate category.

There may be an overlap in Categories (e) and (g), although the focus of each is different. Proposed rules retain these categories at this time. The Department will evaluate after implementation of these rules to determine if Category (g) is necessary. The following table may clarify distinguishing criteria for facilities in each category.

Storm Water Injection System Categories

<b>Owner or Facility Type:</b>	<b>Municipal</b>	<b>Industrial/Commercial</b>	<b>Residential</b>
Facility or system with storm water exposed to hazardous substances	Permit	Permit	(Not applicable for consumer quantities)
System with 50 or more wells	OAR 340-044-0018(3)(b)		
System with less than 50 wells	OAR 340-044-0018(3)(c)		
Facility with hazardous substances use	OAR 340-044-0018(3)(d)	OAR 340-044-0018(3)(d)	
Facility with no hazardous substances use	OAR 340-044-0018(3)(e) or 0018(3)(f) or 0018(3)(g)	OAR 340-044-0018(3)(e) or -0018(3)(f) or -0018(3)(g)	
Facility with large parking lot	OAR 340-044-0018(3)(f)	OAR 340-044-0018(3)(f)	OAR 340-044-0018(3)(f)
Facility with small parking lot	OAR 340-044-0018(3)(g)	OAR 340-044-0018(3)(g)	OAR 340-044-0018(3)(h)

*55. A commenter said that sampling requirements for commercial/industrial facilities may not always be appropriate or necessary, especially for facilities that use more protective system designs. The requirements may deter on-site storm water management. The list of facilities that require sampling should be refined and sampling plans should be specified in technical guidance.*

The Department feels that, with the expansion of rule authorization to include industrial storm water injection, some requirements for sampling are needed to ensure groundwater protection. Given the broad range of industrial and commercial facilities in the state and the many options for storm water system designs, sufficient information is not available to support further refining sampling requirements for subsets in this category.

*56. Several commenters questioned requirements for residential systems and whether it is necessary or reasonable for homeowners to install pretreatment systems.*

Storm water runoff on residential properties may contain the same contaminants found in municipal street systems. Owners who inject storm water are subject to the same requirement as municipal system owners that discharge does not contain contaminants. Residential storm water injection systems qualify for authorization by rule if requirements are met. Proposed rules (OAR 340-044-0018(3)(h)) were modified to eliminate the specific requirement for pretreatment methods but require appropriate system design and best management practices to ensure the system does not discharge contaminated storm water.

**Registration and Inventory Requirements**

*57. A commenter requested clarification of the information required and deadline for registration, and suggested that wells discovered after 12/2000 be allowed to register without a penalty.*

Proposed rules (OAR 340-044-0020(2)) reference information required by federal regulations for inventory submittal and (OAR 340-044-0020(3)) indicates additional information that may be required based on the type of injection system. The Department has developed registration forms tailored to common types of injection systems that request this information on initial registration. Per federal regulations, inventory information must be submitted before constructing or using an injection system. The federally mandated deadline for registering existing underground injection systems is one year after the approval of a state UIC program. In Oregon, federal approval was granted in 1984, and the deadline for registering existing systems was 1985. DEQ has renewed efforts over the past two years to bring municipalities and private UIC owners into compliance with this inventory requirement and has not enforced against UIC owners that were not registered through December 2000. The Department does not intend to penalize owners of large systems that have completed a good faith effort to inventory all injection wells by that deadline for additional UICs that are added to the inventory. Newly discovered wells must be registered promptly.

**Authorization by Permit**

*58. A commenter said to add language incorporating Endangered Species Act balance.*

Authorization by permit (OAR 340-044-0035) was modified with an additional subsection (5) to acknowledge other applicable federal laws including the Endangered Species Act.

*59. Several commenters expressed concern about the requirements for a storm water permit developed under OAR 340-040. These could require storm water to meet drinking water standards. The permit fee and annual renewal fee in addition to storm water sampling and or treatment would place a financial burden on Redmond. A BMP based approach should be tailored to be economically and operationally feasible. Drinking water regulations should be removed from the permit process and replaced with BMPs.*

Any permit issued by the Department must be consistent with the requirements under OAR 340-040 Groundwater Quality Protection. These requirements provide the framework for all state permits and specify that a groundwater protection program include groundwater monitoring, reporting, downgradient detection monitoring, and compliance points (OAR 340-040-0030(2)). These rules also specify the process and standards for developing concentration limits set in the permit which are the maximum contaminant concentrations allowed at the compliance point in groundwater. These rules further specify that concentration limits be set at background groundwater quality concentrations for all contaminants. Storm water injection systems will need to protect groundwater from degradation from background levels. While compliance is



determined in groundwater, some effluent concentration limits may be developed within the permit that specify the quality of storm water that can be discharged. These effluent concentration limits are developed based on specific system characteristics and hydrogeology of the area. The permit may allow use of BMPs if the required effluent concentration is reliably achieved and verified with compliance monitoring.

These requirements are typical for any point source discharging wastewater in Oregon. The environmental benefit is to prevent degradation of the groundwater resource and allow continued use of groundwater for all current and future beneficial uses. The reliance of the UIC program on typical department permitting tools is feasible and typical for other wastewater discharges and disposal methods that have the potential to impact waters of the state.

Federal UIC regulations require compliance with Safe Drinking Water Act standards in groundwater and do not allow substituting these standards with BMP use.

#### **Decommissioning and Conversion Requirements**

*60. A commenter suggested a simplified approach for decommissioning wells that only receive rooftop runoff.*

The Department agrees that an injection well receiving roof runoff should be allowed a simplified decommissioning process. Proposed requirements in OAR 340-044-0040 were modified to exempt roof drain decommissioning from the requirement for certification by a professional geologist.

#### **Agreements with Other Jurisdictions**

*61. A commenter said the reference to 40 CFR 144.8 may be incorrect.*

The referenced section of general provisions in the federal UIC regulations outlines noncompliance and program reporting by the Director. It specifies annual reporting required from delegated states implementing an approved UIC program.

## **ATTACHMENT D 1**

### **Relationship of Rule to Federal Requirements**

Regulation of underground injection to protect underground sources of drinking water is mandated at the federal level by the Safe Drinking Water Act [42 U.S.C. 300f *et seq.*]. Federal regulations establish minimum requirements for Underground Injection Control (UIC) programs and allow program administration authority to be delegated to states. Oregon preceded federal mandates by establishing rules in 1969 to restrict or prohibit the construction and use of waste disposal wells (OAR 340-044). In 1983, these state rules were revised to incorporate federal UIC program elements. In 1984, EPA authorized the Department of Environmental Quality to administer the program for Oregon.

The 1983 Oregon UIC rule requirements protect all groundwater of the state for beneficial use as drinking water. Federal UIC requirements under the Safe Drinking Water Act focus on protection of underground sources of drinking water that supply, or could supply, public drinking water systems.

The 1983 Oregon UIC requirements prohibit several types of underground injection and require permits for all other injection except for a few types of Class V wells. The rules use existing authorities to require any disposal system discharging into the ground to obtain a Water Pollution Control Facility (WPCF) permit except for some Class V wells with a low threat to groundwater that are allowed by rule without a permit. Federal UIC requirements prohibit Class IV wells, large capacity cesspools, and motor vehicle waste disposal wells; require permits for Class I, II, and III wells; and generally authorize by rule Class V wells that do not endanger groundwater.

This rulemaking will maintain the current Oregon UIC requirements except for an expansion of the Class V authorization by rule for storm water injection systems to include municipal and industrial categories that do not have a high potential to endanger groundwater. This is consistent with federal rules.

**ATTACHMENT D 2**  
**Questions to be Answered to Reveal**  
**Potential Justification for Differing from Federal Requirements**

**1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?**

Yes. The federal Underground Injection Control (UIC) program requirements are specified in Part C, Sections 1421, 1422, 1423, 1431, 1445, and 1450 of the Safe Drinking Water Act, and 40 CFR Part 144, 145, and 146. The applicable requirements for the State of Oregon administered program are specified in 40 CFR Part 147 Subpart MM. The State of Oregon statutes and regulations are incorporated by reference in the Federal Register and approved by the Environmental Protection Agency. Federal regulations were revised in 1999 to provide more stringent requirements for certain types of high risk underground injection activities.

**2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

The federal requirements for authorization of underground injection are performance-based. Underground injection may only be authorized if the injection meets applicable federal groundwater quality standards specified in the Safe Drinking Water Act and other applicable and appropriate state groundwater protection requirements incorporated by reference.

**3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?**

The 1999 federal UIC rule changes did not specifically address issues of concern in Oregon. The federal rule revision process considered information collected throughout the nation. The federal studies confirmed that certain types of injection systems are a high risk for causing groundwater contamination and require stringent controls.

Federal rule changes prohibit new, and phase out existing, large capacity cesspools which serve multi-family residences or non-residential facilities serving 20 or more people. Oregon regulations already prohibit new cesspools and have targeted specific areas for phasing out the use of existing cesspools. Federal rule changes prohibit new motor vehicle waste disposal wells and phase out existing wells in source water protection areas, or sensitive groundwater

areas. Oregon regulations already effectively prohibit motor vehicle waste disposal wells in all areas of the state

**4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

The proposed state rule revisions will clarify UIC regulations by explicitly stating the basic federal program requirements to inventory and register underground injection systems and meet the performance standard to not endanger groundwater. The federal UIC regulations for high risk underground injection wells are under further review as mandated by a 1997 modified consent degree (D.D.C. No. 93-2644) with the Sierra Club. However, maintaining current State of Oregon requirements that typically are more stringent than federal requirements will prevent the need for injection system modifications or decommissioning at a later date when more stringent federal requirements are promulgated.

**5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?**

No. The 1999 federal rule revisions mandate that state programs incorporate changes by December 29, 2000. Substantial changes to state rules will require a program primacy revision review for re-approval by EPA of the state UIC program.

**6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?**

Yes. The proposed state UIC rule changes will continue regulation of underground injection in a manner that will protect groundwater resources for current and future beneficial uses that will accommodate uncertainty and future growth.

**7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)**

Yes. The proposed rule revisions require registration and inventory of all underground injection systems, and apply the same performance standard to all authorized underground injection.

**8. Would others face increased costs if a more stringent rule is not enacted?**

Yes, in some instances. The UIC rules protect groundwater resources from contamination. Public and private drinking water supplies that rely on groundwater could be impacted by contamination from high risk injection systems, and costs could be incurred for cleaning up or providing alternate drinking water sources. This would ultimately increase costs to drinking water consumers.

**9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?**

No. The proposed state UIC rule revision will incorporate into state rule the basic federal reporting requirements (registration and inventory) and make the state program consistent with federal regulations.

**10. Is demonstrated technology available to comply with the proposed requirement?**

Yes, there are available technologies and best management practices that will comply with the basic groundwater protection requirement of this rule. The proposed state UIC rule change will not alter the existing groundwater protection requirements that have been in effect for many years.

**11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?**

Yes, an effective program regulating underground injection activities will prevent pollution of groundwater. The prevention of contamination is more cost-effective than the cleanup or loss of beneficial use of groundwater.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
For  
Revisions to Underground Injection Control Rules (OAR 340-044)

## Fiscal and Economic Impact Statement

### **Introduction**

The revisions to the state Underground Injection Control (UIC) rules will explicitly incorporate the current federal requirement for underground injection systems owners and operators to register and provide inventory information to the Department. There is no current plan for the Department to charge a fee for registering underground injection systems, so there will be no direct impact from this part of the rule change. With state administration of the registration requirement, the Department will be able to focus on bringing UIC owners into compliance with existing program requirements and identify injection systems that need permits to authorize the injection. There generally will be a net benefit to the public from a greater focus on compliance with current regulations. No new costs will be imposed by these rule changes, but some previously deferred owner costs associated with UIC system inventories, system upgrades, permitting, decommissioning, or shifting to the use of alternate wastewater discharge systems may be incurred.

Federal rule changes to regulate high risk injection wells do not substantially change existing state requirements. There may be some costs to individual owners or operators of cesspools or motor vehicle waste disposal wells who are currently out of compliance with state regulations. These rule changes do not impose new costs on these owners as they are required to comply with the current regulations. There will be an overall benefit with increased protection of groundwater and drinking water resources and with prevention of costs associated with cleanup efforts or developing alternate drinking water supplies.

The revisions to the state UIC rules will also terminate some waivers that have been available for sewage drain holes. This will provide an overall benefit to the general public, particularly in Eastern Oregon, by increasing drinking water protection. The few remaining owners or operators using sewage drain holes may incur costs to come into compliance with state and federal requirements.

### **General Public**

The general public will benefit from increased protection of groundwater for all beneficial uses, including use for public and private drinking water. The public will benefit indirectly as costs for cleaning up contaminated drinking water or finding alternate water supply sources are avoided by minimizing and controlling high risk injection activities. Indirect costs for compliance may be passed on to customers and consumers.

Although construction of new sewage drain holes is currently prohibited, some single family property owners currently relying on sewage drain holes may be impacted by this rule change. Single family residential cesspool owners are not directly impacted by this rule change, but must be in compliance with existing regulations and ordered phase-outs in certain areas. Residential properties using sewage drain holes will not be allowed waivers or repairs except under stringent conditions, so costs may be incurred for sewer hook-up or installation of standard on-site sewage systems or alternative systems. The Department does not know how many such systems remain in use, but estimates the number is less than 100. Estimates for homeowners to hook up to legally available sewer systems range from \$5,000 to \$9,000 in the Bend area and \$8,000 to \$12,500 in the Portland metropolitan area. Replacement of non-complying systems with a standard residential on-site system typically average around \$4,000. In some areas of the state, alternate systems such as sand filters may be necessary with costs estimated to range from \$12,000 to \$15,000 for a residential installation. The affected property owners may benefit from better protection of their individual drinking water wells, and the elimination of the non-complying systems will protect area drinking water sources.

### **Small Business**

Although this proposal does not change current regulations, some business owners may be impacted because they are out of compliance with the current requirements. Multi-family residences and non-residential systems using cesspools or sewage drainholes will need to hook-up to sewer systems or install other on-site sewage disposal systems. The Department currently has around 10 registered large capacity cesspools and sewage drainholes. Sewer hook-up costs may be more than those cited above for individual homeowners, and large on-site systems would require systems designed for the waste streams generated by the business. Small businesses may benefit from tax credits or grants available for installation of treatment systems to comply with these requirements. Tax credits are available through an application and evaluation process with the Department. There may also be an indirect benefit by increased business to companies that provide consulting or construction services for on-site system design and installation.

The impact of this rule change on automotive service businesses may be minimal because motor vehicle waste disposal wells are currently effectively prohibited by existing regulations. Other environmental regulations have brought about changes in waste management practices. Although the Department believes that most automotive service businesses are in compliance, some owners may be unaware that their properties use injection wells for wastewater disposal. These rule changes do not impose new costs on these owners as they are required to comply with the current regulations. Overall there is a positive impact to these businesses by reducing environmental liability and the potential for costly cleanups. Owners who have been operating out of compliance with current rules may experience a negative impact from costs to close motor vehicle waste disposal wells and clean up contamination. Small businesses may benefit from tax credits for installing new treatment systems.

Small businesses who have not previously registered their storm water injection systems may incur costs for inventory, registration, and permitting if required. The rule changes do not change the impact from the current rule. Although the Department will not charge a fee for system registration, business owners may incur costs to collect site and system specific information to register their injection wells. Cost estimates for small businesses may be from \$200 to \$2,000 for employee time or consultant costs to prepare information necessary to comply with the registration requirement. Overall there is a positive impact by reducing environmental liability and the potential for costly cleanups.

### **Large Business**

The impacts on large businesses are similar to those on small business. These rule changes do not impose new costs on these owners as they are required to comply with the current regulations. Large businesses with large waste streams are likely to require wastewater discharge permits under current requirements. Large businesses may also benefit from tax credits for installing treatment systems. Tax credits are available through an application and evaluation process with the Department.

### **Local Governments**

Although there is no change from current UIC program requirements, the emphasis on compliance with injection system inventory requirements may impact local governments. Municipalities that manage stormwater through injection systems will be undertaking inventory efforts to characterize their stormwater injection systems. The Department estimates that there may be 40 to 50 cities throughout the state that use some injection systems for stormwater management. Depending on the size and complexity of the municipal injection system, costs will vary from minimal to significant. Many municipalities may have fewer than 50 stormwater injection wells and will incur



minimal cost to comply with the inventory requirement. Large cities, such as Portland, with complex stormwater systems and land uses and 10,000 or more injection wells will incur significant costs to collect inventory information. There will also be a positive impact as cities will benefit by collecting this information and incorporating it into wellhead protection plans for public drinking water supplies and municipal surface water protection plans.

Increased compliance with UIC rules will provide an overall benefit to local governments that are public water suppliers. With effective compliance with the UIC rules, governments will find the quality of groundwater supplies will be maintained and they will avoid treatment costs for contaminated or degraded drinking water supply. A benefit to the general public will be to keep the costs of drinking water down.

### **State Agencies**

The Department may see increased work loads from the increased volume of underground injection system registrations. Depending on the types of systems that are registered, some may require permits and an increase in workload for the permitting staff may result. No new fees will be collected for registration, but the Department will be shifting from general funds to permit fee revenue to support the program.

Collecting underground injection system inventory information will benefit drinking water protection program efforts by the Oregon Health Division and DEQ. This will reduce costs for data collection and increase the information available for vulnerability assessments for drinking water protection programs.

Other state agencies, such as Oregon Department of Transportation, may also be required to comply with registration and inventory requirements for the facilities they own or operate.

### **Assumptions**

An assumption of this impact statement is that the rule change will increase recognition in the regulated community of the existing requirements for underground injection control. Another assumption is that efforts to bring owners into compliance with those requirements will incur costs for individual owners, but generally benefit overall groundwater protection efforts. At this time it is not possible to determine how many individual owners are not in compliance with current requirements, but the Department estimates that the majority of non-registered systems will be those used for stormwater disposal.

### **Housing Cost Impact Statement**

Agenda Item C, UIC Rule Adoption  
June 21-22, 2001 EQC Meeting  
Attachment E, Page 5 of 5

The Department has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

Homeowners continue to be required to comply with existing regulations. This rule change will not impose new fees for those not in compliance with current regulations.

7/14/00

Agenda Item C, UIC Rule Adoption  
June 21-22, 2001 EQC Meeting  
Attachment F Presiding Officer's Report on Public Hearing

# **Attachment F**


## **Presiding Officer's Report on Public Hearing**

State of Oregon  
Department of Environmental Quality

Memorandum

To: Karla Urbanowicz  
Program Policy and Project Assistance

Date: December 18, 2000

From:  Ranei Nomura, Presiding Officer  
Surface Water Management

Subject: Testimony from December 12, 2000, UIC Proposed Rules Public Hearing

The following is a summary of comments received from oral testimony at the December 12, 2000, public hearing for the proposed UIC rules. The hearing was convened at 7:05 p.m. with two parties providing testimony (registration and testimony forms are attached): Andrew Swanson with Clackamas County and Ray Johnson with the City of Redmond.

**Andrew Swanson, Clackamas County Water Environment Services**

Mr. Swanson began his testimony with a description of his agency's service area and commitment to protecting groundwater for current and future use. There are two municipal drinking water supply wells inside the County's service area and one outside in Milwaukie. The County estimates that it has approximately 190 dry wells. Mr. Swanson expressed that for proper watershed health it is important to mimic natural hydrology and that injected storm water can do this by providing cool upwelling in streams necessary for salmon rearing. He urged the Department to consider the use of storm water injection systems as a tool for maintaining healthier watersheds. The County supports the proposed rewrite in general and the improved detail provided in the proposed rule, however, Mr. Swanson had the following additional comments:

- Expressed concern that 0018(3)(a) provides for an incentive to favor discharge to surface discharging storm sewer systems when this may not be the most appropriate alternative to improve watershed health. He requested that the Department soften this language to give more flexibility to watershed managers in making such determinations.
- Requested modification of 0014 because the burden should not be placed on owner to determine if a water violation exists without good cause. There is a concern that a third party could force the County into conducting a costly investigation based on this language.
- Concerned that the Department is linking storm water runoff to the Safe Drinking Water Act numeric limits, which is a serious step. Suggested that the rule encourage the use of BMPs as an alternative to linkage. If the Department proceeds with such linkage, it would seem a logical approach to link to other UICs such as septic systems.
- Requested that the language in 0018(3)(a) for illicit discharges be modified so that the word "prevent" is not used because they cannot totally prevent such discharges since the drainage systems are always open. Suggested change to "limits" but there may be an even better word.
- Requested clarification of the information required for registration since the current UIC registration forms and the rules do not match. What is the deadline?
- Stated that the monthly inspection requirement was too high and requested that it be reconsidered and lowered.



- Requested that wells discovered after the 12/2000 amnesty deadline be allowed to register without penalty. The current situation provides a disincentive for those that discover a system after the deadline.
- Requested that the language in 0018(3)(b)(C) be changed to say eliminate storm water “contamination” rather than “drainage” since they cannot truly eliminate the drainage since that is the purpose of the system.
- Requested that municipalities be allowed to tailor their monitoring. The County currently has a water quality monitoring program for surface waterbodies and could use this experience in tailoring a program for groundwater.

Mr. Swanson also indicated that he would be submitting additional testimony in writing.

**Ray Johnson, City of Redmond**

Mr. Johnson reiterated that the city supports efforts to protect and preserve the environment, natural resources and drinking water resources. He also commented that regulatory rules should be achievable, enforceable and economically achievable. He pointed out that Redmond has approximately 630 dry wells and it only rained once last year.

Mr. Johnson expressed concern that the previous draft had no requirement for permit based on the number of wells. He thought Redmond would be evaluated based on registration information and would not be automatically required to obtain permit. He was also concerned that the 500 number for wells is not technically based and is arbitrary. Mr. Johnson said that a larger number of wells does not automatically mean a higher risk and that it depends on how the wells are managed. BMPs are the best way to assure protection and BMP usage should be utilized when evaluating risk. While not opposed to a permit, which may in itself provide some benefits, he believes a BMP approach would allow programs tailored to the individual system.

Mr. Johnson stated that 0035 could be interpreted to mean storm water must meet drinking water standards and requested that the Department remove “violation of primary drinking water standards” language in the proposed rule. Mr. Johnson was concerned that the cost of permit and monitoring could place an insurmountable financial burden on the taxpayers of the City. He also stated that the proposed rules go beyond the minimum federal regulations. He suggested that the previously established UIC task force could further work on crafting rules that would address Oregon issues to establish a balance between surface and ground storm water injection that would be achievable while providing the best natural resource protection. Mr. Johnson will also be submitting more detailed comments in writing.

Oregon Department of Environmental Quality  
TESTIMONY/WITNESS REGISTRATION FORM



NAME: Andrew Swanson

REPRESENTING: Clackamas County Water Environment Services

ADDRESS: 9101 SE Sunnybrook Blvd

CITY: Clackamas STATE: OR ZIP CODE: 97015

I request approximately 20 minutes to address the subject of Underground  
Injection Control

I primarily  favor /  oppose the Department's proposed action with regard to this subject matter.

Check here if you wish to be added to the mailing list about this subject. Be sure your complete mailing address is listed above.

(am already on, I believe)

Oregon Department of Environmental Quality  
TESTIMONY/WITNESS REGISTRATION FORM



NAME: RAY JOHNSON

REPRESENTING: CITY OF REDMOND

ADDRESS: 875 S.E. SISTERS AVE.

CITY: REDMOND STATE: OR ZIP CODE: 97756

I request approximately 5 minutes to address the subject of UIC PROPOSED  
RULE

I primarily  favor /  oppose the Department's proposed action with regard to this subject matter.

Check here if you wish to be added to the mailing list about this subject. Be sure your complete mailing address is listed above.

Oregon Department of Environmental Quality  
Public Hearing Registration Form



For: Proposed VIC Rules

Date: 12/12/00

Name	Representing	Mailing Address
1. Andrew Swanson	Clackamas County (WES)	9101 SE Sunnybrook Dr Clackamas, OR 97015
2. Barbara J Priest	DEQ-VIC	_____
3. Mary Stephens	ACWA / City of PHd	1120 SW FIFTH RM 1000 Portland 97204
4. RAY JOHNSON	CITY OF REDMOND	875 S.E SISTERS AVE REDMOND, OR 97756
5. Barry Beyeler	CITY of BOARDMAN	PO Box 964 BOARDMAN, OR 97818
6. ED WOODS	DEQ	DEQ
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

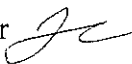


State of Oregon  
Department of Environmental Quality

Memorandum

**To:** Karla Urbanowicz, Rules Coordinator  
Water Quality Division

**Date:** August 16, 2000

**From:** James Cowan, Presiding Officer 

**Subject:** Presiding Officer's Report on the Hearing for Proposed Rule Revision for  
Underground Injection Control

Hearing Date and Time: August 15, 2000 at 7:00 p.m.

Hearing Location: Room 3A  
811 S.W. 6<sup>th</sup> Avenue  
Portland, Oregon

Title of Proposal: Rule Revision for Underground Injection Control

The hearing on the above titled proposal was held at 7:00p.m. The sign-in sheet included eight (8) members of the public. One person did provide formal comments during the hearing. No written comments were received during the hearing. DEQ representatives in attendance at the hearing included Barbara Priest, Dale Doremus, Ranei Nomura, Martin Lafrenz, and Mark Charles. Karla Urbanowicz provided a presentation on the proposed rule revisions before the start of the hearing. The hearing sign-in sheets are attached.

### SUMMARY OF COMMENTS

1. **Ernest Laurence Marbott**  
1808 N.E. Columbia Blvd., Portland, OR 97211

Has a concern about how we will implement policing of these dry wells and how we are going to follow-up. Wants to know what is going to happen when we do find potential problems. He heard during the presentation tonight about our efforts to get the word out that included realtors and business people. He stated that some businesses such as his are not well informed and would like to get some more information. He felt that the proposed rule revisions would be a financial burden on some businesses. He further stated they need to know how this program is going to affect them.

Attachments

SWM/JEC/WQ0011

1



OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

REGISTRATION FOR TESTIMONY

TOPIC Dry Wells DATE 8-15-2000

Name (please print) Ernest Laurence Markbott

Address 1808 NE. Columbia Blvd.

City Port State OR Zip 97211



DEPARTMENT OF ENVIRONMENTAL QUALITY

TOPIC Proposed UIC Rules

DATE 8-15-00

SIGN-IN SHEET

PLEASE PRINT

=====

NAME ADDRESS (include city, state & zip)

=====

1. Larry Mambott 1800 NE Col Blvd. Port. OR
2. Ernie Mambott " " 97211
3. MARK CHARLES 811 SW 6th Portland
4. Dale McQuinn DEQ WQD 811 SW 6th Portland
5. Barbara Priest DEQ-WQ 811 SW 6th Portland
6. MARTIN LAFFENZ DEQ-WQ 811 SW 6th PORTLAND
7. Greg Beach PWR 1007 SW 5th, suite 450 Portland, OR 97219
8. SARA Powell 2212 SW Sunset Blvd, PORT, OR
9. Elmer Anthony 10623 SE Market Portland
10. Tom Page P.O. Box 2527 Eugene, OR 97402







OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Memorandum

WESTERN REGION - MEDFORD

**To:** Karla Urbanowicz, Rules Coordinator  
Water Quality Program

**Date:** August 24, 2000

**From:** Jonathan Gasik, PE  
WQ Program Medford Office

A handwritten signature in black ink, appearing to read 'Jonathan Gasik', is written over the printed name in the 'From' field.

AUG 24 2000

**Subject:** Hearings Officer Report for Revisions to Underground Injection Control Rules  
(OAR 340-044)

On August 16, 2000, the Department of Environmental Quality conducted a public hearing to receive public comment on the proposed revisions to the UIC rules. The location of the hearing was the Auditorium of the Jackson County Courthouse, 10 South Oakdale Street, Medford, Oregon.

A public informational meeting was held from 6:00 PM to 6:50 PM. Eight people attended.

At 7:00 PM, the hearing began. No one had registered to testify. I asked the attendees if any would like to testify. No one wanted to testify. I waited until 7:30 PM. Still no one wanted to testify. The hearing was closed at 7:30 PM with no testimony.

Attached is the sign in sheet from the meeting.



DEPARTMENT OF ENVIRONMENTAL QUALITY

TOPIC VIC Rules

DATE 8/16/2000

SIGN-IN SHEET

PLEASE PRINT

=====

NAME

ADDRESS (include city, state & zip)

=====

- 1. Don McCubhock H 5244 BALSAM DR.  
KLAMATH FALLS OR 97601
- 2. Gene Couic 2850 Banner Ct  
Medford OR 97504
- 3. F.W. PATRICK 2121 ORINBALE RD  
K.F. OR 97601
- 4. CHARLES HENKE 105 OAKDALE PM 100  
MEDFORD, OR 97501
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_



8/17/00

HEARINGS OFFICER'S REPORT

At 7:00PM on August 17, 2000, the Department of Environmental Quality (ODEQ) held a hearing at the Department of Environmental Quality, Eastern Region, Bend Office concerning the Rulemaking Proposal and Rulemaking Statements - Revisions to Underground Injection Control Rules (OAR 340-044

Below is a summary of the testimony received at the hearing as well as testimony received in writing.

Wendy M. Jones  
Sundance Properties  
16873 Sharp Drive  
Sunriver OR 97707

Verbal Testimony Only (summary):

Two items of concern: (1) being storm drain requirements on residences. This would be very difficult and expensive process for those required have a permit on their storm drains. Also, recognizing a lot of those wells go in secondary to construction and recognizing the number of wells that currently exist and the difficulty of monitoring those storm drains. (2) The double standard set by the DEQ in how large groups are handled in allowing spray effluent as compared to other types of disposal or use of the waste material including sand filters and other wells. Feels that subdivisions that now have moratoriums on building because they are not handling things well or groups that have a history of noncompliance should be looked at more closely rather than automatically allowed to have an extension of their permit.

Ray Johnson  
City of Redmond  
875 SE Sisters Ave.  
Redmond OR 97756

Mr. Ray Johnson gave both written and verbal testimony. Mr. Johnson read and submitted the enclosed letter from Mary Meloy, City of Redmond, Public Works Director, dated August 17, 2000. (letter enclosed)







# CITY OF REDMOND

716 SW Evergreen  
PO Box 726  
Redmond, OR 97756-0100

(541) 923-7710  
Fax: (541) 548-0706  
E-mail: info@redmond.or.us  
Web site: www.redmond.or.us

August 17, 2000

State of Oregon  
Department of Environmental Quality  
Water Quality Division

Written comments from  
The City of Redmond

Regarding: Rule making Proposal - Underground Injection Control

The City of Redmond appreciates the opportunity to have input on the proposed UIC rule changes. With consideration of the following comments the City of Redmond endorses the Revisions to the Underground Injection Control Rules. The City of Redmond concludes that in general the issues identified by DEQ Water Quality Administrator have been addressed.

We support the protection and preservation of our ground water with rules and programs that are achievable, enforceable, beneficial and are economically realistic. With these goals in mind the City of Redmond respectfully submits the following comments:

- 340-044-0015 Prohibited Underground Injection  
(5)(B) Class V injection systems injecting: "Treatment of waste water will remove hazardous substances and toxic materials to background groundwater quality levels prior to injection of wastewater; and"  
(C) "Reliable and adequate treatment can be demonstrated with effluent monitoring and sampling prior to each batch injection of wastewater, and with groundwater monitoring for immediate detection of releases of inadequately treated wastewater".  
**Response:**  
Clear definitions of "wastewater" "drinking water" and "background ground water quality levels" should be used to demonstrate that 340-044-0015 (B) and (C) is not intended to include storm water injection systems. If these definitions are not included this would set an unattainable requirement for owners or operators of storm water injection systems. Removal, treatment and monitoring of substances to background groundwater quality levels would require construction of numerous and costly treatment plants to clean storm water. A more reasonable approach would be to use Best Management Practices in the construction and operation of storm water systems to protect our drinking water sources. While conducting the UIC rules revision process it is important to keep in mind that there is a distinct difference between our drinking water sources and all ground water. With regard to storm water systems the rule requirements, in order to be achievable and economically realistic should focus on protecting drinking water sources.
- 340-044-0018 Authorization of Underground Injection by Rule  
(1) (c) "...adversely impact ground water quality..." (3) (C) "...adversely impact ground water...."  
**Response:**  
Phrase should be consistent and clearly defined what is meant by "to adversely impact".
- 340-044-0018 Authorization of Underground Injection by Rule  
(4) "Additional Class V injection systems may be authorized by rule on a case by case basis if the requirements of section (1) (a), (b) and (c) of this rule are met".

**Response:**

This rule should include language that requires the applicant to submit a letter to DEQ taking responsibility if applicant finds they do not need a permit because there is no adverse impact on drinking water quality. DEQ would review applicants system and concur or decline Authorization by Rule.

- 340-044-0018 Authorization of Underground Injection by Rule

(3) (B) “The owner or operator demonstrates that there is an adequate confinement barrier or filtration medium between the well and groundwater....”

**Response:**

Rule should include language that explains how “The owner or operator demonstrates that there is an adequate confinement barrier or filtration medium. If “confinement barrier” is meant to include subsurface geological formations and water well logs will be an allowable demonstration, the rule should state this. Definitions and examples of acceptable “confinement barrier” and “filtration medium” should be included in 340-044-0005 Definitions.

- 340-044-0018 Authorization of Underground Injection by Rule

(3) (H) “Any owner or operator of an injection systems for storm water drainage shall have available a means of temporarily plugging or blocking the well in the event of an accident or spill”.

**Response:**

The actual plugging or blocking of a well by the owner in the event of a spill appears to be impractical if not impossible. Would Haz Mat Team response procedures fulfill this requirement?

- 340-044-0018 Authorization of Underground Injection by Rule

(3)(E) “Storm water injection systems shall not be located closer than 500 feet to a domestic well;”

(F) “storm water injection systems shall not be located within the 2 year time-of -travel or within 500 feet of a public water supply well, whichever is more protective;”

**Response:**

This is not consistent with Public Water Systems Oregon Administrative Rule 333- 061- 0050 (2) Construction Standards. “ Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site”. This discrepancy between the 500 feet UIC rule and the 100 feet OAR creates a confusing concept of the safe distance between a well and a potential health hazard such as an underground injection system.

- 340-044-0020 Registration and Inventory Requirements

(3) “For certain injection systems, the Department may require additional information, but not limited to, the following”:

**Response:**

This rule includes an itemized inventory list that all injection systems would comply with, however the phrase (3) “ For certain injection systems, the Department may require additional information ....” provides no guidance to determine which injection systems maybe required to provide additional inventory information. The determination by the Department to require additional inventory information can prove to be an unexpected and costly requirement for the system owner. Clear guidelines should be established.

With over an estimated 1 million Class V Underground Injection Systems in the United States and considering the large number of unsewered areas in rural Oregon that depend on groundwater, the City of Redmond supports a comprehensive UIC rule and program implementation.

Sincerely,



Mary Meloy  
Director of Public Works

Oregon Department of Environmental Quality  
TESTIMONY/WITNESS REGISTRATION FORM



NAME: Wendy Jones

REPRESENTING: Sundance Properties

ADDRESS: 16873 Sharp Dr

CITY: Sunriver STATE: Or ZIP CODE: 97707

I request approximately 5 minutes to address the subject of double standards

I primarily  favor /  oppose the Department's proposed action with regard to this subject matter.

Check here if you wish to be added to the mailing list about this subject. Be sure your complete mailing address is listed above.

Oregon Department of Environmental Quality  
TESTIMONY/WITNESS REGISTRATION FORM



NAME: Ray Johnson

REPRESENTING: CITY OF REDMOND

ADDRESS: 875 S.E. SISTERS AVE.

CITY: REDMOND STATE: OR ZIP CODE: 97156

I request approximately 3 minutes to address the subject of UIC RICE  
REVISION

I primarily  favor /  oppose the Department's proposed action with regard to this subject matter.

Check here if you wish to be added to the mailing list about this subject. Be sure your complete mailing address is listed above.

Decided not to testify in court.

Oregon Department of Environmental Quality  
TESTIMONY/WITNESS REGISTRATION FORM



NAME: ROLAND G. MAREAN

REPRESENTING: SELF

ADDRESS: 61158 CHICKANUT DR

CITY: BONC STATE: 99702 ZIP CODE: \_\_\_\_\_

I request approximately 2-3 minutes to address the subject of \_\_\_\_\_

I primarily  favor /  oppose the Department's proposed action with regard to this subject matter.

Check here if you wish to be added to the mailing list about this subject. Be sure your complete mailing address is listed above.

**Oregon Department of Environmental Quality  
Public Hearing Registration Form**

For: UIC RULES



Date: 8-17-00

Name	Representing	Mailing Address
1. LARRY MUSGRAVE	SEPTICLEAR INC	6233 S.E. FERN PORTLAND, OR 97206
2. JOHN A. DODSON		14890 Sugar Pine Loop LA Pine, OR 97239
3. Wendy M Jones		16873 Sharp Dr Sunriver, Or 97107
4. Kim B. Jones		16873 SHARP Dr SUNRIVER, Or 97107
5. Terry Sprecher	PBS Environmental	644 NE Greenwood Ave Suite A Bend OR 97701
6. Jerry Kathan		3015 NE Royal Ct Bend, OR 97701
7. Bruce Resnick		PO Box 268 Sisters OR 97759
8. John Head		777 NW Wall Street Bend OR 97701 9902
9. [Signature]		61158 Chuckanut Dr Brentwood, OR
10. [Signature]		875 SE. S. 20th Ave
11.		
12.		
13.		
14.		
15.		

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revisions to Underground Injection Control Rules (OAR 340-044)

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

These revisions to OAR 340-044 Underground Injection Control (UIC) rules will: (1) explicitly incorporate changes to federal regulations (40 CFR Parts 144, 145 and 146) into Oregon rules; (2) add housekeeping changes to provide basic federal UIC program elements including registration and inventory requirements, and (3) clarify the existing state regulatory requirements. These state UIC rules regulate and control underground injection through the issuance of water quality permits, but the rule revisions do not affect the substance or procedures of the current regulations governing issuance of Water Pollution Control Facility (WPCF) or On-site Sewage System permits.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?  Yes  No**

**a. If yes, identify existing program/rule/activity:**

UIC activities are regulated by WPCF and On-site permits issued pursuant to OAR 340-045 and OAR 340-071.

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?  Yes  No (if no, explain):**

These rules revisions do not affect the substance or procedures of the current regulations governing issuance of WPCF or On-site permits which require land use compatibility statements from local governments indicating that the use is acceptable before a permit is processed by the Department.

**c. If no, apply the following criteria to the proposed rules.**

**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

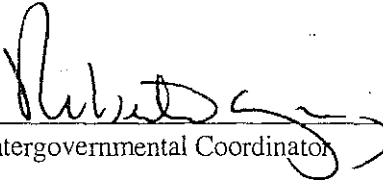
N/A

7/14/00

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

N/A

\_\_\_\_\_  
Division

  
Intergovernmental Coordinator

7/14/00  
Date

7/14/00



State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** June 4, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item D, Action Item: Mid-County Sewer Project: Acceptance of Final Report from Cities of Gresham and Portland  
June 22, 2001 EQC Meeting

**Proposed Action** Accept the Mid-County Sewer Project Final Report from Gresham and Portland.

**Background Summary** Through the mid 1980s, the then unincorporated part of Multnomah County between Portland and Gresham, commonly called Mid-County, and some adjacent portions of the cities were without sanitary sewer service. About 130,000 people and local businesses and institutions in this area of 22,300 acres used onsite facilities, primarily 56,000 cesspools, for sewage disposal, discharging an estimated 14 million gallons per day.

For many years there had been concern that the continued discharge of sewage would pollute the underlying groundwater aquifer. Nitrates and organic solvents were the pollutants of particular concern.

In 1984, in accordance with the procedures set forth in the "Threat to Drinking Water Statute" (ORS 454.275 to 454.380), Gresham, Portland and Multnomah County, acting together as the East County Sanitary Sewer Consortium, submitted to the Commission preliminary findings of a Threat to Drinking Water and preliminary plans for the provision of sewer service.

There then ensued a complex and exhaustive two-year public input, deliberative and analytic process conducted by the Commission and the Department. Also, the Consortium developed a much more detailed implementation plan for the provision of sewer service with emphasis on financial and institutional issues.

As an outcome, in April 1986, the Commission concluded that a Threat To Drinking Water existed and issued an Order requiring Gresham and Portland to provide sewer service in a specifically defined "Affected Area" (see map Attachment A). Gresham was assigned responsibility for the Gresham sewer basin and Portland the other sewer basins. The target for completion of sewer

construction was 2003, and December 31, 2005 for having all connections completed and the use of cesspools ended in the Affected Area.

Construction of collector sewers and related facilities began in 1987 and was completed by both cities by the end of 1998.

The cities have now submitted a Final Report on the Project. (Attachment B) The Report indicates that almost all developed properties in the Affected Area (53,162) are now connected to sewers. Formal connection deferral agreements are in place for 530 developed properties, requiring connection no later than December 2005. Only 147 properties are delinquent and under enforcement by the cities.

Total construction costs for the publicly owned parts of the Project were \$20 million for Gresham, \$255 million for Portland. Typical total costs for a single-family residence, including sewer assessment, connection fee and private plumbing were in the five to seven thousand dollar range.

The Commission/Department provided significant financial assistance to the Project through several mechanisms:

EPA Construction Grants (administered by DEQ):

Gresham	\$1,000,000
Portland	\$22,800,000

State Revolving Fund (SRF) Loans:

Gresham	\$15,054,250
Portland	\$14,105,382

Purchase of City Assessment Bonds through sale of State Pollution Control Bonds:

Gresham	\$5,255,000
Portland	\$90,385,000

Sewer Assessment Deferral Loan Program (Sewer Safety Net)

Gresham	\$978,690
Portland	\$4,227,333

**Department  
Recommendation**

The Department recommends adoption of the following motion:

The EQC hereby accepts the Final Report for the Mid County Sewer Project from the Cities of Gresham and Portland. The Project has

provided sanitary sewer service in previously unsewered Mid-Multnomah County and ended the use of cesspools and seepage pits there.

The EQC hereby offers its congratulations and appreciation to Gresham and Portland for having so effectively provided sewer service well in advance of the required completion date. The Commission appreciates the immense effort made to implement this vast project.

The EQC requests that in February 2006, the cities send letters to the Department Director documenting final disposition of deferrals and delinquencies.

**Related Future  
Actions**

The City of Maywood Park is a small, incorporated municipality of about 300 houses with a population of about 800. It is within the Affected Area (see map) but because of statutory procedural provisions it is not subject to the 1986 Order. Presently, there are no specific plans to construct sewers and connect to the Portland system for treatment and disposal of sewage.

The Department believes that the conditions in Maywood Park with respect to use of cesspools and adverse impact on groundwater are much the same as in the rest of the Affected Area. We believe the community should be sewerred. However, because of the small size of the discharge the Department has thus far not felt that commitment of Department resources is warranted to bring Rules before the Commission and collect field data through groundwater sampling necessary to require sewers.

Rather, the Department has for several years persistently encouraged Maywood Park to examine the feasibility and desirability of building sewers in hopes the City would do so voluntarily.

The City recently received voter approval to institute a property tax and to incur indebtedness to pay for a sewer feasibility study. It has committed to DLCD to do the sewer study as part of periodic review of its Comprehensive Plan. The Department has provided a suggested Scope of Work.

The City has qualified for an SRF planning loan of \$30,000 and is now completing a final application for the funding. The Department will continue to work with the City through its planning process.

**Attachments**      A. Map of Affected Area  
                          B. Mid County Sewer Project Final Report

**Available Upon Request**      "Threat to Drinking Water" Statute  
  
                                  EQC "Threat to Drinking Water" Findings and Order; Findings and  
                                  Recommendation; Evaluation of Hearing Record

Mid-Multnomah County Sewer Implementation Plan

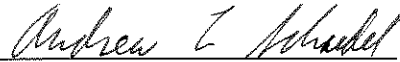
Other Related Documents

Approved:

Section:

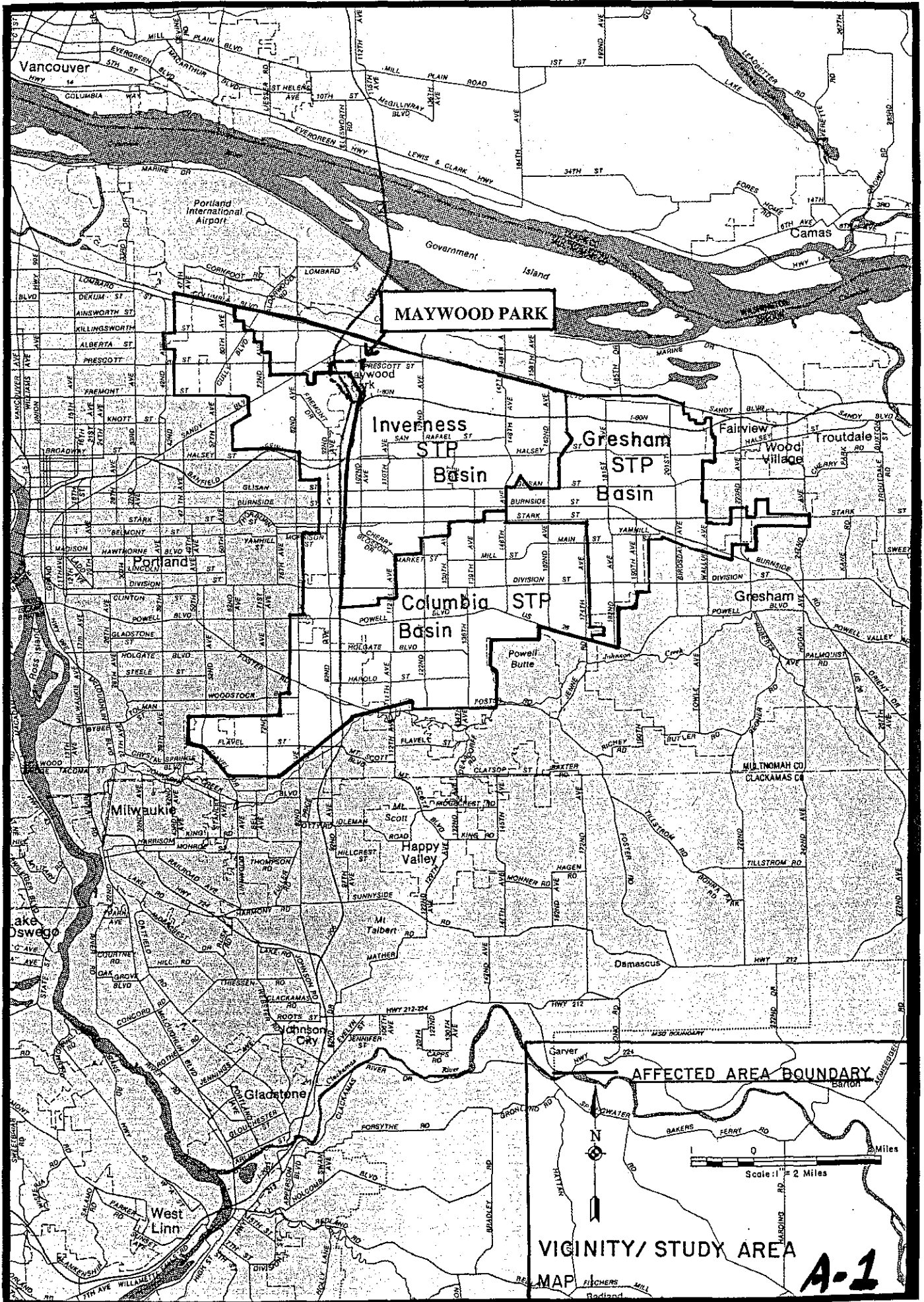
  
\_\_\_\_\_

Division:

  
\_\_\_\_\_

Report Prepared By: Richard J. Santner

Phone: 503-229-5219



MAYWOOD PARK

Inverness  
STP  
Basin

Gresham  
STP  
Basin

Columbia  
STP  
Basin

Happy  
Valley

AFFECTED AREA BOUNDARY

Scale: 1" = 2 Miles

VIGINITY/ STUDY AREA

MAP A-1

A-1

# MID COUNTY SEWER PROJECT

FINAL REPORT

FEBRUARY 2001



ENVIRONMENTAL SERVICES  
CITY OF PORTLAND



CITY OF GRESHAM  
DEPARTMENT OF ENVIRONMENTAL SERVICES

**B-1**

# East Multnomah County Sanitary Sewer Consortium

City of Gresham  
Multnomah County  
City of Portland

February 23, 2001

Stephanie Hallock, Director  
Oregon Department of Environmental Quality  
811 SW 6th Avenue  
Portland, Oregon 97204-1334

Dear Ms. Hallock:

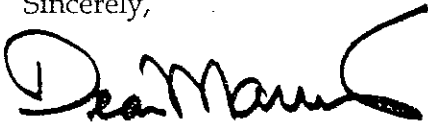
Attached is the Mid County Sewer Project Final Report. This report provides a summary of project accomplishments and documentation that the cities of Portland and Gresham have substantially met the requirements of the 1986 EQC Order. At this time we are requesting formal acceptance of compliance with the Order from the EQC.

Completion of this project is a major accomplishment for both of our agencies. The project spanned 15 years and involved construction of over 430 miles of mainline sewer pipe and connection of over 47,000 developed properties (excluding connections that predated the Order). The environmental benefit achieved by this undertaking is significant.

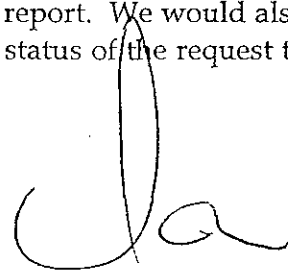
We appreciate the support provide by the DEQ throughout the duration of this project and look forward to future, equally successful, project completions.

Please call Sue Williams at the City of Portland at 503-823-5520 or Linda Day at the City of Gresham at 503-618-2420 if you have any questions about this report. We would also appreciate if you would stay in contact with them regarding the status of the request to the EQC.

Sincerely,



Dean Marriott, Director  
Portland Bureau of Environmental Services



David S. Rouse, Director  
Gresham Department of Environmental Services

Attachment

C: Sewer Consortium Representatives  
Willie Orlandria, EPA, Oregon  
Portland Citizens Sewer Advisory Board  
Gresham Citizens Sewer Advisory Board

## INTRODUCTION

In April 1986 the Environmental Quality Commission issued an Order directing the Cities of Gresham and Portland to provide sewer service to a specific area of Mid-Multnomah County (known as the "affected area") as described in the Mid-Multnomah County Sewer Implementation Plan. And, the cities were directed to implement a mandatory connection program within the "affected area". The Plan outlined a goal of eliminating cesspools by December 31, 2005.

As of February 1, 2001 both cities have substantially met the requirements of the 1986 Order. Sewer service has been provided to all developed properties within the "affected area". Mandatory connection programs in both jurisdictions resulted in elimination of over 99% of the cesspools in the area. Programs are in place to monitor the status of the remaining (less than 1%) unconnected properties to ensure all cesspools are eliminated by the December 31, 2005 deadline.

The following information provides a summary of Construction, Property Connections, Connection Deferrals and Delinquent Accounts. Attachments are included as documentation that the requirements of the 1986 Order have been met. The Cities of Gresham and Portland are requesting formal acceptance of compliance from the Environmental Quality Commission.

## MID COUNTY SEWER PROJECT CONSTRUCTION

At the time of the 1986 EQC Order the sewer system within the affected area provided service to only a fraction of the properties. Consequently, both Gresham and Portland began work on facilities plans and design and construction schedules that would ensure all properties could be served and connected by the 2005 deadline. Both jurisdictions completed construction during 1998 serving all developed properties in the affected area.

### City of Gresham

As a response to the DEQ Mandate in 1986, Gresham's Wastewater Services began designing the first large sewer local improvement district (LID). This project was the Interceptor LID and completed the large trunk lines that were necessary to serve the new connections that would follow.

In 1987, Gresham began constructing sanitary sewer in the mandated area in response to the DEQ directive. To meet or exceed the removal curve, the Department of Environmental Services (DES) designed and constructed one major sewer project each year. The final construction project was completed in December 1998.

Gresham constructed a total of 40.5 miles of 8" – 10" sewer mainline. The new system constructed includes:

- 1 pump station
- 3 Interceptor Lines
- 15 individual construction projects



The total construction cost was \$20 million, including \$1 million in grant funding for the Interceptor LID project.

The attached table lists the design and construction years of the sewer projects and connection year of the mandatory notifications.

#### City of Portland

Construction of the sewer system to serve the City of Portland's Mid County Sewer Project was completed in spring 1998. The original schedule called for completion in 2003, however it was accelerated in the early 1990's to take advantage of favorable bidding conditions. This resulted in the completion of the sewer system five years earlier at a final cost that was 16% below the original estimate.

Portland constructed a total of 394 miles of 8" - 102" mainline sewer to serve the 28 sq. mile project area. The system includes:

- Six pump stations
- 13 Interceptor Lines
- 41 individual construction packages, serving approximately 1,000 properties each

Construction was ongoing over a period of 11 years, with multiple projects under construction at any given time, and involved 29 different construction firms in a prime-contracting role. Many minority and women-owned business participated as sub-contractors.

The total construction cost was \$255 million, including \$26 million of grant funding provided for the major facilities. Attached are maps identifying the interceptor lines and construction projects and a listing of all projects and their completion dates.

#### MID COUNTY SEWER PROJECT CONNECTIONS

The first group of properties to face mandatory sewer connection were those that had sewer available at the time of the 1986 Order, but had not connected. Both Gresham and Portland adopted changes to their City Codes that required properties to connect within one year of notification that sewer was available. As construction was completed on the new projects, notification was sent and the one-year period began. Compliance with the requirement to connect remained very high in both jurisdictions throughout the life of the project (over 99% in Gresham and 98% in Portland).

At this time the only remaining properties to be connected are those that have become delinquent and are in the enforcement process, or those that have received formal connection deferrals.

The financial impact on property owners was a consideration throughout the life of the project. City-sponsored financing was available in both Gresham and Portland for sewer assessment and systems development charges. In addition, the Sewer Safety Net Program provided deferred payment loans (at 5% simple interest) to a number of

qualified low income customers for these charges and granted connection deferrals to postpone private plumbing costs. The community development block grant funded Sewer On Site Program assisted low-income customers with 0%-3% deferred payment loans for the private plumbing costs, enabling them to connect to sewers. And, within the City of Portland a Financial Assistance Program and Private Plumbing Loan Program were available to all residential customers after 1993, regardless of income.

Over the years compliance with the 1986 Order has been monitored using a methodology that measures cesspool removals by Equivalent Dwelling Unit (EDU) rather than on a property by property basis. One EDU represents the average discharge from a single-family residential property. For reporting purposes both number of properties and EDU's are used.

#### City of Gresham

There are 4,200 developed properties within the City of Gresham's Mid County Sewer Project boundary. The status of the properties is as follows:

- Complied with the Order      4,135
- Deferred      32
- Delinquent      33 (7 are within the City of Fairview)

Further information about the deferrals and delinquencies can be found in the next sections.

#### City of Portland

There are just under 50,000 developed properties in Portland's Mid County Sewer Project boundary. Of these, approximately 300 are within the boundaries of Maywood Park City Limit. Though included at the onset, it was later determined that these properties were not technically included in the 1986 Order and consequently no agreement was ever reached with the City of Portland to provide sewer service. The status of the balance of the properties is as follows:

- Complied with the Order      49,027
- Deferred      498
- Delinquent      114

The majority of the deferred accounts obtained deferrals under the Sewer Safety Net Program for Low-Income customers. Details regarding when these deferrals expire are found in the next section of this report. Similarly, statistics on the delinquent accounts follows.

The attached summary reports detail both the number of properties and EDU's by use and status.

#### MID COUNTY SEWER PROJECT CONNECTION DEFERRALS

Recognizing that there would be some properties that would suffer extreme financial hardship and there would be other situations for which requiring connection within the

one-year period would be problematic, deferral programs were adopted in both jurisdictions. However, the maximum deferral could not exceed the 2005 deadline established by the EQC. At this time both Gresham and Portland have properties remaining in an active deferral status.

#### City of Gresham

Current connection deferrals within the City of Gresham include 14 property owners with large, underdeveloped parcels or financial hardship. These deferrals could extend to 2005. The remaining 18 deferrals were approved to property owners that would be impacted by the Mount Hood Parkway construction. Since the parkway is no longer an issue, these properties are required to connect.

#### City of Portland

As of this date 498 properties have a connection deferral postponing connection until sometime between now and 2005. The vast majority of these properties are deferred through the Sewer Safety Net Program. There are a small percent of short-term (less than three year) deferrals granted for other reasons (such as proposed demolition, major remodeling, or other extreme financial hardship). In general terms the breakdown is as follows:

- Approximately 50% come due between now and mid-December 2004
- Approximately 50% come due between mid December 2004 and December 31, 2005. These accounts all represent Safety Net Program clients who were age 62 or older at the time the deferral was granted.

The terms of the connection deferral agreement state that the deferral expires upon sale of the property or when the property is no longer the applicant's primary residence. City of Portland staff will continue to administer this program, ensuring all deferred properties get connected by the deadline of 2005. The Sewer On Site and Private Plumbing Loan Programs will provide financing to those property owners who need assistance. A list of the deferral expirations, by calendar year is attached.

#### MID COUNTY SEWER PROJECT DELINQUENT ACCOUNTS

Both Gresham and Portland developed enforcement programs to deal with the property owners that would not voluntarily comply with the connection requirement. At this time both jurisdictions are pursuing enforcement on the small percentage of delinquent accounts.

#### City of Gresham

Failure to connect to sewer within one year of official notice is a violation of Gresham City Code. Property owners with delinquent sewer connections are cited by Gresham's Code Enforcement Officer and must appear in District Court. The court determines a fine and establishes a new connection date. In 2000, sixty per cent of all delinquent properties connected to sewer or obtained a valid connection deferral. The remaining 26 delinquent properties are in various stages of enforcement.

The City of Fairview is monitoring the delinquent connections of properties within their city boundary.

City of Portland

There are currently 114 properties in the project area that have passed their connection due date without formal evidence (a finalized sewer connection permit) that they have connected to the sewer and abandoned their on-site system.

Once a property becomes delinquent they are processed through the City Code authorized Nuisance Abatement Procedure. This includes posting, potential fines, a hearing and possible order by the City Code Hearings Officer (CHO). If the property fails to comply with the CHO order, the case is forwarded to the City Attorney's Office to file a complaint in Multnomah County Circuit Court. The City will ask the court for authorization to enter the property and connect it to the sewer and/or abandon the existing on-site system.

Following is a breakdown of the status of the 114 delinquent properties:

- 11 are in the process of having complaint and motions filed
- 80 are at the Attorney's Office pending
- 23 became delinquent within the past few months and are in the Nuisance Abatement Process

Attached is a copy of Portland City Code Chapter 17.33 MANDATORY SEWER CONNECTION detailing the enforcement process.

SUMMARY

Based upon the information provided above and the attached documentation, the Cities of Gresham and Portland are requesting formal acceptance that the requirements of the 1986 EQC Order have been met.

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 31, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item E, Emergency Rule Adoption: On-Site Fee Reduction  
June 22, 2001 EQC Meeting

**Need for Rulemaking** The 2001 Oregon Legislature may pass a bill, SB 5516, that reduces several current On-Site fees to levels below the fee structure adopted by the EQC in November of 1999. Potential fee reductions are to levels originally presented to the 1999 Legislature and would become effective July 1, 2001.

**Effect of Rule** The emergency rule would reduce fees for several On-Site program services as shown in Attachment A. The fee reduction will reduce On-Site program revenue by an estimated \$352,000 over the next biennium. Loss in revenue will result in loss of 2 FTE (not currently filled) and require stopping work on development of a certification program for on-site service providers, development of an on-site operating permit project, and reduction of enforcement capability.

**Commission Authority** The Commission has authority to take this action under ORS 454.725.

**Stakeholder Involvement** No workgroups, committees or public hearings were convened. This emergency rulemaking is initiated by legislative action and proposed as a temporary rule.

**Public Comment** No public comment period was used.

**Key Issues** Key issues are:

- During the 1999 session, DEQ discussed with the Legislature specific On-Site program commitments and staff levels needed to accomplish program work. DEQ provided a draft fee schedule for legislative review. After cost of living increases were negotiated, DEQ revised the fee schedule to fully fund legislatively approved staffing levels. The revised schedule included fees higher than those reviewed by the Legislature in many specific instances.

- Although the 1999 Legislature agreed to the requested staffing levels, the 2001 Legislature expressed concerns that DEQ's current fee schedule included fees higher than those reviewed in the draft 1999 schedule. The 2001 Legislature now may reduce On-Site fees to levels approved by the 1999 Legislature. DEQ must be prepared to implement reduced On-Site fees.

**Next Steps**

If adopted, new fees will go into effect July 1, 2001. DEQ On-Site staff will begin charging the reduced fee rates for the affected services. On-Site staff have been kept aware of the fee changes and have been trained to receive and process application fees.

The Department will immediately begin the rulemaking process for permanent changes to the fee schedule. Recommendations for permanent rules will be presented to the Commission at the December 2001 meeting.

**Department Recommendation**

The Department recommends the Commission adopt the proposed rule revisions as presented in Attachment A to be effective July 1, 2001.

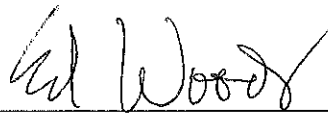
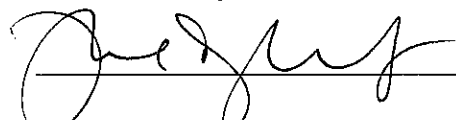
**Attachments**

- A. Proposed Rule Revisions
- B. Fiscal and Economic Impact Statement

Approved:

Section:

Division:

  
\_\_\_\_\_  
  
\_\_\_\_\_

Report Prepared By: Chuck Harman

Phone: (503) 229-5013

340-071-0140 FEES — GENERAL

- (1) Except as provided in section (4) of this rule, the following non-refundable fees are required to accompany applications for site evaluations, permits, licenses and services provided by the Department.

ON-SITE SEWAGE DISPOSAL SYSTEMS	MAXIMUM FEE
------------------------------------	----------------

- (a) New Site Evaluation:
- (A) Single Family Dwelling:
    - (i) First Lot..... ~~\$/450/~~ **425**;
    - (ii) Each Additional Lot Evaluated During Initial Visit..... ~~\$/450/~~ **425**;
  - (B) Commercial Facility System:
    - (i) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow ..... ~~\$/450/~~ **425**;
    - (ii) For systems with projected sewage flows greater than one thousand (1,000) gallons but not more than 2,500 gallons, the site evaluation application fee shall be ~~\$/450/~~ **425** plus an additional \$110 for each 500 gallons or part thereof above 1,000 gallons.
  - (C) Site Evaluation Report Review ..... \$ 400;
  - (D) Fees for site evaluation applications made to an agreement county shall be in accordance with that county's fee schedule;
  - (E) Each fee paid for a site evaluation report entitles the applicant to as many site inspections on a single parcel or lot as are necessary to determine site suitability for a single system. The applicant may request additional site inspections within ninety (90) days of the initial site evaluation, at no extra cost;
  - (F) Separate fees shall be required if site inspections are to determine site suitability for more than one (1) system on a single parcel of land.
- (b) Construction-Installation Permit:
- (A) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow:
    - (i) Standard On-Site System ..... ~~\$/665/~~ **630**;
    - (ii) Alternative System:
      - (I) Aerobic System ..... ~~\$/665/~~ **630**;

(II)	Capping Fill.....	<del>\$/990/</del> <b>950</b> ;
(III)	Cesspool.....	<del>\$/665/</del> <b>630</b> ;
(IV)	Disposal Trenches in Saprolite.....	<del>\$/665/</del> <b>630</b> ;
(V)	Evapotranspiration-Absorption.....	<del>\$/665/</del> <b>630</b> ;
(VI)	Gray Water Waste Disposal Sump.....	\$ 280;
(VII)	Pressure Distribution.....	<del>\$/990/</del> <b>950</b> ;
(VIII)	Redundant.....	<del>\$/665/</del> <b>630</b> ;
(IX)	Sand Filter.....	<del>\$/990/</del> <b>950</b> ;
(X)	Seepage Pit.....	<del>\$/665/</del> <b>630</b> ;
(XI)	Seepage Trench.....	<del>\$/665/</del> <b>630</b> ;
(XII)	Steep Slope.....	<del>\$/665/</del> <b>630</b> ;
(XIII)	Tile Dewatering.....	<del>\$/990/</del> <b>950</b> ;

(iii) At the discretion of the Agent, the permittee may be assessed a re-inspection fee, not to exceed \$235, when a pre-cover inspection correction notice requires correction of improper construction and, at a subsequent inspection, the Agent finds system construction deficiencies have not been corrected. The Agent may elect not to make further pre-cover inspections until the re-inspection fee is paid;

(iv) With the exceptions of sand filter and pressure distribution systems, a \$40 fee may be added to all permits that specify the use of a pump or dosing siphon.

(B) For systems with projected daily sewage flows greater than one thousand (1,000) gallons, the Construction-Installation permit fee shall be equal to the fee required in paragraph (1)(b)(A) of this rule plus \$60 for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons;

**NOTE:** Fees for construction permits for systems with projected daily sewage flows greater than two thousand five hundred (2,500) gallons shall be in accordance with the fee schedule for WPCF permits.

(C) Commercial Facility System, Plan Review:

(i) For a system with a projected daily sewage flow of less than six hundred (600) gallons, the cost of plan review is included in the permit application fee;



- (ii) For a system with a projected daily sewage flow of six hundred (600) gallons, but not more than one thousand (1,000) gallons projected daily sewage flow..... \$ 230;
  - (iii) For a system with a projected sewage flow greater than 1,000 gallons, the plan review fee shall be \$250, plus an additional \$40 for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons, to a maximum sewage flow limit of two thousand five hundred (2,500) gallons per day.
- (D) Permit Transfer, Reinstatement or Renewal:
- (i) If Field Visit Required ..... ~~\$400~~ **325**;
  - (ii) No Field Visit Required ..... ~~\$100~~ **95**;
- (E) Alteration Permit:
- (a) Major..... ~~\$650~~ **345**;
  - (b) Minor..... ~~\$290~~ **165**;
- (F) Repair Permit:
- (i) Single Family Dwelling:
    - (I) Major..... ~~\$360~~ **345**;
    - (II) Minor..... \$ 165.
  - (iii) Commercial Facility:
    - (I) Major — The appropriate fees identified in paragraphs (1)(b)(A), (B), and (C) of this rule apply;
    - (II) Minor..... \$ 290.
- (G) Permit Denial Review ..... ~~\$400~~ **220**.
- (c) Authorization Notice:
- (A) If Field Visit Required..... ~~\$400~~ **390**;
  - (B) No Field Visit Required ..... \$ 100;
  - (C) Authorization Notice Denial Review ..... \$ 400;
- (d) Annual Evaluation of Alternative System (Where Required)..... \$ 330;
- (e) Evaluation of Temporary or Hardship Mobile Home ..... \$ 330;

- (f) Variance to On-Site System Rules ..... \$ 1,300;

**NOTE:** The variance application fee may be waived if the applicant meets the requirements of OAR 340-071-0415(5).

- (g) Rural Area Consideration pursuant to OAR 340-071-0410:

- (A) Site Evaluation ..... ~~\$450~~ **425**;

**NOTE:** In the event there is on file a site evaluation report for that parcel that is less than ninety (90) days old, the site evaluation fee shall be waived.

- (B) Construction-Installation Permit — The appropriate fee identified in subsection (1)(b) of this rule applies.

- (h) Sewage Disposal Service:

- (A) New Business License..... ~~\$800~~ **425**;

- (B) Renewal of Existing and Valid Business License ..... ~~\$400~~ **320**;

- (C) Transfer of or Amendments to License..... \$ 200;

- (D) Reinstatement of Suspended License ..... \$ 250;

- (E) Pumper Truck Inspection, First Vehicle:

- (i) Each Inspection ..... ~~\$120~~ **100**;

- (ii) Each Additional Vehicle, Each Inspection..... ~~\$60~~ **50**;

- (i) Experimental Systems Permit ..... \$ 5,850;

- (j) Existing System Evaluation Report..... \$ 400;

- (k) Innovative or Alternative Technology or Material Review ..... \$ 1,000;

- (l) Material Plan Review ..... \$ 300;

- (2) Contract County Fee Schedules, General:

- (a) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits to be issued. The county fee schedule shall not include the Department's surcharge fee identified in section 3 of this rule;

- (b) A copy of the fee schedule and any subsequent amendments to the schedule shall be forwarded to the Department;

- (c) Fees shall not exceed actual costs for efficiently conducted services.

- (3) Surcharge. In order to offset a portion of the administrative and program oversight costs of the statewide on-site sewage disposal program, a surcharge of \$40 for each site

evaluated, for each construction installation permit and all other activities for which an application is submitted, shall be levied by the Department and by each Agreement County. Proceeds from surcharges collected by the Department and Agreement Counties shall be accounted for separately. Each Agreement County shall forward the proceeds to the Department as negotiated in the memorandum of agreement (contract) between the county and the Department.

**EXCEPTION:** The surcharge shall not apply to:

- 1- Sewage Disposal Service License applications;
- 2- Pumper Truck Inspections.

(4) Refunds. A refund may be made of all or a portion of a fee accompanying an application if the applicant withdraws the application before any field work or other substantial review of the application has been done.

(5) Fees for WPCF Permits. The following fee schedule shall apply to WPCF Permits for on-site sewage disposal systems issued pursuant to OAR 340-071-0162:

- (a) Application filing fee (all categories)..... \$ 50;
- (b) Permit processing fees for sewage lagoons and other on-site disposal systems over 1,200 gpd:
  - (A) New Applications..... \$ 2,000;
  - (B) Permit Renewals (including request for effluent limit modifications) ..... \$ 1,000;
  - (C) Permit Renewal (without request for effluent limit modifications) ..... \$ 500;
  - (D) Permit modification (involving increase in effluent limits) ..... \$ 1,000;
  - (E) Permit modification (not involving an increase in effluent limits) ..... \$ 500;
- (c) Permit processing fees for on-site systems of 1,200 gpd or less:
  - (A) New Applications..... \$ 400;
  - (B) Permit Renewals (involving request for effluent limit Modifications) ..... \$ 200;
  - (C) Permit Renewals (without request for effluent limit modifications) ..... \$ 100;
  - (D) Permit Modifications (involving increase in effluent limitations) ..... \$ 150;
  - (E) Permit Modifications (not involving an increase in effluent

- limits) ..... \$ 100;
- (d) Registration fee for General Permits ..... \$ 150;
- (e) Site Evaluation Fee:
  - (A) Facilities with design flow of 5,000 gpd or less, same as section (1)(a) of this rule;
  - (B) Facilities with design flow greater than 5,000 gpd ..... \$ 1,200;
- (f) Site Evaluation Confirmation Fee ..... \$ 350;
- NOTE:** A Site Evaluation Confirmation Fee is required if the site evaluation is performed by a qualified consultant but, through the site evaluation review process, a site visit is still required by the Department or Agent.
- (g) Plan Review Fee:
  - (A) Commercial Facilities with design flows less than 5,000 gpd same as paragraph (1)(b)(C) of this rule;
  - (B) Commercial Facilities with design flows of 5,000 gpd or More ..... \$ 500;
  - (C) Non-commercial Facilities ..... \$ 100;
- NOTE:** A plan review fee is required when engineered plans must be reviewed for a facility which requires a WPCF permit.
- (h) Annual Compliance Determination Fee:
  - (A) On-site sewage lagoon with no discharge ..... \$ 600;
  - (B) On-site subsurface systems with individual WPCF Permit or general permit:
    - (i) Standard or alternative subsurface system not listed below, with design flow of 20,000 gpd or more ..... \$ 500;
    - (ii) Standard or alternative subsurface system not listed below with design flow less than 20,000 gpd ..... \$ 250;
    - (iii) Aerobic systems, 1,500 gpd or more ..... \$ 500;
    - (iv) Aerobic systems, less than 1,500 ..... \$ 250;
    - (v) Recirculating Gravel Filter, 1,500 gpd or more ..... \$ 500;
    - (vi) Recirculating Gravel Filter, less than 1,500 gpd ..... \$ 250;

**Proposed On-site Fee Reduction  
340-071-0140 FEES - GENERAL**

**Attachment A**

- (vii) Sand Filter, 1,500 gpd or more..... \$ 500;
- (viii) Sand Filter, less than 1,500 gpd ..... \$ 250;
- (ix) Holding tanks ..... \$ 200.
  
- (I) The owner of a holding tank regulated under a WPCF permit submitting an annual written certification, on a Department approved form, that the holding tank has been operated the previous year in full compliance with the permit and that the previous year service log for the holding tank is available for inspection by the Department ..... \$ 25.

Stat. Auth.: ORS 454.625 & 468.020  
Stats. Implemented: ORS 454.745 & 468.065  
Hist.: DEQ 10-1981, f. & ef. 3-20-81; DEQ 19-1981, f. 7-23-81, ef. 7-27-81; DEQ 5-1982, f. & ef. 3-9-82; DEQ 8-1983, f. & ef. 5-25-83; DEQ 9-1984, f. & ef. 5-29-84; DEQ 13-1986, f. & ef. 6-18-86; DEQ 15-1986, f. & ef. 8-6-86; DEQ 6-1988, f. & cert. ef. 3-17-88; DEQ 11-1991, f. & cert. ef. 7-3-91; DEQ 18-1994, f. 7-28-94, cert. ef. 8-1-94; DEQ 27-1994, f. & cert. ef. 11-15-94; DEQ 12-1997, f. & cert. ef. 6-19-97; Administrative correction 1-28-98; DEQ 8-1998, f. & cert. ef. 6-5-98; DEQ 16-1999, f. & cert. ef. 12-29-99

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
On-site Fee Reduction

Fiscal and Economic Impact Statement

**Introduction**

- The fee reduction will result in revenue loss estimated at \$352,000 over the next biennium.

**General Public**

The fee reduction will result in lower application costs for homeowners who are constructing, repairing or altering standard on-site sewage disposal and treatment systems.

**Small Business**

The fee reduction will result in lower licensing fees for small and large businesses who install and service on-site sewage disposal and treatment systems. License fees for a new business license will be reduced from their current rate of \$800.00 to \$425.00. The license renewal fee will be reduced from \$400.00 yearly to \$320.00 yearly. Pumper truck inspection fees will be reduced from \$120.00 to \$100.00 for each inspection and from \$60.00 to \$50.00 for each additional vehicle at each inspection.

**Large Business**

The fee reduction will result in lower licensing fees for small and large businesses who install and service on-site sewage disposal and treatment systems. License fees for a new business license will be reduced from their current rate of \$800.00 to \$425.00. The license renewal fee will be reduced from \$400.00 yearly to \$320.00 yearly. Pumper truck inspection fees will be reduced from \$120.00 to \$100.00 for each inspection and from \$60.00 to \$50.00 for each additional vehicle at each inspection.

## **Local Governments**

Some revenue reductions may result in contract counties that run the On-site program directly who adopt the DEQ fees directly. However, counties can independently set their fees as described in OAR 340-071-0140 (1)(a)(D) and 340-071-0140 (2)(a)-(c). Therefore a quantifiable impact is difficult to determine for the contract counties.

## **State Agencies**

- DEQ
  - FTE: It is estimated that the On-site fee reduction will result in not filling 2 FTE positions.
  - Revenues: It is estimated that a revenue loss of \$352,000 over two years will result from the On-site fee reduction.
  - Expenses: No impact on expenses should occur.
  
- Other Agencies: No other Agencies should be impacted by this action.

## **Assumptions**

### **Housing Cost Impact Statement**

The Department has determined that this proposed rulemaking will slightly reduce the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 31, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item E, Emergency Rule Adoption: On-Site Fee Reduction  
June 22, 2001 EQC Meeting

**Need for Rulemaking** The 2001 Oregon Legislature may pass a bill, SB 5516, that reduces several current On-Site fees to levels below the fee structure adopted by the EQC in November of 1999. Potential fee reductions are to levels originally presented to the 1999 Legislature and would become effective July 1, 2001.

**Effect of Rule** The emergency rule would reduce fees for several On-Site program services as shown in Attachment A. The fee reduction will reduce On-Site program revenue by an estimated \$352,000 over the next biennium. Loss in revenue will result in loss of 2 FTE (not currently filled) and require stopping work on development of a certification program for on-site service providers, development of an on-site operating permit project, and reduction of enforcement capability.

**Commission Authority** The Commission has authority to take this action under ORS 454.725.

**Stakeholder Involvement** No workgroups, committees or public hearings were convened. This emergency rulemaking is initiated by legislative action and proposed as a temporary rule.

**Public Comment** No public comment period was used.

**Key Issues** Key issues are:

- During the 1999 session, DEQ discussed with the Legislature specific On-Site program commitments and staff levels needed to accomplish program work. DEQ provided a draft fee schedule for legislative review. After cost of living increases were negotiated, DEQ revised the fee schedule to fully fund legislatively approved staffing levels. The revised schedule included fees higher than those reviewed by the Legislature in many specific instances.



- Although the 1999 Legislature agreed to the requested staffing levels, the 2001 Legislature expressed concerns that DEQ's current fee schedule included fees higher than those reviewed in the draft 1999 schedule. The 2001 Legislature now may reduce On-Site fees to levels approved by the 1999 Legislature. DEQ must be prepared to implement reduced On-Site fees.

**Next Steps** If adopted, new fees will go into effect July 1, 2001. DEQ On-Site staff will begin charging the reduced fee rates for the affected services. On-Site staff have been kept aware of the fee changes and have been trained to receive and process application fees.

The Department will immediately begin the rulemaking process for permanent changes to the fee schedule. Recommendations for permanent rules will be presented to the Commission at the December 2001 meeting.

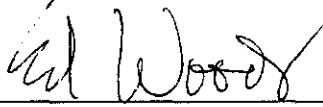

**Department Recommendation** The Department recommends the Commission adopt the proposed rule revisions as presented in Attachment A to be effective July 1, 2001.

**Attachments** A. Proposed Rule Revisions  
B. Fiscal and Economic Impact Statement

Approved:

Section:

Division:

  
\_\_\_\_\_  
  
\_\_\_\_\_

Report Prepared By: Chuck Harman

Phone: (503) 229-5013

340-071-0140 FEES — GENERAL

- (1) Except as provided in section (4) of this rule, the following non-refundable fees are required to accompany applications for site evaluations, permits, licenses and services provided by the Department.

ON-SITE SEWAGE DISPOSAL SYSTEMS	MAXIMUM FEE
(a) New Site Evaluation:	
(A) Single Family Dwelling:	
(i) First Lot.....	<del>\$/450/</del> <u>425</u> ;
(ii) Each Additional Lot Evaluated During Initial Visit.....	<del>\$/450/</del> <u>425</u> ;
(B) Commercial Facility System:	
(i) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow .....	<del>\$/450/</del> <u>425</u> ;
(ii) For systems with projected sewage flows greater than one thou- sland (1,000) gallons but not more than 2,500 gallons, the site evaluation application fee shall be <del>\$/450/</del> <u>425</u> plus an additional \$110 for each 500 gallons or part thereof above 1,000 gallons.	
(C) Site Evaluation Report Review .....	\$ 400;
(D) Fees for site evaluation applications made to an agreement county shall be in accordance with that county's fee schedule;	
(E) Each fee paid for a site evaluation report entitles the applicant to as many site inspections on a single parcel or lot as are necessary to determine site suitability for a single system. The applicant may request additional site inspections within ninety (90) days of the initial site evaluation, at no extra cost;	
(F) Separate fees shall be required if site inspections are to determine site suitability for more than one (1) system on a single parcel of land.	
(b) Construction-Installation Permit:	
(A) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow:	
(i) Standard On-Site System .....	<del>\$/665/</del> <u>630</u> ;
(ii) Alternative System:	
(I) Aerobic System .....	<del>\$/665/</del> <u>630</u> ;

(II)	Capping Fill.....	<del>\$/990/</del> <b><u>950</u></b> ;
(III)	Cesspool .....	<del>\$/665/</del> <b><u>630</u></b> ;
(IV)	Disposal Trenches in Saproliite.....	<del>\$/665/</del> <b><u>630</u></b> ;
(V)	Evapotranspiration-Absorption .....	<del>\$/665/</del> <b><u>630</u></b> ;
(VI)	Gray Water Waste Disposal Sump.....	\$ 280;
(VII)	Pressure Distribution .....	<del>\$/990/</del> <b><u>950</u></b> ;
(VIII)	Redundant .....	<del>\$/665/</del> <b><u>630</u></b> ;
(IX)	Sand Filter .....	<del>\$/990/</del> <b><u>950</u></b> ;
(X)	Seepage Pit.....	<del>\$/665/</del> <b><u>630</u></b> ;
(XI)	Seepage Trench .....	<del>\$/665/</del> <b><u>630</u></b> ;
(XII)	Steep Slope.....	<del>\$/665/</del> <b><u>630</u></b> ;
(XIII)	Tile Dewatering.....	<del>\$/990/</del> <b><u>950</u></b> ;

(iii) At the discretion of the Agent, the permittee may be assessed a re-inspection fee, not to exceed \$235, when a pre-cover inspection correction notice requires correction of improper construction and, at a subsequent inspection, the Agent finds system construction deficiencies have not been corrected. The Agent may elect not to make further pre-cover inspections until the re-inspection fee is paid;

(iv) With the exceptions of sand filter and pressure distribution systems, a \$40 fee may be added to all permits that specify the use of a pump or dosing siphon.

(B) For systems with projected daily sewage flows greater than one thousand (1,000) gallons, the Construction-Installation permit fee shall be equal to the fee required in paragraph (1)(b)(A) of this rule plus \$60 for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons;

**NOTE:** Fees for construction permits for systems with projected daily sewage flows greater than two thousand five hundred (2,500) gallons shall be in accordance with the fee schedule for WPCF permits.

(C) Commercial Facility System, Plan Review:

(i) For a system with a projected daily sewage flow of less than six hundred (600) gallons, the cost of plan review is included in the permit application fee;

- (ii) For a system with a projected daily sewage flow of six hundred (600) gallons, but not more than one thousand (1,000) gallons projected daily sewage flow ..... \$ 230;
  - (iii) For a system with a projected sewage flow greater than 1,000 gallons, the plan review fee shall be \$250, plus an additional \$40 for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons, to a maximum sewage flow limit of two thousand five hundred (2,500) gallons per day.
- (D) Permit Transfer, Reinstatement or Renewal:
- (i) If Field Visit Required ..... ~~\$400~~ **325**;
  - (ii) No Field Visit Required ..... ~~\$100~~ **95**;
- (E) Alteration Permit:
- (a) Major ..... ~~\$650~~ **345**;
  - (b) Minor ..... ~~\$290~~ **165**;
- (F) Repair Permit:
- (i) Single Family Dwelling:
    - (I) Major ..... ~~\$360~~ **345**;
    - (II) Minor ..... \$ 165.
  - (iii) Commercial Facility:
    - (I) Major — The appropriate fees identified in paragraphs (1)(b)(A), (B), and (C) of this rule apply;
    - (II) Minor ..... \$ 290.
- (G) Permit Denial Review ..... ~~\$400~~ **220**.
- (c) Authorization Notice:
- (A) If Field Visit Required ..... ~~\$400~~ **390**;
  - (B) No Field Visit Required ..... \$ 100;
  - (C) Authorization Notice Denial Review ..... \$ 400;
- (d) Annual Evaluation of Alternative System (Where Required) ..... \$ 330;
- (e) Evaluation of Temporary or Hardship Mobile Home ..... \$ 330;

- (f) Variance to On-Site System Rules ..... \$ 1,300;

**NOTE:** The variance application fee may be waived if the applicant meets the requirements of OAR 340-071-0415(5).

- (g) Rural Area Consideration pursuant to OAR 340-071-0410:

- (A) Site Evaluation ..... ~~\$1450~~ **425**;

**NOTE:** In the event there is on file a site evaluation report for that parcel that is less than ninety (90) days old, the site evaluation fee shall be waived.

- (B) Construction-Installation Permit — The appropriate fee identified in subsection (1)(b) of this rule applies.

- (h) Sewage Disposal Service:

- (A) New Business License..... ~~\$1800~~ **425**;

- (B) Renewal of Existing and Valid Business License ..... ~~\$400~~ **320**;

- (C) Transfer of or Amendments to License ..... \$ 200;

- (D) Reinstatement of Suspended License ..... \$ 250;

- (E) Pumper Truck Inspection, First Vehicle:

- (i) Each Inspection ..... ~~\$1200~~ **100**;

- (ii) Each Additional Vehicle, Each Inspection..... ~~\$600~~ **50**;

- (i) Experimental Systems Permit ..... \$ 5,850;

- (j) Existing System Evaluation Report..... \$ 400;

- (k) Innovative or Alternative Technology or Material Review ..... \$ 1,000;

- (l) Material Plan Review ..... \$ 300;

- (2) Contract County Fee Schedules, General:

- (a) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits to be issued. The county fee schedule shall not include the Department's surcharge fee identified in section 3 of this rule;

- (b) A copy of the fee schedule and any subsequent amendments to the schedule shall be forwarded to the Department;

- (c) Fees shall not exceed actual costs for efficiently conducted services.

- (3) Surcharge. In order to offset a portion of the administrative and program oversight costs of the statewide on-site sewage disposal program, a surcharge of \$40 for each site

evaluated, for each construction installation permit and all other activities for which an application is submitted, shall be levied by the Department and by each Agreement County. Proceeds from surcharges collected by the Department and Agreement Counties shall be accounted for separately. Each Agreement County shall forward the proceeds to the Department as negotiated in the memorandum of agreement (contract) between the county and the Department.

**EXCEPTION:** The surcharge shall not apply to:

- 1- Sewage Disposal Service License applications;
- 2- Pumper Truck Inspections.

(4) Refunds. A refund may be made of all or a portion of a fee accompanying an application if the applicant withdraws the application before any field work or other substantial review of the application has been done.

(5) Fees for WPCF Permits. The following fee schedule shall apply to WPCF Permits for on-site sewage disposal systems issued pursuant to OAR 340-071-0162:

(a) Application filing fee (all categories)..... \$ 50;

(b) Permit processing fees for sewage lagoons and other on-site disposal systems over 1,200 gpd:

(A) New Applications..... \$ 2,000;

(B) Permit Renewals (including request for effluent limit modifications) ..... \$ 1,000;

(C) Permit Renewal (without request for effluent limit modifications) ..... \$ 500;

(D) Permit modification (involving increase in effluent limits) ..... \$ 1,000;

(E) Permit modification (not involving an increase in effluent limits) ..... \$ 500;

(c) Permit processing fees for on-site systems of 1,200 gpd or less:

(A) New Applications..... \$ 400;

(B) Permit Renewals (involving request for effluent limit Modifications) ..... \$ 200;

(C) Permit Renewals (without request for effluent limit modifications) ..... \$ 100;

(D) Permit Modifications (involving increase in effluent limitations) ..... \$ 150;

(E) Permit Modifications (not involving an increase in effluent

- limits) ..... \$ 100;
- (d) Registration fee for General Permits ..... \$ 150;
- (e) Site Evaluation Fee:
  - (A) Facilities with design flow of 5,000 gpd or less, same as section (1)(a) of this rule;
  - (B) Facilities with design flow greater than 5,000 gpd ..... \$ 1,200;
- (f) Site Evaluation Confirmation Fee ..... \$ 350;

**NOTE:** A Site Evaluation Confirmation Fee is required if the site evaluation is performed by a qualified consultant but, through the site evaluation review process, a site visit is still required by the Department or Agent.

- (g) Plan Review Fee:
  - (A) Commercial Facilities with design flows less than 5,000 gpd same as paragraph (1)(b)(C) of this rule;
  - (B) Commercial Facilities with design flows of 5,000 gpd or More ..... \$ 500;
  - (C) Non-commercial Facilities ..... \$ 100;

**NOTE:** A plan review fee is required when engineered plans must be reviewed for a facility which requires a WPCF permit.

- (h) Annual Compliance Determination Fee:
  - (A) On-site sewage lagoon with no discharge ..... \$ 600;
  - (B) On-site subsurface systems with individual WPCF Permit or general permit:
    - (i) Standard or alternative subsurface system not listed below, with design flow of 20,000 gpd or more ..... \$ 500;
    - (ii) Standard or alternative subsurface system not listed below with design flow less than 20,000 gpd ..... \$ 250;
    - (iii) Aerobic systems, 1,500 gpd or more ..... \$ 500;
    - (iv) Aerobic systems, less than 1,500 ..... \$ 250;
    - (v) Recirculating Gravel Filter, 1,500 gpd or more ..... \$ 500;
    - (vi) Recirculating Gravel Filter, less than 1,500 gpd ..... \$ 250;

**Proposed On-site Fee Reduction  
340-071-0140 FEES - GENERAL**

**Attachment A**

- (vii) Sand Filter, 1,500 gpd or more..... \$ 500;
- (viii) Sand Filter, less than 1,500 gpd ..... \$ 250;
- (ix) Holding tanks ..... \$ 200.
- (I) The owner of a holding tank regulated under a WPCF permit submitting an annual written certification, on a Department approved form, that the holding tank has been operated the previous year in full compliance with the permit and that the previous year service log for the holding tank is available for inspection by the Department ..... \$ 25.

Stat. Auth.: ORS 454.625 & 468.020  
Stats. Implemented: ORS 454.745 & 468.065  
Hist.: DEQ 10-1981, f. & ef. 3-20-81; DEQ 19-1981, f. 7-23-81, ef. 7-27-81; DEQ 5-1982, f. & ef. 3-9-82; DEQ 8-1983, f. & ef. 5-25-83; DEQ 9-1984, f. & ef. 5-29-84; DEQ 13-1986, f. & ef. 6-18-86; DEQ 15-1986, f. & ef. 8-6-86; DEQ 6-1988, f. & cert. ef. 3-17-88; DEQ 11-1991, f. & cert. ef. 7-3-91; DEQ 18-1994, f. 7-28-94, cert. ef. 8-1-94; DEQ 27-1994, f. & cert. ef. 11-15-94; DEQ 12-1997, f. & cert. ef. 6-19-97; Administrative correction 1-28-98; DEQ 8-1998, f. & cert. ef. 6-5-98; DEQ 16-1999, f. & cert. ef. 12-29-99



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
On-site Fee Reduction

Fiscal and Economic Impact Statement

**Introduction**

- The fee reduction will result in revenue loss estimated at \$352,000 over the next biennium.

**General Public**

The fee reduction will result in lower application costs for homeowners who are constructing, repairing or altering standard on-site sewage disposal and treatment systems.

**Small Business**

The fee reduction will result in lower licensing fees for small and large businesses who install and service on-site sewage disposal and treatment systems. License fees for a new business license will be reduced from their current rate of \$800.00 to \$425.00. The license renewal fee will be reduced from \$400.00 yearly to \$320.00 yearly. Pumper truck inspection fees will be reduced from \$120.00 to \$100.00 for each inspection and from \$60.00 to \$50.00 for each additional vehicle at each inspection.

**Large Business**

The fee reduction will result in lower licensing fees for small and large businesses who install and service on-site sewage disposal and treatment systems. License fees for a new business license will be reduced from their current rate of \$800.00 to \$425.00. The license renewal fee will be reduced from \$400.00 yearly to \$320.00 yearly. Pumper truck inspection fees will be reduced from \$120.00 to \$100.00 for each inspection and from \$60.00 to \$50.00 for each additional vehicle at each inspection.

## **Local Governments**

Some revenue reductions may result in contract counties that run the On-site program directly who adopt the DEQ fees directly. However, counties can independently set their fees as described in OAR 340-071-0140 (1)(a)(D) and 340-071-0140 (2)(a)-(c). Therefore a quantifiable impact is difficult to determine for the contract counties.

## **State Agencies**

- DEQ
  - FTE: It is estimated that the On-site fee reduction will result in not filling 2 FTE positions.
  - Revenues: It is estimated that a revenue loss of \$352,000 over two years will result from the On-site fee reduction.
  - Expenses: No impact on expenses should occur.
  
- Other Agencies: No other Agencies should be impacted by this action.

## **Assumptions**

### **Housing Cost Impact Statement**

The Department has determined that this proposed rulemaking will slightly reduce the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

Secretary of State

**STATEMENT OF NEED AND JUSTIFICATION**

(A certificate and order for filing temporary administrative rules accompanies this form.)  
Department of Environmental Quality, Water Quality Division -- OAR Chapter 340

In the Matter of Amendments to	)	Statutory Authority,
	)	Statutes Implemented,
OAR 340-071-0140	)	Statement of Need, and
	)	Principal Documents

**Statutory Authority:** ORS 454.635, 454.745, 468.020, and 468.065.

**Statutes Implemented:** ORS 454.605 to 454.800.

**Need for Temporary Rule:** Enrolled Senate Bill 5516 approved fees for on-site sewage disposal system permits and services. The Bill has been passed by the Legislature and we expect it to be signed by the Governor by July 1, 2001. Many of the approved fee amounts are less than the fees currently established in ORS 340-071-0140. This discrepancy could create legal issues regarding the Department's authority to collect fees until the rules are amended and members of the public could be confused about the proper amount of fees.

**Documents Relied Upon:** Enrolled Senate Bill 5516.

**Justification for Temporary Rule:** Failure to revise the fee rules to conform to Enrolled SB 5516 by July 1, 2001 will result in serious prejudice to the public interest and the interests of the parties affected by the fee rules.

**Housing Cost Impact Statement:** The Department has determined that this proposed rulemaking will slightly reduce the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel if the site is to be served by an on-site system. This rulemaking will reduce the on-site system permit fees for a new single family dwelling by approximately \$50 to \$100.

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Melinda Eden, Chair  
Environmental Quality Commission

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 14, 2001  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *A. Hallock*  
**Subject:** Agenda Item 6, Action Item: Tax Credit Application Consideration  
June 22, 2001 EQC Meeting

**Proposed Action** Commission decision on DEQ's analysis and recommendations on Pollution Control Facilities, and Reclaimed Plastic Product Tax Credit applications. Attachment A summarizes all applications.

**Key Issues** There are no key issues.

**EQC Action Alternatives** Any application may be postponed to a future meeting if the Commission:

- Requires the Department or the applicant to provide additional information; or
- Makes a determination different from the Department's recommendation and that determination may have an adverse effect on the applicant.

**Department Recommendation** The Department recommends the Commission

- Approve certification of the facilities represented in Attachment B
- Deny certification of the facility represented in Attachment C
- Reject certification of the facilities represented in Attachment D

**Attachments**

- A. Summary & Recommendations
- B. Approvals
- C. Denials
- D. Rejections

**Available Upon Request**

- 1. ORS 468.150 to 468.190 & OAR 340-016-0005 to 340-016-0050
- 2. ORS 468.451 to OAR 468.491 & OAR 340-017-0010 to 340-017-0055

Approved:

Section: *[Signature]*  
Division: *[Signature]*

Report Prepared By: Maggie Vandehey  
Phone: 503-229-6878

*Attachment A*

Summary  
&  
Recommendations

**Summary**  
**Staff Recommended EQC Action**

Action	App.No.	Applicant	Media	As Claimed	%	Recommendation if		Notes
				Facility Cost	Allocable	Facility Cost	%	
Approve	5434	Corvallis Disposal & Recycling	SW	\$106,993	100			
Approve	5463	J.C. Compton Company	Air	\$415,239	100	\$412,536		
Approve	5510	Rosboro Lumber Company	Air	\$176,574	100	\$176,177		
Approve	5511	Leathers Enterprises, Inc.	USTs	\$193,552	100	\$192,771	91	
Approve	5512	Leathers Enterprises, Inc.	USTs	\$143,106	100	\$142,683		
Approve	5513	Leathers Enterprises, Inc.	USTs	\$228,487	100	\$228,108	92	
Approve	5514	Leathers Enterprises, Inc.	USTs	\$160,068	100	\$159,243	89	
Approve	5515	Leathers Enterprises, Inc.	USTs	\$273,014	100	\$272,229	93	
Approve	5516	Leathers Enterprises, Inc.	USTs	\$167,452	100	\$167,096	89	
Approve	5517	Leathers Enterprises, Inc.	USTs	\$198,418	100	\$197,627	92	
Approve	5518	Leathers Enterprises, Inc.	USTs	\$253,927	100	\$253,136	93	
Approve	5523	Denton Plastics, Inc.	Plastics	\$20,778	100			
Approve	5524	Robert Shores, Inc.	USTs	\$116,215	100	\$115,473	99	
Approve	5527	ASW Disposal, Inc.	SW	\$6,453	100			
Approve	5528	ASW Disposal, Inc.	SW	\$2,463	100			
Approve	5529	ASW Disposal, Inc.	SW	\$16,201	100			
Approve	5530	ASW Disposal, Inc.	SW	\$34,786	100			
Approve	5531	ASW Disposal, Inc.	SW	\$600	100			
Approve	5532	Bowco Industries, Inc.	Plastics	\$3,500	100			
Approve	5533	Alan & Christine Bowdish	USTs	\$205,482	100	\$204,232	85	
Approve	5534	Simco Distributing, Inc.	USTs	\$328,427	100	\$327,610	99	
Approve	5539	Environmental Waste Systems	SW	\$43,036	100			
Approve	5540	McCall Oil and Chemical Corp.	Air	\$80,842	100	\$70,466		
Approve	5541	R.A. Brownrigg Inv. Inc.	SW	\$35,202	100			
Approve	5542	Central Coast Disposal	SW	\$36,070	100			
Approve	5543	Western Pulp Products Co.	SW	\$48,443	100	\$48,444		
Approve	5544	Western Pulp Products Co.	SW	\$49,288	100	\$49,263		
Approve	5545	Western Pulp Products Co.	SW	\$43,831	100	\$42,984		
Approve	5546	Western Pulp Products Co.	SW	\$47,941	100	\$47,496		
Approve	5547	Western Pulp Products Co.	SW	\$34,451	100	\$34,396		
Approve	5548	Western Pulp Products Co.	SW	\$19,595	100			

**Summary**  
**Staff Recommended EQC Action**

Approve	5549	Western Pulp Products Co.	SW	\$47,955	100	\$43,885		
Approve	5550	Jensen Seed & Grain, Inc.	Air	\$181,992	100	\$95,663		
Approve	5554	Bowco Industries, Inc.	Plastics	\$3,505	100			
Approve	5558	H. H. Bear Inc.	USTs	\$167,928	100	\$115,473	99	
Approve	5560	Hawk Oil Company	USTs	\$87,093	100	\$86,206		
Approve	5561	Traughber Oil Company	USTs	\$178,088	100	\$177,277	89	
Approve	5562	Hawk Oil Company	USTs	\$33,219	100			
Approve	5563	Corvallis Disposal & Recycling	SW	\$108,493	100			
Deny	5526	Willamette Industries, Inc.	Noise	\$46,689	100	\$ -	0	Did not meet noise level reduction standards
Reject	5493	Barenbrug USA-Production	Air	\$26,438	100	\$ -	0	Untimely submittal
Reject	5519	Georgia-Pacific Corp.	Air	\$303,495	100	\$ -	0	Untimely submittal

# *Attachment B*

## Approvals

The Department presents thirty-nine applications for approval in this attachment. The Department recommends the facility cost be certified for an amount less than the amount claimed on 25 of the applications. The Department considers all applications in this attachment:

1. Meet the eligibility requirements for certificate issuance according to the Pollution Control Facilities Tax Credit or the Reclaimed Plastic Product Tax Credit regulations.
2. Do not include any replacement facilities.
3. Do not include applications for preliminary certification as a pollution control facility.





State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Corvallis Disposal & Recycling Co.**  
Application No.: **5434**  
Facility Cost: **\$106,993**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

## Tax Credit Review Report

EQC 0106

### Pollution Control Facility: Solid Waste Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

Organized as: **a C corporation**

Business: **Solid waste collection  
and recycling facility**

Taxpayer ID: **93-0422468**

The applicant's address is:

**P O Box 1  
Corvallis, OR 97339**

#### *Facility Identification*

The certificate will identify the facility as:

**One Freightliner Model # FL70 truck,  
serial number:**

**1FV6HFBA3XHBHB62588,**

**and one Labrie Expert 2000 body, serial  
number:**

**L99101NNS**

The applicant is the owner of the facility located at:

**110 NE Walnut Blvd.  
Corvallis, OR 97339**

#### *Technical Information*

This truck is used to collect co-mingled recyclable materials from residential and commercial customers in the city of Corvallis and Benton County. The recyclable materials are collected and delivered to a processing facility where they are further sorted and subsequently sent to recycling mills where they are converted into products of real economic value.

#### *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**. This truck is used solely for collecting recyclable material.

- OAR 340-16-025(g)(B) **Replacement:** This truck replaces one older recycling collection truck. The older collection truck did not have tax credit certification from the Commission.
- ORS 468.155(1)(b)(D) This truck is used to collect recyclable material and is part of a process that recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>07/20/00</b>
<i>Construction Started</i>	<b>01/10/99</b>
<i>Construction Completed</i>	<b>01/14/00</b>
<i>Facility Placed into Operation</i>	<b>01/17/00</b>

***Facility Cost***

Facility Cost	<b>\$129,493</b>
Salvage Value	<b>(\$22,500)</b>
Eligible Facility Cost	<b>\$106,993</b>

The applicant requested a waiver of the independent accountant's statement. The applicant provided copies of the invoices for purchase of the truck and the salvage value of the old truck.

***Facility Cost Allocable to Pollution Control***

The following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<b>Factor</b>	<b>Applied to This Facility</b>
ORS 468.190(1)(a) Salable or Usable Commodity	This truck is used to collect recyclable material that is subsequently processed into a salable and useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility for the return on investment consideration is 5 years. The calculated average annual cash flow is negative therefore the percentage return on investment is 0%. The portion of cost allocable to pollution control is 100%.
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 and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Corvallis Disposal Co.:**

App. #	Description of Facility	Certified Cost	Cert. #	Issue Date
4730	10 2-yard front load containers with lids for cardboard recycling, model # M73T, serial # 127674 to 127683	\$3,111.40	3756	06/05/1997
4738	20 2-yd & 5 4-yd front load containers with lids, model # M73T, serial # 130879-13888 & 130938-130947; 9 4-yrd front load containers, model # M75T, serial # 130948-130957; 5 6-yrd front load containers, model # M76T, serial # 130958-130962	\$13,851.00	3754	06/05/1997
4739	2 Vulcan on-board Scale systems for cardboard recycling collection trucks, model # R100, Epson computer model # M-H804AEW08, serial # 47F0001788.	\$17,874.00	3747	06/05/1997
4740	576 101-gallon Toter carts, model # 60501, serial # YW008206 - YW008782 and 100 90-gallon semi-automated TOTER carts, model # 74096, serial # Q71582-Q07168	\$43,199.00	3743	06/05/1997
4769	Kann Hi-Jacker 76" Side Dump Recycling Truck	\$78,783.00	3808	11/21/1997
4790	576 101-Gallon Toter Carts Model # 60501, Serial #'s YW008782-YW009357.	\$37,152.00	3813	11/21/1997
4791	Ten 2-yard Containers (Model #M73T, Serial #135077-135086); 20 4-yard Containers (Model #M75T, Ser. #13587-135096 & 139495-139504); 10 6-yard Containers (Model #M76T, Ser #135097-135106).	\$30,814.00	3814	11/21/1997
4819	One, Marathon TC-3 HD/HF Stationary Cardboard Compactor System, Serial #39854-W	\$12,483.00	3824	11/21/1997
4832	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.	\$18,478.00	3829	11/21/1997
4833	650 white recycling bags, 220 single-bag stands & 100 double-bag stands for collection of High-Grade paper from Businesses.	\$6,524.00	3830	11/21/1997
4917	Tractor-Trailer combination vehicle used for hauling recycled paper. 1996 Volvo Truck, model #WHR64, VIN #4V5KCDPF9TR725792 & Aluminum dump bed, model: Pioneer Lo-Pro & Pioneer 4-axle pup trailer.	\$158,201.00		Preliminary denied 04/03/1998
4952	8000 Red Recycling Bins	\$34,270.00	3921	06/11/1998
4953	864 95-Gallon Rehrig-Pacific Carts, serial #00001-00864	\$43,502.00	3922	06/11/1998

4954	576 101-Gallon Toter Carts, model #61001 & serial #YW009358-YW00993.	\$34,041.00	3923	06/11/1998
4970	Fifteen 2-yd model #M73T, eight 4-yd model #M75T, serial #142185-142189 & 3 unknown, and four 6-yd model #M76T, serial #142239 & 142240 & 2 unknown Front-load cardboard containers for recycling.	\$12,409.00	3931	06/11/1998
5027	Kann trough plastic compactor (48" wide) to replace 26" wide compactor on Volvo FE42 side load recycle truck	\$18,239.39	3990	09/18/1998
5032	Ten 1-yd self-dumping hopper style containers. One 30-yd SC style drop box with domed crank-up lid. one 40-yd newsprint style drop box, 30-yd newsprint style drop box.	\$24,647.00	3994	09/18/1998

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **J.C. Compton Co.**  
Application No.: **5463**  
Facility Cost: **\$412,536**  
Percent Allocable: **100%**  
Useful Life: **10 years**

# Tax Credit Review Report

EQC 0106

## Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **an S corporation**

Business: **manufacture hot mix asphalt  
products**

Taxpayer ID: **93-0515240**

The applicant's address is:

**4105 Lancaster Dr SE  
Salem, OR 97309**

### *Facility Identification*

The certificate will identify the facility as:

**A Gentec baghouse, model AB1088; a  
rotary mixing drum; and an Industrial Air  
Products emissions fan, model 660 BSWCL  
4ARRL.**

The applicant is the owner of the facility located at:

**River Bend Sand & Gravel Co.  
4105 Lancaster Dr SE  
Salem, OR 97309**

### *Technical Information*

The applicant installed the claimed facility to capture particulate from the dryer and return it to the hot asphalt mix and to reduce blue haze emissions. It consists of the following components:

- A cyclone designed to remove large dirt particles and debris sized between 4.75 mm (3/16") and 75 microns (.003").
- A Gentec Model AB1088 baghouse designed to remove particulate that is less than 75 microns with 21,368 sq. ft. of cloth bags.
- A dust run-around system used to return the removed particulate back into the hot asphalt mix. This system includes a screw conveyor, motors, an air lock, and a bin. The particulate is held in the bin temporarily, then fed back into the asphalt mixing process.

- A rotary mixing drum for mixing oil and rock with recovered dust. The mixing drum is separate from the dryer drum to keep asphalt mix away from the dryer flame, thereby minimizing the potential for release of hydrocarbons. The rotary mixer provides pollution control benefits as well as asphalt production benefits. A typical asphalt plant has only one drum for both mixing and drying. The applicant claimed only the rotary mixing drum and did not claim the drying drum. Therefore, the department considers that 100% of the claimed cost of the rotary mixing drum is allocable to pollution control.
- A fan directs emissions from the mixer to the dryer where the hydrocarbons are combusted by the burner inside the dryer. It is an Industrial Air Products Model 660 BSWCL 4ARRL sized to move 117,525 cfm and is driven by two 200-hp motors.

Without the facility, between 20 and 30 tons per hour of emissions would be released to the atmosphere. The applicant's air permit allows 0.04 grains/dscf (dry standard cubic foot) and 20% opacity. Source testing resulted in an average emission level of 0.018 grains/dscf and 0% opacity.

**Eligibility**

ORS 468.155 (1)(a)(A) The **principal purpose**, meaning the primary and most important purpose, of this **new baghouse, rotary mixer, and emissions fan** is to comply with DEQ requirements to prevent air pollution. The requirement is imposed by the applicant's ACDP 24-4671.

The purpose of the **new cyclone** is **not** to comply with DEQ requirements to prevent air pollution. The primary and most important purpose of the cyclone is material handling. It captures large particulate that would damage the baghouse filter but is too large to become airborne.

The purpose of the **new dust run-around system** is **not** to comply with DEQ requirements to prevent air pollution. The primary and most important purpose of the dust run around system is material handling.

ORS 468.155 (1)(b)(B) The claimed facility eliminates air contaminants with the use of an air cleaning device as defined in ORS 468A.005.

**Timeliness of Application**

The applicant claimed construction was completed three months after the facility was placed into operation. The Department asked for documentation to support a construction completion date on or after 8/28/1998 because

<i>Application Received</i>	<b>8/28/2000</b>
<i>Construction Started</i>	<b>2/2/1998</b>
<i>Claimed Construction Completed</i>	<b>12/10/1998</b>
<i>Construction Completed</i>	<b>9/9/1998</b>
<i>Date Placed into Operation</i>	<b>9/9/1998</b>

these dates seemed to be out of sequence and invoices did not support timely filing. The applicant provided documentation that included their check registry, their asset depreciation schedule, a DEQ site inspection, and a letter from the manufacturer. The Department considered the documentation supports timely filing according to ORS 468.165 (6).

**Facility Cost**

Claimed Cost		<b>\$ 460,888</b>
Salvage Value	<b>\$2,702</b>	
Cyclone	<b>\$44,321</b>	
Dust run around system	<b>\$1,329</b>	
Ineligible Cost		<b>(\$48,352)</b>
Eligible Cost		<b>\$412,536</b>

The claimed cost was greater than \$50,000 but less than \$500,000; therefore Boldt, Carlisle & Smith, LLC performed an independent accounting review according to Department guidelines on behalf of the applicant. The reviewers analyzed the facility cost on behalf of the Department. Copies of invoices substantiated 100% of the claimed facility cost.

**Facility Cost Allocable to Pollution Control**

The following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	The baghouse recovers dust and sand, which is recycled into the asphalt process. Its value was considered in the ROI calculation at \$24,063 per year.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 15 years. Considering revenues and expenditures, the pollution control has a zero percent return on investment.
ORS 468.190(1)(c) Alternative Methods	Alternative methods, equipment and costs to achieve the same objective were not considered because none are available.
ORS 468.190(1)(d) Savings or Increase in Costs	There is a net increase in annual operating costs associated with installing this facility.
ORS 468.190(1)(e) Other Relevant Factors	The only reason for having a two-drum system is to keep the asphalt mix away from the flame to reduce opacity and minimize the release of hydrocarbons in the mixing and drying process. The applicant would use a single-drum system if they were not required to control emissions; therefore, the Department considers the second drum to be 100% allocable to pollution control.

**Compliance and Other Tax Credits**

The applicant states the facility is in compliance with Department rules and statutes and with EQC orders. The following DEQ permits have been issued to the facility:

ACDP 24-4671 issued 12/13/95.

Other tax credits issued to **J.C. Compton Company DBA: Riverbend Sand & Gravel Co.:**

App. #	Description of Facility	Certified Cost	Cert. #	Issue Date
458	Dust Collecting System for the Applicant's portable Standard Steel Corporation hot-mix asphalt plant	\$156,255	412	7/26/1973
3898	Roto-air fabric filter system	\$164,590	3201	10/29/1993

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.  
Dennis E. Cartier, Associate, SJO Consulting Engineers, Inc.  
Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant	<b>Rosboro Lumber Co., LLC</b>
Application No.	<b>5510</b>
Facility Cost	<b>\$176,177</b>
Percentage Allocable	<b>100%</b>
Useful Life	<b>10 years</b>

## Tax Credit Review Report

EQC 0106

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **a Limited Liability Corp.**  
Business: **a wood products manufacturer**  
Taxpayer ID: **93-0398134**

The applicant's address is:

**PO Box 20  
Springfield, OR 97477**

### *Facility Identification*

The applicant claimed:

**A Clarage model MTSA64-9CY-A-STD, serial number 990815-901, multiclone cinder collector, and an ID fan installed onto the existing boiler**

The applicant is the owner of the facility located at:

**2509 Main St.  
Springfield, OR 97477**

### *Technical Information*

The claimed facility consists of a Clarage multiclone cinder collector, and an induced draft (ID) fan installed onto the number 1 boiler. The boiler is one of three hogged fuel fired boilers. (Air cleaning devices on boilers number 2 and number 3 boilers **were certified in December of 1993 on application number 4017.**)

The applicant installed an isolation damper on the existing exhaust stack and a duct loop as a bypass to the multiclone. An ID fan with a 75-hp motor moves the exhaust air through the loop and the multiclone. The multiclone has several chambers for removing progressively finer particulate from the air stream through cyclonic action. The recovered cinders discharge to a collection barrel via an air lock. The applicant ships the waste off-site for recycling as agricultural compost. The exhaust air exits the multiclone through ducts re-entering the exhaust stack above the damper.

The applicant claimed Lane Regional Air Pollution Authorities (LRAPA) received complaints of large particulate fall-out on neighboring properties. Large cinders previously escaped the boiler combustion chamber and discharged into the atmosphere, then fell to the ground.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to control air pollution in compliance with permit conditions required by LRAPA permit # 207050, condition 7. Condition 7: "Emissions of any particulate matter greater than 250 microns in size shall not be permitted if such particulate matter does or will deposit upon the real property of another person."

ORS 468.155 (1)(b)(B) The multiclone accomplishes the control of air pollution with the use of an **air cleaning device** as defined in ORS 468A.005. The multiclone filters the exhaust to control fine particulate from discharging to the atmosphere.

**Timeliness of Application**

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

<i>Application Received</i>	<u>12/27/2000</u>
<i>Construction Started</i>	<u>03/15/2000</u>
<i>Construction Completed</i>	<u>04/27/2000</u>
<i>Facility Placed into Operation</i>	<u>04/27/2000</u>

**Facility Cost**

Claimed Facility Cost	<b>\$176,574</b>
Ineligible Cost—error in calculation	(\$397)
Eligible Facility Cost	<u><b>\$176,177</b></u>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Moss-Adams, LLP, performed an accounting review according to Department guidelines on behalf of the applicant. The reviewers performed a facility cost analysis on behalf of the Department.

**Facility Cost Allocable to Pollution Control**

The facility cost was greater than \$50,000. According to ORS 468.190 (1), the following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable commodity.
ORS 468.190(1)(b) Return on Investment (ROI)	The useful life of the facility used for the ROI consideration is 10 years. The applicant claimed the percentage of the facility cost properly allocable to pollution control is 100%.
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 were identified.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

**Compliance and Other Tax Credits**

The applicant claims the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

LRAPA authority to construct: #NC-207050-C99

NPDES #101467, issued 03/24/1997

Other tax credits issued to **Rosboro Lumber Co.:**

App. #	Description of Facility	Certified Cost	Cert. #	Issue Date
13	A HAMMER HOG TO CONVERT BARK AND SLABS.	\$36,877.00	Denied	3/29/68
1167	CONVERSION OF STEAM VENEER BLOCK HEATING TO HOT WATER RECYCLE.	\$95,156.00		2/31/80
1490	VENEER DRYER EXHAUST DUCT TO INCINERATE AIR EMISSIONS IN HOGGED FUEL BOILERS.	\$278,851.00		4/16/82
1743	CARTER DAY BAGHOUSE FOR AN EXISTING WOOD DUST COLLECTION SYSTEM	\$84,920.00		1/31/86
4017	REGENERATIVE FLY ASH COLLECTORS	\$400,611.00	3232	12/10/93
4093	UPGRADE EQUIPMENT TO MEET EPA REQUIREMENTS	\$92,290.00	3184	9/10/93

Reviewers: Maggie Vandehey, DEQ  
Dannelle Aleshire, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5511**  
Eligible Facility Cost **\$192,771**  
Percentage Allocable **91%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass clad steel underground storage tanks (one with two compartments) doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery piping.**

The applicant is the owner of **DEQ Facility ID 4274** located at:

**21687 Hwy 99 NE  
Aurora, OR 97002**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).	<i>Application Received</i>	<u>12/22/00</u>
	<i>Construction Started</i>	<u>12/08/98</u>
	<i>Construction Completed</i>	<u>07/01/99</u>
	<i>Facility Placed into Operation</i>	<u>07/01/99</u>

**Facility Cost**

	<b>Claimed</b>	\$193,552
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$781)
	<b>Eligible</b>	<u>\$192,771</u>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$17,386. This is **9%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **91%** allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5512**  
Facility Cost **\$142,683**  
Percentage Allocable **100%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Impressed current cathodic protection on four steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overflow alarm, sumps, monitoring well, automatic shutoff valves and Stage II vapor recovery piping.**

The applicant is the owner of **DEQ Facility ID 4248** located at:

**1<sup>st</sup> and E Street  
Culver, OR 97734**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>12/22/00</b>
<i>Construction Started</i>	<b>12/22/98</b>
<i>Construction Completed</i>	<b>12/02/99</b>
<i>Facility Placed into Operation</i>	<b>12/02/99</b>

**Facility Cost**

	<b>Claimed</b>	\$143,106
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$423)
	<b>Eligible</b>	<b>\$142,683</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$574, which is less than 1%. Therefore, according to ORS 468.190(1), **100%** of the eligible facility cost is allocable to pollution control.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5513**  
Facility Cost **\$228,108**  
Percentage Allocable **92%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass clad steel underground storage tanks (one with two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, monitoring well, automatic shutoff valves and Stage II vapor recovery piping.**

The applicant is the owner of **DEQ Facility ID 4275** located at:

**1655 N 1<sup>st</sup> Street  
Hermiston, OR 97838**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.



**Eligibility**

- ORS 468.155 The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
  - (1)(a)
- OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.
  - (2)(g)

**Timeliness of Application**

The application was submitted within the timing requirements of ORS 468.165 (6).	<i>Application Received</i>	<u>12/22/00</u>
	<i>Construction Started</i>	<u>12/22/98</u>
	<i>Construction Completed</i>	<u>11/16/99</u>
	<i>Facility Placed into Operation</i>	<u>11/16/99</u>

**Facility Cost**

	<b>Claimed</b>	\$228,487
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$379)
	<b>Eligible</b>	<u>\$228,108</u>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$17,673. This is **8%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **92%** allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5514**  
Facility Cost **\$159,243**  
Percentage Allocable **89%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass clad steel underground storage tanks (one with two compartments) doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, monitoring well, oil water separator, automatic shutoff valves and Stage II vapor recovery piping.**

The applicant is the owner of **DEQ Facility ID 4262** located at:

**15 NE 5<sup>th</sup> Street  
Madras, OR 97741**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>12/22/00</b>
<i>Construction Started</i>	<b>12/09/98</b>
<i>Construction Completed</i>	<b>09/01/99</b>
<i>Facility Placed into Operation</i>	<b>09/01/99</b>

**Facility Cost**

	<b>Claimed</b>	\$160,068
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$825)
	<b>Eligible</b>	<b>\$159,243</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$18,095. This is **11%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **89%** allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5515**  
Facility Cost **\$272,229**  
Percentage Allocable **93%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### *Facility Identification*

The certificate will identify the facility as:

**Two doublewall fiberglass-clad steel underground storage tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, line and turbine leak detectors, overfill alarm, sumps, monitoring well, automatic shutoff valves, oil/water separator and Stage II vapor recovery piping.**

The applicant is the owner of DEQ Facility ID **4259** located at:

**203 East 1<sup>st</sup> Street  
Newberg, OR 97132**

### *Technical Information*

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).	<i>Application Received</i>	<u>12/22/00</u>
	<i>Construction Started</i>	<u>09/21/98</u>
	<i>Construction Completed</i>	<u>04/01/99</u>
	<i>Facility Placed into Operation</i>	<u>04/01/99</u>

**Facility Cost**

	<b>Claimed</b>	\$273,014
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$785)
	<b>Eligible</b>	<u>\$272,229</u>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$18,260. This is 7% of the eligible facility cost that is not allocable to pollution control leaving the remaining 93% allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5516**  
Facility Cost **\$167,096**  
Percentage Allocable **89%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**

Business: **a Retail Gas Station**

Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass-clad steel underground storage tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, line and turbine leak detectors, overfill alarm, sumps, automatic shutoff valves, oil/water separator and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 4257** located at:

**39021 Proctor Blvd.  
Sandy, OR 97055**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>12/22/00</b>
<i>Construction Started</i>	<b>09/21/98</b>
<i>Construction Completed</i>	<b>03/01/99</b>
<i>Facility Placed into Operation</i>	<b>03/01/99</b>

**Facility Cost**

	<b>Claimed</b>	\$167,452
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$356)
	<b>Eligible</b>	<b>\$167,096</b>

The department approved the applicant's request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$18,018. This is **11%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **89%** allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5517**  
Facility Cost **\$197,627**  
Percentage Allocable **92%**  
Useful Life **10 years**

## Tax Credit Review Report

EQC 0106

### **Pollution Control Facility: USTs**

#### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### *Facility Identification*

The certificate will identify the facility as:

**Two doublewall fiberglass-clad steel underground storage tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, line and turbine leak detectors, overfill alarm, sumps, monitoring well, automatic shutoff valves, oil/water separator and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 4255** located at:

**38422 Proctor Blvd.  
Sandy, OR 97055**

### *Technical Information*

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.



**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).	<i>Application Received</i>	<b>12/22/00</b>
	<i>Construction Started</i>	<b>07/13/98</b>
	<i>Construction Completed</i>	<b>02/01/99</b>
	<i>Facility Placed into Operation</i>	<b>02/01/99</b>

**Facility Cost**

	<b>Claimed</b>	\$198,418
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$791)
	<b>Eligible</b>	<b>\$197,627</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$16,104. This is **8%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **92%** allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Leathers Enterprises, Inc.**  
Application No. **5518**  
Facility Cost **\$253,136**  
Percentage Allocable **93%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-1130446**

The applicant's address is:

**22300 SE Stark Street  
Gresham OR 97030**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass-clad steel underground storage tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, line leak detectors, overfill alarm, sumps, monitoring well, automatic shutoff valves, oil/water separator and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 4245** located at:

**50654 Columbia Hwy  
Scappoose, OR 97056**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).	<i>Application Received</i>	<u>12/22/00</u>
	<i>Construction Started</i>	<u>06/03/98</u>
	<i>Construction Completed</i>	<u>02/08/99</u>
	<i>Facility Placed into Operation</i>	<u>02/08/99</u>

**Facility Cost**

	<b>Claimed</b>	\$253,927
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$791)
	<b>Eligible</b>	<u>\$253,136</u>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$17,345. This is 7% of the eligible facility cost that is not allocable to pollution control leaving the remaining 93% allocable.

**Compliance and Other Tax Credits**

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

**Leathers Enterprises, Inc.** and **Leathers Oil Co.** have been issued 17 tax credit certificates, none of which were issued to this facility location.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Denton Plastics Inc.**  
Application No. **5523**  
Facility Cost **\$20,778**  
Percentage Allocable **100%**  
Useful Life **5 years**

# Tax Credit Review Report

EQC 0106

## Reclaimed Plastic Products

### Final Certification

ORS 468.451 -- 468.491

OAR 340-017-0010 -- 340-017-0055

### *Applicant Identification*

Organized as: **a corporation**

Business: **Plastic recycling company**

Taxpayer ID: **93-0852298**

The applicant's address is:

**4427 NE 158<sup>th</sup>  
Portland, Oregon 97230**

### *Facility Identification*

The certificate will identify the facility as:

**One CB Toyota Forklift, model 7FGU18,  
serial # 61190**

The applicant is the owner of the facility  
located at:

**4427 NE 158<sup>th</sup>  
Portland, Oregon 97230**

### *Technical Information*

This equipment is used to transport scrap plastic and reclaimed plastic products as part of the process of manufacturing reclaimed plastic pellets.

### *Eligibility*

ORS 468.461 Any person may apply to the EQC for certification of an investment made to allow the  
(1) person to collect, transport or process reclaimed plastic, or to manufacture a reclaimed plastic product.

***Timeliness of Application***

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

<i>Preliminary Application Received</i>	<u>07/26/2000</u>
<i>Preliminary approval granted</i>	<u>07/26/2000</u>
<i>Date of investment</i>	<u>11/13/2000</u>
<i>Final application received</i>	<u>01/16/2001</u>

***Facility Cost***

Claimed Facility Cost	<u>\$20,778</u>
Eligible Facility Cost	<u>\$20,778</u>

Pursuant to OAR 340-017-0030 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed \$50,000; therefore, an independent accounting review was not required.

***Facility Cost Allocable to Pollution Control***

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic, or the manufacture of reclaimed plastic product.

<u>Factor</u>	<u>Applied to This Facility</u>
OAR 340-017-0030 (2)(a) Extent used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

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

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

**Denton Plastics, Inc., DBD Leasing, Neo Leasing, LLC, and WWDD Partnership** have been issued a total of 27 tax credit certificates at the same facility location.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Robert Shores, Inc.**  
Application No. **5524**  
Eligible Facility Cost **\$115,473**  
Percentage Allocable **99%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**

Business: **a Retail Gas Station**

Taxpayer ID: **93-0635948**

The applicant's address is:

**2110 NW Lovejoy  
Portland, OR 97210**

### ***Facility Identification***

The certificate will identify the facility as:

**Doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 4550** located at:

**2110 NW Lovejoy  
Portland, OR 97210**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>01/19/01</b>
<i>Construction Started</i>	<b>07/11/97</b>
<i>Construction Completed</i>	<b>01/24/99</b>
<i>Facility Placed into Operation</i>	<b>01/24/99</b>

**Facility Cost**

	<b>Claimed</b>	\$116,215
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$742)
	<b>Eligible</b>	<u><b>\$115,473</b></u>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Century Small Business Solutions, an CPA firm, performed an accounting review according to Department guidelines on behalf of the Applicant.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$790. This is **1%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **99%** allocable.

**Compliance and Other Tax Credits**

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

No other tax credits have been issued to the applicant.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **ASW Disposal Inc.**  
Application No.: **5527**  
Facility Cost: **\$6,453**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection  
company**  
Taxpayer ID: **93-1117016**

The applicant's address is:

**P O Box 2879  
Eugene, OR 97402**

### *Facility Identification*

The certificate will identify the facility as:

**Three trucks: 1986 Chevy pickup, 3/4  
ton, vin 1CCGC24M2GJ80889; 1979  
International truck, vin  
D1035JACA1048; and 1978 GMC  
pickup, model c2500, vin  
TCL248Z500036**

The applicant is the owner of the facility  
located at:

**120 Cleveland #4  
Eugene, OR 97402**

### *Technical Information*

The claimed facility consists of three trucks, which are used to collect recyclable materials from residential and commercial customers.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of these trucks is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for collecting recyclable materials that are subsequently remanufactured into new products.



0AR 340-016- **Replacement:** This equipment is used to collect recyclables. The equipment did **not**  
0025(g)(B) replace any previously certified equipment.

ORS 468.155 The equipment is used to process recyclable material and is part of a process that  
(1)(b)(D) recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<u>02/02/2001</u>
<i>Construction Started</i>	<u>03/04/1999</u>
<i>Construction Completed</i>	<u>12/31/1999</u>
<i>Facility Placed into Operation</i>	<u>12/31/1999</u>

***Facility Cost***

Facility Cost	<u>\$6,453</u>
Eligible Facility Cost	<u>\$6,453</u>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the cost of the claimed facility.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **ASW Disposal Inc.**  
Application No.: **5528**  
Facility Cost: **\$2,463**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

# Tax Credit Review Report

EOC 0106

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

## *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection  
company**  
Taxpayer ID: **93-1117016**

The applicant's address is:

**P O Box 2879  
Eugene, OR 97402**

## *Facility Identification*

The certificate will identify the facility as:

**Five hundred recycling collection bins**

The applicant is the owner of the facility  
located at:

**120 Cleveland #4  
Eugene, OR 97402**

## *Technical Information*

The claimed facility consists of 500 recycling collection bins. These bins are used to collect recyclable materials from residential and commercial customers.

## *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of these bins is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for collecting recyclable materials that are subsequently remanufactured into new products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to collect recyclables. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process recyclable material and is part of a process that  
(1)(b)(D) recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<u>02/02/2001</u>
<i>Construction Started</i>	<u>09/15/1999</u>
<i>Construction Completed</i>	<u>10/07/1999</u>
<i>Facility Placed into Operation</i>	<u>10/07/1999</u>

***Facility Cost***

Facility Cost	<u>\$2,463</u>
Eligible Facility Cost	<u>\$2,463</u>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the cost of the claimed facility.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **ASW Disposal Inc.**  
Application No.: **5529**  
Facility Cost: **\$16,201**  
Percentage Allocable: **100%**  
Useful Life: **10 years**

# Tax Credit Review Report

EOC 0106

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

## *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection  
company**  
Taxpayer ID: **93-1117016**

The applicant's address is:

**P O Box 2879  
Eugene, OR 97402**

## *Facility Identification*

The certificate will identify the facility as:

**Two vertical balers Model E-11HD-  
460, serial numbers 11E02992943 and  
11E02992944**

The applicant is the owner of the facility  
located at:

**120 Cleveland #4  
Eugene, OR 97402**

## *Technical Information*

The claimed facility consists of two balers. These balers are used to process plastic film collected from residential and commercial customers.

## *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of these balers is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for processing recyclable materials that are subsequently remanufacture into new products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to process recyclables. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process recyclable material. It is part of a process that  
(1)(b)(D) recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<u>02/02/2001</u>
<i>Construction Started</i>	<u>04/29/1999</u>
<i>Construction Completed</i>	<u>07/20/1999</u>
<i>Facility Placed into Operation</i>	<u>07/20/1999</u>

***Facility Cost***

Facility Cost	<u>\$16,201</u>
Eligible Facility Cost	<u>\$16,201</u>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the cost of the claimed facility.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **ASW Disposal Inc.**  
Application No.: **5530**  
Facility Cost: **\$34,786**  
Percentage Allocable: **100%**  
Useful Life: **10 years**

# Tax Credit Review Report

FOC 0106

**Pollution Control Facility: Solid Waste**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

## *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection  
company**  
Taxpayer ID: **93-1117016**

The applicant's address is:

**P O Box 2879  
Eugene, OR 97402**

## *Facility Identification*

The certificate will identify the facility as:

**Excel horizontal baler model EX62,  
serial number EX2017, and Excel  
conveyor model E4915, serial number  
C1144**

The applicant is the owner of the facility  
located at:

**120 Cleveland #4  
Eugene, OR 97402**

## *Technical Information*

The claimed facility is an Excel model EX62 horizontal baler, serial number EX2017, with an above floor conveyor, serial number C1144. This equipment is used to sort and bale different grades of recyclable paper.

## *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the baler and conveyor is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old paper for subsequent remanufacture into new products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to recycle scrap paper. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste paper and is part of a process that recovers  
 (1)(b)(D) material that would otherwise be solid waste as defined in ORS 459.005.

### ***Timeliness of Application***

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

<i>Application Received</i>	<b>02/02/2001</b>
<i>Construction Started</i>	<b>08/17/1999</b>
<i>Construction Completed</i>	<b>08/17/1999</b>
<i>Facility Placed into Operation</i>	<b>08/17/1999</b>

### ***Facility Cost***

Facility Cost	<b>\$34,786</b>
Eligible Facility Cost	<b>\$34,786</b>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the cost of the claimed facility.

### ***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

### ***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **ASW Disposal Inc.**  
Application No.: **5531**  
Facility Cost: **\$600**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection  
company**  
Taxpayer ID: **93-1117016**

The applicant's address is:

**P O Box 2879  
Eugene, OR 97402**

### *Facility Identification*

The certificate will identify the facility as:

**Clark Forklift without serial number**

The applicant is the owner of the facility  
located at:

**120 Cleveland #4  
Eugene, OR 97402**

### *Technical Information*

The claimed facility is a Clark forklift. This equipment is used to process recyclable materials collected for residential and commercial customers.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the forklift is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for handling recyclable materials that are subsequently remanufactured into new products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to process recyclable material. The new equipment did **not** replace any previously certified equipment.



ORS 468.155 The equipment is used to process recyclable material and is part of a process that  
(1)(b)(D) recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<u>02/05/2001</u>
<i>Construction Started</i>	<u>02/25/1999</u>
<i>Construction Completed</i>	<u>02/25/1999</u>
<i>Facility Placed into Operation</i>	<u>04/29/1999</u>

***Facility Cost***

Facility Cost	<u>\$600</u>
Eligible Facility Cost	<u>\$600</u>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the cost of the claimed equipment.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Bowco Industries, Inc.**  
Application No.: **5532**  
Facility Cost: **\$3,500**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

# Tax Credit Review Report

EQC 0106

## Reclaimed Plastic Products

### Final Certification

ORS 468.451 -- 468.491

OAR 340-017-0010 -- 340-017-0055

### *Applicant Identification*

Organized as: **a corporation**

Business: **a plastic manufacturer**

Taxpayer ID: **93-1033851**

The applicant's address is:

**5486 SE International Way  
Milwaukie, OR 97222**

### *Facility Identification*

The certificate will identify the facility as:

**Nelmor 10x12 granulator, model  
G1012MI, serial number 97 06 1673**

The applicant is the owner of the facility  
located at:

**5486 SE International Way  
Milwaukie, OR 97222**

### *Technical Information*

The claimed facility is a scrap plastic granulator used to process scrap plastic into a size and shape for feeding into a plastic molding machine.

### *Eligibility*

- ORS 468.461 Any person may apply to the EQC for certification of an investment made to allow the
- (1) person to collect, transport or process reclaimed plastic, or to manufacture a reclaimed plastic product.

**Timeliness of Application**

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

<i>Preliminary Application Received</i>	<b>04/12/2000</b>
<i>Preliminary approval granted</i>	<b>04/12/2000</b>
<i>Date of investment</i>	<b>12/20/2001</b>
<i>Final application received</i>	<b>02/05/2001</b>

**Facility Cost**

Facility Cost	<b>\$3,500</b>
Eligible Facility Cost	<b>\$3,500</b>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices to substantiate the cost of the claimed facility.

**Facility Cost Allocable to Pollution Control**

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic, or the manufacture of reclaimed plastic product.

<b>Factor</b>	<b>Applied to This Facility</b>
<p>ORAR 340-017-0030 (2)(a) Extent used to convert reclaimed plastic into a salable or usable commodity.</p>	<p>The equipment is used 100% of the time for processing reclaimed plastic into a salable or useable commodity.</p>
<p>ORAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;</p>	<p>No alternative methods were considered.</p>
<p>ORAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.</p>	<p>No other factors were considered relevant.</p>

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

**Compliance and Other Tax Credits**

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility. Other tax credits issued to **Bowco Industries, Inc:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
5249	A Cincinnati Milacron (400 ton) injection molding machine -- serial number H04A0193004	\$105,000	4226	11/18/1999
5472	Mold to make duct terminator seal.	\$6,025	4432	12/01/2000
5473	Molds and accessories needed to make manhole steps from reclaimed plastic on a 300 ton molding press.	\$140,075	4433	12/01/2000

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Alan & Christine Bowdish**  
Application No. **5533**  
Eligible Facility Cost **\$204,232**  
Percentage Allocable **85%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **a Sole Proprietor**  
Business: **a Retail Gas Station & Store**  
Taxpayer ID: **519-66-3325**

The applicant's address is:

**P O Box 1349  
Lake Oswego, OR 97035-1349**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass-clad steel underground storage tanks (one has two compartments), doublewall fiberglass piping, spill containment basins, automatic tank gauge system, turbine leak detectors, overfill alarm, sumps, monitoring well, automatic shutoff valves, oil/water separator and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 9073** located at:

**19120 Willamette Drive  
West Linn, OR 97068-2021**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

- ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.
- OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>02/07/01</b>
<i>Construction Started</i>	<b>01/02/97</b>
<i>Construction Completed</i>	<b>06/30/00</b>
<i>Facility Placed into Operation</i>	<b>07/01/00</b>

**Facility Cost**

	<b>Claimed</b>	\$205,482
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$1,250)
	<b>Eligible</b>	<b>\$204,232</b>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Van Beek & Co., an independent CPA firm, performed an accounting review according to Department guidelines on behalf of the applicant.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$30,484. This is **15%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **85%** allocable.

**Compliance and Other Tax Credits**

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

Other tax credits issued to **Alan Bowdish, Inc.:**

App. #	Description of Facility	Certified Cost	% Allocable	Cert. #	Issue Date
3496	Recycling equipment for freon	\$3,000.00	100	2601	14-Jun-91
4822	New Tanks, Piping and Pollution Control Equipment. (Transferred from Alan Bowdish, Inc. to Mr. & Mrs. Alan Bowdish. Original issue on 11/21/97)	\$143,521.00	87	3825	Transferred 10/01/2000

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Simco Distributing, Inc.**  
Application No. **5534**  
Eligible Facility Cost **\$327,610**  
Percentage Allocable **99%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **an S Corporation**  
Business: **Retail Gas Station & Cardlock**  
Taxpayer ID: **93-0978327**

The applicant's address is:

**16531 NE Sandy Blvd.  
Portland, OR 97230**

### *Facility Identification*

The certificate will identify the facility as:

**Epoxy lining and impressed current cathodic protection on four steel underground storage tanks, doublewall fiberglass piping, spill containment basins, automatic tank gauge system, line leak detectors, sumps, automatic shutoff valves, oil/water separator and Stage II vapor recovery.**

The applicant is the owner of **DEQ Facility ID 4354** located at:

**16531 NE Sandy Blvd.  
Portland, OR 97230**

### *Technical Information*

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>02/07/01</b>
<i>Construction Started</i>	<b>12/01/98</b>
<i>Construction Completed</i>	<b>05/01/99</b>
<i>Facility Placed into Operation</i>	<b>06/01/99</b>

**Facility Cost**

	<b>Claimed</b>	\$328,427
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$817)
	<b>Eligible</b>	<b>\$327,610</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$1,640. This is **1%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **99%** allocable.

**Compliance and Other Tax Credits**

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

No other tax credits have been issued to the applicant.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Environmental Waste Systems, Inc.**  
Application No.: **5539**  
Facility Cost: **\$43,036**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

# Tax Credit Review Report

EQC 0106

## Pollution Control Facility: Solid Waste

### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

### *Applicant Identification*

Organized as: **a C corporation**  
Business: **a solid waste collection and  
recycling company**  
Taxpayer ID: **93-0938511**

The applicant's address is:

**P O Box 1002  
St. Helens, OR 97051**

### *Facility Identification*

The certificate will identify the facility as:

**One thousand forty nine 65-gallon  
recycling collection carts serial  
numbers 1153 to 2246**

The applicant is the owner of the facility  
located at:

**58597 Old Portland Rd.  
St. Helens, OR 97051**

### *Technical Information*

These carts are used to collect co-mingled recyclable materials from residential on-route collection service customers in the city of St. Helens and Columbia County. The recyclable materials are collected and delivered to a processing facility where they are sorted and subsequently sent to a recycling mill where they are converted into products of real economic value.

### *Eligibility*

ORS 468.155 The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial  
(1)(a) quantity of **solid waste**. These carts are used for collecting co-mingled recyclable  
material.



OAR 340-016-0025(g)(B) **Replacement:** These bins are used to provide a new and expanded service. These bins did not replace any other collection containers so there is no salvage value associated with them. The new bins did **not** replace any previously certified equipment.

ORS 468.155 (1)(b)(D) These containers are used to collect source separated recyclable material and are part of a process that recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>02/22/2001</b>
<i>Construction Started</i>	<b>03/29/1999</b>
<i>Construction Completed</i>	<b>01/18/2001</b>
<i>Facility Placed into Operation</i>	<b>01/18/2001</b>

***Facility Cost***

Facility Cost	<b>\$43,036</b>
Eligible Facility Cost	<b>\$43,036</b>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the claimed facility cost.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Environmental Waste Systems:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
5349	Nineteen 2-yard cardboard collection containers, model #635, serial #'s 149627 through 149632, 149836 through 149843, and 153575 through 153579	\$7,272.88	4291	2/10/2000
5362	One Excel EX62 horizontal baler	\$32,350	4325	5/17/2000
5364	One 1990 White Automated Recycling truck VIN 4VDAFAD8LN629142.	\$23,000	4326	5/17/2000
5403	Fifteen 2-yard rear load containers; serial numbers 163171 - 163175, 162430-162431, 158653-158655 and 156986-156990.	\$5,946.62	4346	5/17/2000
5404	One thousand one hundred fifty two 65-gallon roll carts serial numbers 1-1152	\$45,504	4347	5/17/2000

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **McCall Oil and Chemical Corp.**  
Application No. **5540**  
Facility Cost **\$70,466**  
Percentage Allocable **100%**  
Useful Life **10 years**

## Tax Credit Review Report

EQC 0106

### **Pollution Control Facility: Air Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **a C corporation**

Business: **a petroleum products transfer  
terminal**

Taxpayer ID: **93-0847365**

The applicant's address is:

**5480 NW Front Avenue  
Portland, OR 97210**

### ***Facility Identification***

The certificate will identify the facility as:

#### **Vapor Incineration System**

The applicant is the owner of the facility located at:

**5480 NW Front Avenue  
Portland, OR 97210**

### ***Technical Information***

The claimed facility is a vapor collection system that collects the petroleum vapors displaced during tanker truck fuel loading and a vapor incinerator that burns the vapors. Components of the vapor collection system include approximately 150 feet of 6" piping that transfer the vapors to the incinerator from the truck loading area. The incinerator system includes the incinerator, gas piping, control devices and associated electrical components. The incinerator is a John Zink open flame, smokeless, air assisted, elevated, hydrocarbon vapor combustion unit. It has a maximum combustor loading rate of 2,400 gpm

Prior to installation of the facility, approximately 1,712.6 pounds of displaced petroleum vapors were released directly to the atmosphere each month (20,551.2 lbs. annually). Chemicals released included: propane, n-butane, isobutane, butene, iso-pentane, pentane, n-pentane, and hexane. Based on an incinerator destruction efficiency of 95% for petroleum vapors, the incinerator reduces petroleum vapor emissions to about 85.6 lbs. per month (1,027.6 lbs. per year).

**Eligibility**

- ORS 468.155 (1)(a)(B) The **principal purpose** of this **new vapor collection system and incinerator installation** is to not to meet a requirement of the applicant's air permit..
- ORS 468.155 (1)(a)(B) The **sole purpose** of this **new incinerator installation** is to **reduce** a substantial quantity of air pollution.
- ORS 468.155 (1)(b)(B) The **reduction** is accomplished by the **elimination of air contaminants** and the use of an air cleaning device as defined in ORS 468A.005.
- ORS 468.155 (1)(a)(B) The **sole purpose** of this **new vapor collection system installation** is not to reduce, prevent, or control a substantial quantity of air pollution. The applicant's air permit states on page 2 of 3 "...although McCall Oil does not transfer gasoline, some trucks coming in to be loaded have previously held gasoline, and the displaced vapors during load-out created a potential safety hazard. The new (vapor collection system and thermal oxidation unit) was installed primarily for safety reasons."
- OAR 340-016-0060 (3)(k) **Replacement:** The vapor collection and incineration system does not replace a previously certified facility.

**Timeliness of Application**

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

<i>Application Received</i>	<b>03/05/2001</b>
<i>Construction Started</i>	<b>04/06/1999</b>
<i>Construction Completed</i>	<b>06/27/2000</b>
<i>Placed into Operation</i>	<b>07/01/2000</b>
<i>Application Complete</i>	<b>05/07/2001</b>

**Facility Cost**

<b>Claimed Cost</b>		<b>\$80,842</b>
<b>Ineligible Costs</b>		
<b>Vapor Handling System</b>		
Engineering Services	\$4,000	
Vapor piping & supports	\$2,937	
<b>Vapor Combustion Unit Options</b>	2,763	
<b>Unsubstantiated Costs</b>		
Software, Pacific Control	\$55	
Grout, Mason's Supply	\$17	
Epoxy-tie, Portland Fasteners	\$26	
Pipe fittings, Industrial Valve of OR	\$74	
Conduit Supplies, Consolidated Electrical	\$94	
Aluminum Shield, Branom Instruments	\$44	
Misc. Electrical, Crescent Electrical Supply	\$198	
Electrical Supplies, North Coast Electric	\$143	
Pipe fittings, Fluid Connector	\$25	
	<b>(\$10,376)</b>	
<b>Eligible Cost</b>		<b>\$70,466</b>

The facility cost was greater than \$50,000 but less than \$500,000. Merina, McCoy & Co., P.C. performed an accounting review according to Department guidelines on behalf of the applicant. Invoices substantiated most of the claimed facility cost. An estimated \$4,000 in Engineering costs were considered attributable to the vapor collection system and were therefore an ineligible cost.

***Facility Cost Allocable to Pollution Control***

The facility cost was greater than \$50,000. According to ORS 468.190 (1), the following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<b>Factor</b>	<b>Applied to This Facility</b>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable commodity.
ORS 468.190(1)(b) Return on Investment (ROI)	The useful life of the facility used for the ROI consideration is 10 years. Calculated according to rule, the percentage of the facility cost properly allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated, however three vendors bid on the project.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs were identified.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to the site:

- NPDES 1300-J permit # 54175, issued 1/11/00
- NPDES 500-J permit # 54175, issued: 8/29/00, expiration date: 7/31/2002
- Minimal Source Air Contaminant Discharge permit # 26-2596, issued 12/6/99

Other tax credits issued to **McCall Oil and Chemical Corp.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
873	Oily waste collection and oil separation and dock spill reclaim system	\$75,981	784	4/01/1977

Reviewer: Lois Payne, SJO Consulting Engineers  
Dennis Cartier, SJO Consulting Engineers  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **R.A. Brownrigg Inv. Inc.**  
Application No.: **5541**  
Facility Cost: **\$35,202**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

## Tax Credit Review Report

FOC 0106

### Pollution Control Facility: Solid Waste

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

#### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a solid waste collection and  
recycling company**  
Taxpayer ID: **93-0696744**

The applicant's address is:

**1300 SE Wilson Ave.  
Bend, OR 97702**

#### *Facility Identification*

The certificate will identify the facility as:

**Eight thousand five hundred 12-  
gallon recycling collection bins**

The applicant is the owner of the facility  
located at:

**1300 SE Wilson Ave.  
Bend, OR 97702**

#### *Technical Information*

These bins are used to collect source separated recyclable materials from residential on-route collection service customers in Deschutes County. The recyclable materials are collected and delivered to a processing facility where they are sorted and subsequently sent to a recycling mill where they are converted into products of real economic value.

#### *Eligibility*

ORS 468.155 The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of **solid waste**. These bins are used for collecting source separated recyclable material.

(1)(a)

- OAR 340-16-025(g)(B) **Replacement:** These bins are used to provide a new and expanded service. These bins did not replace any other collection containers so there is no salvage value associated with them. The new bins did **not** replace any previously certified equipment.
- ORS 468.155(1)(b)(D) These containers are used to collect source separated recyclable material and are part of a process that recovers material that would otherwise be solid waste as defined in ORS 459.005.

### ***Timeliness of Application***

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

<i>Application Received</i>	<b>03/08/2001</b>
<i>Construction Started</i>	<b>04/01/2000</b>
<i>Construction Completed</i>	<b>07/01/2000</b>
<i>Facility Placed into Operation</i>	<b>08/01/2000</b>

### ***Facility Cost***

Facility Cost	<b>\$35,202</b>
Eligible Facility Cost	<b>\$35,202</b>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices and canceled checks to substantiate the claimed facility cost.

### ***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

### ***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

EOC 0106

**Pollution Control Facility: Solid Waste**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

## *Applicant Identification*

Organized as: **a sole proprietor**

Business: **a solid waste collection  
company**

Taxpayer ID: **93-1262977**

The applicant's address is:

**PO Box 1629  
Florence, OR 97439**

Director's  
Recommendation: **APPROVE**

Applicant: **Central Coast Disposal**  
Application No.: **5542**  
Facility Cost: **\$36,070**  
Percentage Allocable: **100%**  
Useful Life: **8 years**

## *Facility Identification*

The certificate will identify the facility as:

**2500 recycling collection bins; one  
recycling compactor; 100 collection  
barrels; thirty 95 gallon collection  
carts; one recycling trailer; one 1974  
Kenworth truck, VIN 300974 one  
1982 Chevy s-10 pick-up with dump  
bed, VIN 1GCCS14B6C8133456; and  
one utility van, VIN  
1GDL7D1G2EV530455.**

The applicant is the owner of the facility  
located at:

**88282 Hwy 101  
Florence, OR 97439**

## *Technical Information*

The claimed trucks and containers are used to provide collection and processing of source separated recyclable materials collected from residential and commercial customers.

**Eligibility**

- ORS 468.155 (1)(a)(B) The **sole purpose** of the equipment is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for handling recyclable materials that are subsequently remanufactured into new products.
- OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to recycle source separated recyclable material. The new equipment did **not** replace any previously certified equipment.
- ORS 468.155 (1)(b)(D) The equipment is used to process recyclable material and is part of a process that recovers material that would otherwise be solid waste as defined in ORS 459.005.

**Timeliness of Application**

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

<i>Application Received</i>	<u>03/09/2001</u>
<i>Construction Started</i>	<u>03/01/1999</u>
<i>Construction Completed</i>	<u>06/01/1999</u>
<i>Facility Placed into Operation</i>	<u>05/24/1999</u>

**Facility Cost**

Facility Cost	<u>\$36,070</u>
Eligible Facility Cost	<u>\$36,070</u>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment.

**Facility Cost Allocable to Pollution Control**

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

**Compliance and Other Tax Credits**

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

No other tax credits have been issued to the applicant.

Reviewer: William R Bree, DEQ





State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5543**  
Facility Cost: **\$48,444**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

### Pollution Control Facility: Solid Waste

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

#### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

#### *Facility Identification*

The certificate will identify the facility as:

**First forming mold for 12 bottle  
stand-up wine pack**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

#### *Technical Information*

The claimed facility is a stainless steel wire vacuum forming mold used in a pulp vat to collect to shape recycled paper pulp into a partially formed molded wine bottle case insert. This piece of equipment is one part of the molded product manufacturing process.

#### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the vacuum mold is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/13/2001</b>
<i>Construction Started</i>	<b>02/19/1999</b>
<i>Construction Completed</i>	<b>08/31/1999</b>
<i>Facility Placed into Operation</i>	<b>08/31/1999</b>

***Facility Cost***

Claimed Facility Cost	<b>\$48,443</b>
Facility cost correction	\$42
Ineligible cost (discounts and tools)	<b>(\$41)</b>
Eligible Facility Cost	<b>\$48,444</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5544**  
Facility Cost: **\$49,263**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

### Pollution Control Facility: Solid Waste

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0050

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

### *Facility Identification*

The certificate will identify the facility as:

**Transfer mold #1 for 12 bottle stand-  
up wine pack**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

### *Technical Information*

The claimed facility is a stainless steel transfer mold used to transfer the partially molded recycled paper pulp product from the forming mold to the drying system. This piece of equipment is one part of the molded product manufacturing process.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the transfer mold is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/13/2001</b>
<i>Construction Started</i>	<b>03/26/1999</b>
<i>Construction Completed</i>	<b>09/30/1999</b>
<i>Facility Placed into Operation</i>	<b>09/30/1999</b>

***Facility Cost***

Facility Cost	<b>\$49,288</b>
Ineligible cost (discounts)	<b>(\$25)</b>
Eligible Facility Cost	<b>\$49,263</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5545**  
Facility Cost: **\$42,984**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

### *Facility Identification*

The certificate will identify the facility as:

**Forming mold #2 for 12 bottle stand-  
up wine pack**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

### *Technical Information*

The claimed facility is a stainless steel wire vacuum forming mold used in a pulp vat to collect and shape recycled paper pulp into a partially formed molded wine bottle case insert. This piece of equipment is one part of the molded product manufacturing process.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the vacuum mold is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/13/2001</b>
<i>Construction Started</i>	<b>06/30/1999</b>
<i>Construction Completed</i>	<b>12/31/1999</b>
<i>Facility Placed into Operation</i>	<b>12/31/1999</b>

***Facility Cost***

Facility Cost	<b>\$43,831</b>
Ineligible cost (discounts and tools)	<b>(\$847)</b>
Eligible Facility Cost	<b>\$42,984</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5546**  
Facility Cost: **\$47,496**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

# Tax Credit Review Report

EOC 0106

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

## *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

## *Facility Identification*

The certificate will identify the facility as:

**Transfer mold #2 for 12 bottle stand-  
up wine pack**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

## *Technical Information*

The claimed facility is a stainless steel transfer mold used to transfer the partially molded recycled paper pulp product from the forming mold to the drying system. This piece of equipment is one part of the molded product manufacturing process.

## *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the transfer mold is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/13/2001</b>
<i>Construction Started</i>	<b>07/31/1999</b>
<i>Construction Completed</i>	<b>02/29/2000</b>
<i>Facility Placed into Operation</i>	<b>02/29/2000</b>

***Facility Cost***

Facility Cost	<b>\$47,941</b>
Ineligible cost (discounts and tools)	<b>(\$445)</b>
Eligible Facility Cost	<b>\$47,496</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ





State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5547**  
Facility Cost: **\$34,396**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

### *Facility Identification*

The certificate will identify the facility as:

**One set of forming and transfer plates**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

### *Technical Information*

The claimed facility is one set of forming and transfer plates used to adapt and attach the transfer and forming molds to the molding machine. These plates are a separate piece of equipment from the molds and can be used with molds for other products. These plates are part of the molded product manufacturing process that recycles old newspaper and cardboard into molded packaging products.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the transfer plates is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/13/2001</b>
<i>Construction Started</i>	<b>06/30/1999</b>
<i>Construction Completed</i>	<b>04/07/2000</b>
<i>Facility Placed into Operation</i>	<b>04/07/2000</b>

***Facility Cost***

Facility Cost	<b>\$34,451</b>
Ineligible cost (discounts and tools)	<b>(\$55)</b>
Eligible Facility Cost	<b>\$34,396</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5548**  
Facility Cost: **\$19,595**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

### *Facility Identification*

The certificate will identify the facility as:

**One set of forming and transfer molds  
for "ReCreations" 6 and 7 Urn**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

### *Technical Information*

The claimed facility consists of stainless steel forming and transfer molds used to form a molded recycled paper pulp product and then transfer the partially formed product from the forming mold to the drying system. This piece of equipment is one part of the molded product manufacturing process.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the transfer mold is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and part of a  
(1)(b)(D) process that recovers material that would otherwise be solid waste as defined in ORS  
459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/15/2001</b>
<i>Construction Started</i>	<b>06/30/1999</b>
<i>Construction Completed</i>	<b>04/07/2000</b>
<i>Facility Placed into Operation</i>	<b>04/07/2000</b>

***Facility Cost***

Facility Cost	<b>\$19,595</b>
Ineligible cost (discounts)	<b>(\$0)</b>
Eligible Facility Cost	<b>\$19,595</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Western Pulp Products Co.**  
Application No.: **5549**  
Facility Cost: **\$43,885**  
Percentage Allocable: **100%**  
Useful Life: **7 years**

## Tax Credit Review Report

EOC 0106

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

### *Applicant Identification*

Organized as: **an S corporation**  
Business: **a molded paper products  
manufacturer**  
Taxpayer ID: **93-0469389**

The applicant's address is:

**P O Box 968  
Corvallis, OR 97339**

### *Facility Identification*

The certificate will identify the facility as:

**One set of forming and transfer molds  
for "ReCreations" 3-6 and 7-8 inch  
urn setups**

The applicant is the owner of the facility  
located at:

**5025 SW Hout Street  
Corvallis, OR 97339**

### *Technical Information*

The claimed facility is stainless steel forming and transfer molds used to form a molded recycled paper pulp product and then transfer the partially formed product from the forming mold to the drying system. This piece of equipment is part of the molded product manufacturing process.

### *Eligibility*

ORS 468.155 (1)(a)(B) The **sole purpose** of the molds is to prevent, control or reduce a substantial quantity of **solid waste**. This equipment is used for recycling old newspaper into molded paper products.

OAR 340-016-0025(g)(B) **Replacement:** This new equipment is used to manufacture a new product. The new equipment did **not** replace any previously certified equipment.

ORS 468.155 The equipment is used to process waste newspaper and waxed cardboard and is part of  
(1)(b)(D) a process that recovers material that would otherwise be solid waste as defined in  
ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>03/15/2001</b>
<i>Construction Started</i>	<b>09/03/1999</b>
<i>Construction Completed</i>	<b>03/31/2000</b>
<i>Facility Placed into Operation</i>	<b>03/31/2000</b>

***Facility Cost***

Facility Cost	<b>\$47,955</b>
Ineligible cost (discounts, tools, ineligible equipment)	<b>(\$4,075)</b>
Eligible Facility Cost	<b>\$43,885</b>

The facility cost does not exceed \$50,000. The applicant provided invoices and canceled checks to substantiate the cost for the claimed equipment. Discounts and purchased equipment used to install the facility are not eligible facility costs as defined in OAR 340-016-0070.

***Facility Cost Allocable to Pollution Control***

In accordance with ORS 468.190(3), since the facility cost does not exceed \$50,000, the only factor used in determining the portion of the claimed facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Western Pulp Products Co.:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
643	Treatment system which provides both primary clarification and secondary aeration to reduce suspended solids and BOD.	\$21,585	573	5/23/1975
5520	Asset 12160 - upgrade of #7 molding machine and transfer shaft.	\$45,065	4474	3/09/2001
5521	Three sets of new molds: Asset #12178 -- 2-bottle forming and transfer molds; Asset #12181 -- 3-bottle transfer mold; and Asset #12183 -- 2-bottle forming and transfer molds.	\$44,755	4475	3/09/2001

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Jensen Seed & Grain, Inc.**  
Application No. **5550**  
Facility Cost **\$95,663**  
Percentage Allocable **100%**  
Useful Life **10 years**

## Tax Credit Review Report

EQC 0106

### **Pollution Control Facility: Air Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **a C corporation**  
Business: **commercial grass seed cleaning**  
Taxpayer ID: **93-0637462**

The applicant's address is:

**387 E. Church  
Jefferson, OR 97352**

### ***Facility Identification***

The certificate will identify the facility as:

**LMC Baghouse Filter, Model 196-FSD-10  
with associated fan and motor; and dust  
vacuum system with two blowers**

The applicant is the owner of the facility located at:

**387 E. Church  
Jefferson, OR 97352**

### ***Technical Information***

The claimed facility is a pulse jet baghouse filter (LMC Model 196-FSD-10); an associated fan (LMC Model 300 BC/BAF) and motor; a dust vacuum system with two blowers; and associated air ducting. The baghouse, rated for 22,000 cfm, has 2,817 square feet of polyester filter media and an inlet grain loading capacity of 12 grains per cfm. The filter has a 99.99% efficiency rating for a 5-micron particle size and larger, and a 99.95% efficiency rating for 1-micron particle size and larger. The two blowers are rated for 60 HP and 7.5 HP.

Trucked-in seed is gravity dumped in a semi-enclosed building (open on one side) and pneumatically conveyed to storage areas or to one of three cleaning lines. Dust and screening particulate are removed from specific locations throughout the seed cleaning process and routed through the claimed ducting to the baghouse and then to a screening bunker. When the screening bunker is full, a local pellet mill picks up the waste. Screenings collected in the baghouse exceed 805.6 tons (1,611,130 pounds) per year.

The claimed facility conforms to BACT (Best Available Control Technology).

**Eligibility**

- ORS 468.155 (1)(a)(A)** The **principal purpose** of this **new baghouse** is to comply with the applicants air permit to control air pollution.
- ORS 468.155 (1)(b)(B)** The elimination of air contaminants is accomplished with the installed baghouse which meets the definition in ORS 468A.005 of an air cleaning device.
- ORS 468.155 (1)(a)(A)** Neither the **principal** nor **sole purpose** of the **new dust collection system** on the interior of the building is to comply with the applicant's air permit to reduce, prevent, or control air pollution. It's primary purpose is to convey the dust out of the work environment as required by OSHA. Apprioximately 50% of the ductwork; however, is located outside the building; therefore, 50% of the ductwork is eligible.
- OAR 340-016-0060 (3)(k)** **Replacement:** The new dust control system is not a replacement facility for tax credit purposes because the previous system was not certified as a pollution control facility. The new system replaced a system of four baghouses, four cyclones, associated dust exhaust duct and blowers used to control the truck dump area, storage areas, and cleaning lines. The previous baghouses were about 75% effective in containing dust emissions, the bags were not enclosed and had to be hand-cleaned resulting in further emissions.

**Timeliness of Application**

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

<i>Application Received</i>	<b>03/20/2001</b>
<i>Construction Started</i>	<b>01/1999</b>
<i>Construction Completed</i>	<b>07/1999</b>
<i>Placed into Operation</i>	<b>07/1999</b>

**Facility Cost**

<b>Claimed Cost</b>	<b>\$181,992</b>
<b>Ineligible Costs</b>	
<b>Interior Exhaust Ductwork</b>	<b>(\$86,329)</b>
<b>Eligible Cost</b>	<b>\$95,663</b>

The facility cost was greater than \$50,000 but less than \$500,000. The reviewers analyzed the facility cost; invoices substantiate 100% of the claimed facility cost. **Brenner & Company, LLP** performed an accounting review according to Department guidelines on behalf of the applicant.



***Facility Cost Allocable to Pollution Control***

The facility cost was greater than \$50,000. According to ORS 468.190 (1), the following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable commodity. Jensen does not receive money for the screenings picked up at the plant. In some cases they must pay to have the screenings picked up.
ORS 468.190(1)(b) Return on Investment (ROI)	The useful life of the facility used for the ROI consideration is 30 years. Calculated according to rule, the percentage of the facility cost properly allocable to pollution control is 100%.
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 were identified.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

***Compliance and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to the site:

Air Contaminant Discharge permit # 24-0007, issued 4/23/96

No other tax credits have been issued to the applicant.

Reviewer: Lois Payne, SJO Consulting Engineers  
Dennis Cartier, Associate, SJO Consulting Engineers  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant: **Bowco Industries, Inc.**  
Application No.: **5554**  
Facility Cost: **\$3,505**  
Percentage Allocable: **100%**  
Useful Life: **5 years**

# Tax Credit Review Report

EQC 0106

## Reclaimed Plastic Products

### Final Certification

ORS 468.451 -- 468.491

OAR 340-017-0010 -- 340-017-0055

## *Applicant Identification*

Organized as: **a corporation**

Business: **a plastic manufacturer**

Taxpayer ID: **93-1033851**

The applicant's address is:

**5486 SE International Way  
Milwaukie, OR 97222**

## *Facility Identification*

The certificate will identify the facility as:

**One set of four end piece molds for  
manufacture of a manhole step**

The applicant is the owner of the facility  
located at:

**5486 SE International Way  
Milwaukie, OR 97222**

## *Technical Information*

The claimed facility consists of a set of four end piece molds for a reclaimed plastic manhole step.

## *Eligibility*

ORS 468.461 Any person may apply to the EQC for certification of an investment made to allow the  
(1) person to collect, transport or process reclaimed plastic, or to manufacture a reclaimed  
plastic product.

**Timeliness of Application**

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

<i>Preliminary Application Received</i>	<b>11/15/2000</b>
<i>Preliminary approval granted</i>	<b>11/15/2000</b>
<i>Date of investment</i>	<b>02/15/2001</b>
<i>Final application received</i>	<b>03/23/2001</b>

**Facility Cost**

Facility Cost	<b>\$3,505</b>
Eligible Facility Cost	<b>\$3,505</b>

The facility cost does not exceed \$50,000. The applicant provided copies of the invoices to substantiate the cost of the claimed facility.

**Facility Cost Allocable to Pollution Control**

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic, or the manufacture of reclaimed plastic product.

<b>Factor</b>	<b>Applied to This Facility</b>
<p>ORAR 340-017-0030 (2)(a) Extent used to convert reclaimed plastic into a salable or usable commodity.</p>	<p>The equipment is used 100% of the time for processing reclaimed plastic into a salable or useable commodity.</p>
<p>ORAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;</p>	<p>No alternative methods were considered.</p>
<p>ORAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.</p>	<p>No other factors were considered relevant.</p>

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

**Compliance and Other Tax Credits**

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Bowco Industries, Inc:**

<b>App. #</b>	<b>Description of Facility</b>	<b>Certified Cost</b>	<b>Cert. #</b>	<b>Issue Date</b>
5249	A Cincinnati Milacron (400 ton) injection molding machine -- serial number H04A0193004	\$105,000	4226	11/18/1999
5472	Mold to make duct terminator seal.	\$6,025	4432	12/01/2000
5473	Molds and accessories needed to make manhole steps from reclaimed plastic on a 300 ton molding press.	\$140,075	4433	12/01/2000

Reviewer: William R Bree, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **H. H. Bear, Inc.**  
Application No. **5558**  
Eligible Facility Cost **\$115,473**  
Percentage Allocable **99%**  
Useful Life **10 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**  
Business: **Retail Gas Station**  
Taxpayer ID: **93-1144907**

The applicant's address is:

**2785 River Road  
Eugene, OR 97404**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass underground storage tanks, doublewall fiberglass piping, spill containment basins, automatic tank gauge system, line leak detectors, sumps and automatic shutoff valves.**

The applicant is the owner of DEQ Facility ID **1100** located at:

**Santa Clara Chevron  
2785 River Road  
Eugene, OR 97404**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>04/09/01</b>
<i>Construction Started</i>	<b>10/01/98</b>
<i>Construction Completed</i>	<b>04/12/99</b>
<i>Facility Placed into Operation</i>	<b>04/12/99</b>

**Facility Cost**

	<b>Claimed</b>	\$167,928
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$590)
	<b>Eligible</b>	<b>\$167,338</b>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Century Small Business Solutions, an independent CPA firm, performed an accounting review according to Department guidelines on behalf of the Applicant.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$13,939. This is **8%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **92%** allocable.

**Compliance and Other Tax Credits**

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

No other tax credits have been issued to the applicant.

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Hawk Oil Company**  
Application No. **5560**  
Eligible Facility Cost **\$86,206**  
Percentage Allocable **100%**  
Useful Life **5 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **a C Corporation**  
Business: **a Retail Gas Station**  
Taxpayer ID: **93-0670619**

The applicant's address is:

**P O Box 1388  
Medford, OR 97501-0103**

### *Facility Identification*

The certificate will identify the facility as:

**Epoxy lining and impressed current  
cathodic protection on three steel  
underground storage tanks, doublewall  
flexible plastic piping, spill containment  
basins, automatic tank gauge system, line  
leak detectors, overflow alarm, sumps and  
automatic shutoff valves.**

The applicant is the owner of **DEQ Facility ID  
2413** located at:

**Caveman Gas-4-Less  
104 NW Morgan Lane  
Grants Pass, OR 97526**

### *Technical Information*

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>04/19/01</b>
<i>Construction Started</i>	<b>10/12/98</b>
<i>Construction Completed</i>	<b>05/26/99</b>
<i>Facility Placed into Operation</i>	<b>05/27/99</b>

**Facility Cost**

	<b>Claimed</b>	\$87,093
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$887)
	<b>Eligible</b>	<b>\$86,206</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$410, which is less than 1%. Therefore, according to ORS 468.190(1), **100%** of the eligible facility cost is allocable to pollution control.

**Compliance and Other Tax Credits**

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

Other tax credits issued to **Hawk Oil Co.:**

App. #	Description of Facility	Certified Cost	% Allocable	Cert. #	Issue Date
1420	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$1,291.00	100	1270	09-Oct-81
1421	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$992.00	100	1271	09-Oct-81

1422	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$1,550.00	100	1272	09-Oct-81
1423	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,653.00	100	1273	09-Oct-81
1424	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,076.00	100	1274	09-Oct-81
1425	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$3,256.00	100	1275	09-Oct-81
1426	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$985.00	100	1276	09-Oct-81
1427	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,076.00	100	1277	09-Oct-81
1428	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$674.00	100	1278	09-Oct-81
4772	Installed five steel tanks; piping; spill and overfill prevention; and leak detection systems.	\$124,716.00	83	3794	22-Aug-97

Reviewer: Barbara J. Anderson, DEQ





State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Traugber Oil Company**  
Application No. **5561**  
Eligible Facility Cost **\$177,277**  
Percentage Allocable **89%**  
Useful Life **10 years**

## Tax Credit Review Report

EQC 0106

### **Pollution Control Facility: USTs**

#### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **an S Corporation**

Business: **a Retail Gas Station**

Taxpayer ID: **93-0671144**

The applicant's address is:

**P O Box 6869  
Bend, OR 97708**

### ***Facility Identification***

The certificate will identify the facility as:

**Two doublewall fiberglass underground storage tanks (one has two compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, line/turbine leak detectors, overfill alarm, sumps and automatic shutoff valves.**

The applicant is the owner of **DEQ Facility ID 9064** located at:

**Hwy 20 Chevron Amerimart  
2100 NE Hwy 20  
Bend, OR 97701**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>04/19/01</b>
<i>Construction Started</i>	<b>03/01/99</b>
<i>Construction Completed</i>	<b>05/01/99</b>
<i>Facility Placed into Operation</i>	<b>05/18/99</b>

**Facility Cost**

	<b>Claimed</b>	\$178,088
Less Ineligible Costs – Portion of tank gauge system used for inventory control, not for pollution control (10%).		(\$811)
	<b>Eligible</b>	<b>\$177,277</b>

The department approved the applicant’s request for a waiver of an independent accounting review because invoices or canceled checks were submitted to substantiate the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the following factor was considered in determining the percentage of the facility cost allocable to pollution control.

The cost of the portion of the bare steel tank and/or piping system without corrosion protection is \$19,689. This is **11%** of the eligible facility cost that is not allocable to pollution control leaving the remaining **89%** allocable.

**Compliance and Other Tax Credits**

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

Other tax credits issued to **Traughber Oil Co.:**

App. #	Description of Facility	Certified Cost	% Allocable	Cert. #	Issue Date
5436	Two singlewall fiberglass underground storage tanks, doublewall flexible plastic piping, spill containment basins, sumps, monitoring wells and automatic shutoff valves.	\$75,465.00	79	4414	12/01/2000

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **APPROVE**

Applicant **Hawk Oil Company**  
Application No. **5562**  
Eligible Facility Cost **\$33,219**  
Percentage Allocable **100%**  
Useful Life **7 years**

# Tax Credit Review Report

EQC 0106

## **Pollution Control Facility: USTs**

### **Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Organized as: **a C Corporation**

Business: **a Retail Gas Station**

Taxpayer ID: **93-0670619**

The applicant's address is:

**P O Box 1388**

**Medford, OR 97501-0103**

### ***Facility Identification***

The certificate will identify the facility as:

**Epoxy lining and impressed current cathodic protection on one steel underground storage tank, doublewall flexible plastic piping, spill containment basin, automatic tank gauge connection, line leak detector, sump and automatic shutoff valves.**

The applicant is the owner of **DEQ Facility ID 2424** located at:

**E & F Exxon**

**840 NE "F" Street**

**Grants Pass, OR 97526**

### ***Technical Information***

The applicant installed pollution control equipment to meet EPA requirements for underground storage tanks.

**Eligibility**

ORS 468.155 (1)(a) The **principal purpose** of this **installation** is to prevent, control or reduce a substantial quantity of air and water pollution. The claimed facility meets EPA requirements for underground storage tanks and the requirements under OAR Chapter 340, Division 150.

OAR-016-0025 (2)(g) Installation or construction of facilities which 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).

<i>Application Received</i>	<b>04/20/01</b>
<i>Construction Started</i>	<b>12/07/98</b>
<i>Construction Completed</i>	<b>05/25/99</b>
<i>Facility Placed into Operation</i>	<b>05/26/99</b>

**Facility Cost**

	<b>Claimed</b>	\$33,219
Less Ineligible Costs		(\$0)
	<b>Eligible</b>	<b>\$33,219</b>

The facility cost does not exceed \$50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

**Facility Cost Allocable to Pollution Control**

The facility cost does not exceed \$50,000. According to ORS 468.190(3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

**Compliance and Other Tax Credits**

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

Other tax credits issued to **Hawk Oil Co.:**

App. #	Description of Facility	Certified Cost	% Allocable	Cert. #	Issue Date
1420	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$1,291.00	100	1270	09-Oct-81
1421	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$992.00	100	1271	09-Oct-81
1422	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$1,550.00	100	1272	09-Oct-81
1423	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,653.00	100	1273	09-Oct-81
1424	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,076.00	100	1274	09-Oct-81

1425	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$3,256.00	100	1275	09-Oct-81
1426	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$985.00	100	1276	09-Oct-81
1427	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$2,076.00	100	1277	09-Oct-81
1428	EMCO Wheaton coaxial vapor return system installed on all gasoline storage tanks.	\$674.00	100	1278	09-Oct-81
4772	Installed five steel tanks; piping; spill and overfill prevention; and leak detection systems.	\$124,716.00	83	3794	22-Aug-97

Reviewer: Barbara J. Anderson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

EQC 0106

## Pollution Control Facility: Solid Waste

### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized As: **a C corporation**

Business: **Solid waste collection  
and recycling facility**

Taxpayer ID: **93-0422468**

The applicant's address is:

**P O Box 1  
Corvallis, OR 97339**

Director's  
Recommendation: **APPROVE**

Applicant: **Corvallis Disposal & Recycling Co.**

Application No.: **5563**

Facility Cost: **\$108,493**

Percentage Allocable: **100%**

Useful Life: **5 years**

### *Facility Identification*

The certificate will identify the facility as:

**One Freightliner Model # FL70 truck,  
serial number: 1FV6HFBA1XHB62590,  
and one Labrie Expert 2000 body, serial  
number L99101NGI**

The applicant is the owner of the facility located  
at:

**110 NE Walnut Blvd.  
Corvallis, OR**

### *Technical Information*

This truck is used solely to collect co-mingled recyclable materials from residential and commercial customers in the city of Corvallis and Benton County. The recyclables are collected and delivered to a processing facility where they are further sorted and subsequently sent to recycling mills where they are converted into products of real economic value.

### *Eligibility*

ORS 468.155 The **sole purpose** of this **new equipment** is to prevent, control, or reduce a  
(1)(a) substantial quantity of **solid waste**. This truck is used solely for collecting  
recyclable material.

- OAR 340-16-025(g)(B) **Replacement:** This truck replaces one older recycling collection truck. The older collection truck did not have tax credit certification from the Commission.
- ORS 468.155 (1)(b)(D) This truck is used to collect recyclable material and is part of a process that recovers material that would otherwise be solid waste as defined in ORS 459.005.

***Timeliness of Application***

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

<i>Application Received</i>	<b>04/24/01</b>
<i>Construction Started</i>	<b>01/10/99</b>
<i>Construction Completed</i>	<b>01/14/00</b>
<i>Facility Placed into Operation</i>	<b>01/17/00</b>

***Facility Cost***

Facility Cost	<b>\$129,493</b>
Salvage Value	<b>(\$21,000)</b>
Eligible Facility Cost	<b>\$108,493</b>

The facility cost exceeds \$50,000. The applicant requested a waiver of the independent accountant's statement. The applicant provided copies of the invoices for purchase of the truck and the salvage value of the old truck.

***Facility Cost Allocable to Pollution Control***

The facility cost exceeds \$50,000. According to ORS 468.190(1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

<b><u>Factor</u></b>	<b><u>Applied to This Facility</u></b>
ORS 468.190(1)(a) Salable or Usable Commodity	This truck is used to collect recyclable material that is subsequently processed into a salable and useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 5 years. The calculated average annual cash flow is negative therefore the percentage return on investment is 0%. The portion of cost allocable to pollution control is 100%.
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 and Other Tax Credits***

The facility is in compliance with Department rules and statutes and with EQC orders. There were no DEQ permits issued to this facility.

Other tax credits issued to **Corvallis Disposal Co.:**

App. #	Description of Facility	Certified Cost	Cert. #	Issue Date
4730	10 2-yard front load containers with lids for cardboard recycling, model # M73T, serial # 127674 to 127683	\$3,111.40	3756	06/05/1997
4738	20 2-yr & 5 4-yr front load containers with lids, model # M73T, serial # 130879-13888 & 130938-130947; 9 4-yr front load containers, model # M75T, serial # 130948-130957; 5 6-yr front load containers, model # M76T, serial # 130958-130962	\$13,851.00	3754	06/05/1997
4739	2 Vulcan on-board Scale systems for cardboard recycling collection trucks, model # R100, Epson computer model # M-H804AEW08, serial # 47F0001788.	\$17,874.00	3747	06/05/1997
4740	576 101-gallon Toter carts, model # 60501, serial # YW008206 - YW008782 and 100 90-gallon semi-automated TOTER carts, model # 74096, serial # Q71582-Q07168	\$43,199.00	3743	06/05/1997
4769	Kann Hi-Jacker 76" Side Dump Recycling Truck	\$78,783.00	3808	11/21/1997
4790	576 101-Gallon Toter Carts Model # 60501, Serial #'s YW008782-YW009357.	\$37,152.00	3813	11/21/1997
4791	Ten 2-yard Containers (Model #M73T, Serial #135077-135086); 20 4-yard Containers (Model #M75T, Ser. #13587-135096 & 139495-139504); 10 6-yard Containers (Model #M76T, Ser #135097-135106).	\$30,814.00	3814	11/21/1997
4819	One, Marathon TC-3 HD/HF Stationary Cardboard Compactor System, Serial #39854-W	\$12,483.00	3824	11/21/1997
4832	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.	\$18,478.00	3829	11/21/1997
4833	650 white recycling bags, 220 single-bag stands & 100 double-bag stands for collection of High-Grade paper from Businesses.	\$6,524.00	3830	11/21/1997
4917	Tractor-Trailer combination vehicle used for hauling recycled paper. 1996 Volvo Truck, model #WHR64, VIN #4V5KCDPF9TR725792 & Aluminum dump bed, model: Pioneer Lo-Pro & Pioneer 4-axle pup trailer.	\$158,201.00		Preliminary denied 04/03/1998
4952	8000 Red Recycling Bins	\$34,270.00	3921	06/11/1998



4953	864 95-Gallon Rehrig-Pacific Carts, serial #00001-00864	\$43,502.00	3922	06/11/1998
4954	576 101-Gallon Toter Carts, model #61001 & serial #YW009358-YW00993.	\$34,041.00	3923	06/11/1998
4970	Fifteen 2-yd model #M73T, eight 4-yd model #M75T, serial #142185-142189 & 3 unknown, and four 6-yd model #M76T, serial #142239 & 142240 & 2 unknown Front-load cardboard containers for recycling.	\$12,409.00	3931	06/11/1998
5027	Kann trough plastic compactor (48" wide) to replace 26" wide compactor on Volvo FE42 side load recycle truck	\$18,239.39	3990	09/18/1998
5032	Ten 1-yd self-dumping hopper style containers. One 30-yd SC style drop box with domed crank-up lid. one 40-yd newsprint style drop box, 30-yd newsprint style drop box.	\$24,647.00	3994	09/18/1998

Reviewer: William R Bree, DEQ

# *Attachment C*

## Denials

The Department recommends the Commission deny application number 5526, Willamette Industries, Inc., because the claimed facility does not accomplish a substantial reduction in noise pollution as defined by rule of the Environmental Quality Commission.



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

EQC 0106

## Pollution Control Facility: Noise Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **a C corporation**  
Business: **a particleboard manufacturer**  
Taxpayer ID: **93-0312940**

The applicant's address is:

**1300 SW 5<sup>th</sup> Ave., Suite 3800  
Portland, OR 97201**

Director's  
Recommendation:

**DENY  
Ineligible Facility**

Applicant	<b>Willamette Industries, Inc.</b>
Application No.	<b>5526</b>
<u>Claimed</u> Facility Cost	<b>\$46,689</b>
<u>Claimed</u> Percentage Allocable	<b>100%</b>
Useful Life	<b>7 years</b>

### *Facility Identification*

The applicant identified the facility as:

#### **Equipment Insulation and Sound Panels**

The applicant is the owner of the facility  
located at:

**KorPINE Particleboard  
55 SW Division  
Bend, OR 97702**

### *Technical Information*

The claimed facility includes the installation of the following component to reduce noise at the pulp mill:

- Insulation around the #1 sander bagfilter fans and ducting;
- An increase to the roof stack height on the negative air fan;
- Sound panels measuring 4' x 10' around the Bauer exhaust bag-filters; and
- Insulation around the high-pressure blower systems.

There were no documented complaints from neighboring businesses. The project is part of an ongoing effort to reduce noise in and around the pulp mill. Noise surveys were taken before (6/6/00) and after (6/22/00) noise reduction installations were complete. The following readings were taken at three locations along the noise sensitive property line:

<u>Location</u>	<u>6/6/00</u>	<u>6/22/00</u>	<u>Difference</u>
NW corner	71.3	69.2	2.1
SW corner	76.0	68.0	8.0
Sander dust bagfilter area	90.7	83.8	6.9

**Eligibility**

ORS 468.155 (1)(a)(B) The **principal purpose** of these **new sound barrier installations** is **not** to comply with the requirements of OAR 340 Division 35, Noise Control Regulations. OAR 340-035-0035(1)(a) and Table 7 provide allowable statistical noise levels in any one hour for existing industrial and commercial noise sources:

<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
L <sub>50</sub> - 50 dBA	L <sub>50</sub> - 50 dBA
L <sub>10</sub> - 60 dBA	L <sub>10</sub> - 55 dBA
L <sub>1</sub> - 75 dBA	L <sub>1</sub> - 60 dBA

The statistical noise level means the noise level which is equaled or exceeded a stated percentage of the time. An L<sub>10</sub> = 60 dBA implies that in any hour of the day 60 dBA can be equaled or exceeded only 10% of the time.

A reduction between 21 and 40 dBA would need to be achieved in order to meet the requirements of OAR 340-035-0035 fifty percent of the time at the KorPine facility. The applicant provided data that indicates the noise levels do not meet the requirements of OAR 340-035-0005.

ORS 468.155 (1)(a)(B) The **sole purpose** of these **new sound barrier installations** is **not** to reduce a substantial quantity of noise pollution. Average noise levels at the property line were reduced between 2 and 8dBA, which is not a significant reduction. The noise level reduction does not meet the requirements of OAR 340-035-0005 as adopted by the City of Bend.

ORS 468.155 (1)(b)(C) The noise pollution control is **not** accomplished by the substantial reduction as defined by rule of the Environmental Quality Commission.

**Timeliness of Application**

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

<i>Application Received</i>	<u>1/24/2001</u>
<i>Application Substantially Complete</i>	<u>3/22/01</u>
<i>Construction Started</i>	<u>12/21/1998</u>
<i>Construction Completed</i>	<u>8/3/2000</u>
<i>Facility Placed into Operation</i>	<u>8/3/2000</u>

**Facility Cost**

Claimed Facility Cost	<b>\$ 46,689</b>
Ineligible Facility Cost	<b>\$ 46,689</b>
Eligible Facility Cost	<u>          </u> <b>\$ 0</b>

The applicant did not provide an independent accounting review because the claimed cost was under \$50,000. Copies of invoices substantiated 100% of the claimed facility cost in the amount of \$46,689. Due to a math error on Exhibit D – Project Cost, the facility should have been \$55,139.

**Facility Cost Allocable to Pollution Control**

The facility cost exceeds \$50,000. According to ORS 468.190(1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. Not all of the required documentation was included in the original application to complete this portion of the review.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or usable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 7 years.
ORS 468.190(1)(c) Alternative Methods	No Alternatives were 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 and Other Tax Credits**

The applicant states the facility is in compliance with Department rules and statutes and with EQC orders. Permits issued to the applicant:

Title V, #09-0002, issued 12/6/99

Other tax credits issued to **Willamette Industries, Inc., KorPINE Division**:

App. #	Description of Facility	Certified Cost	Cert. #	Issue Date
5030	Sanderdust storage and utilization	\$38,614	3992	9/18/1998
4979	A Wellons Electrostatic Precipitator (ESP)	\$638,662	4389	12/01/2000
4906	Wastewater containment facility consisting of concrete retaining walls, isolation valves and associated plumbing	\$35,904	4295	12/20/1999
4590	Self-cleaning device for existing electromagnet	\$18,194	3625	7/12/1996
4350	Two Carter Day bagfilters	\$19,812	3502	9/29/1995
4336	Elgin crosswind GE recirculating air sweeper	\$50,951	3499	9/29/1995
3520	Armadillo, Model SW/9XT Riding power sweeper	\$27,663	2758	12/13/1991
3126	Carter Day bagfilter with pneumafil filters and ancillary equipment	\$103,295	2123	3/02/1990
3092	Metal building to house a drop box for sander dust	\$30,249	2513	6/14/1991
3083	EFB electrostatic precipitator to remove the	\$405,351	2512	6/14/1991

	particulate and hydrocarbons from the green dryer exhaust			
2536	Two pneumafil "Straight Fire Filters", model 11.5-162-12	\$260,498	2115	3/02/1990
2295	Pneumafil primary baghouse for the press cleanup air system	\$60,727	2006	12/09/1988
1888	Industrial sewers consisting of approximately 920 feet of 8 inch PVC pipe, 360 feet of 10 inch PVC pipe, concrete manholes, catch basins, and associated aggregate backfill material	\$86,877	1940	10/09/1987

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers  
Dennis Cartier, Associate, SJO Consulting Engineers  
Maggie Vandehey, DEQ

# Attachment D

## Rejections

The Department recommends the Commission reject two applications as presented in this attachment. The applicants failed to file a final Pollution Control Facilities Tax Credit Application within two years after substantial completion of construction of the pollution control facility. The recommendation:

1. Is based on ORS 468.165(6), which requires an application be filed within two years of the date of substantial completion of the pollution control facility.
2. Is consistent with the guidance document *Deadline for Filing*.
3. Is consistent with the Commission's action on previous applications including its *Findings of Fact, Conclusions of Law and Final Order* dated September 27, 2000.

The *Timeliness of Application* section on the second page of each Review Report includes the significant dates in the application record. The applicants would have to provide conclusive documentation that the date of substantial completion is within the two-year filing deadline for the Department to consider a different recommendation.

ORS 468.165(6) provides:

“The application [for a pollution control facilities certificate] shall be submitted after construction of the facility is substantially completed and the facility is placed in service and within two years after construction of the facility is substantially completed. Failure to file a timely application shall make the facility ineligible for tax credit certification.”

OAR 340-016-0010(11), the administrative rules adopted by the Commission, includes the following definition of substantial completion.

“Substantial Completion” means the completion of erection, installation, modification, or construction of all elements of the facility which are essential to perform its purpose.”

The term “purpose” refers to the “principal” or the “sole” pollution control purpose of the claimed facility under ORS 468.155, not the business purpose or other interest of the applicant.

The term “facility” as used in ORS 468.165(6) and OAR 340-016-0010(11) refers to the pollution control facility as defined in ORS 468.155(1)(a), not to be confused with an applicant's operations at a particular location.



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

EQC 0106

## Pollution Control Facility: Air

### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **a C corporation**

Business: **a grass seed cleaning facility**

Taxpayer ID: **93-0630602**

The applicant's address is:

**PO Box 820**

**Boardman, OR 97818**

Director's

Recommendation: **REJECT—untimely  
submittal.**

Applicant

**Barenbrug USA-  
Production, Inc.**

Application No. **5493**

Claimed Facility Cost **\$26,438**

Claimed Percent Allocable **100%**

Useful Life **10 years**

### *Facility Identification*

The applicant identified the facility as:

**A dust collecting system**

The applicant is the owner of the facility  
located at:

**Hwy 82, Milepost 9**

**Imbler, OR 97841**

### *Technical Information*

The claimed facility consists of:

- an AFS Model 215-D55CF dust collecting system,
- a 10-hp material handling fan,
- a feeder dump hood,
- a model MH84 84"-dia. Cyclone with adjustable weather cap and support stand,
- a model MH48 48"-dia. Cyclone with return air manifold and support stand, and
- a model HAL-8 8" rotary airlock.

This dust collecting system was installed to filter, collect, and contain particulate emissions created in the grass seed cleaning process. The applicant claimed the dust collection system prevents 99% of the particulate from contaminating the air. The filtered air is re-circulated into the warehouse for general air circulation. The particulate matter is blown through piping to a pellet mill where it is pressed into pellets for disposal.



**Eligibility**

ORS 468.155 (1)(a)(A) The **principal purpose** of this **new installation** is **not** to comply with a regulation imposed by DEQ, EPA or a RAPA.

ORS 468.155 (1)(a)(B) The **sole purpose** of this **new installation** is **not** to prevent, control or reduce a substantial quantity of air pollution. The applicant stated that without the system, the working environment would be very dusty, causing concerns for the health and safety of the employees.

**Timeliness of Application**

The Department requested documentation to substantiate the construction completion and placed into operation dates of the claimed facility because invoices indicate construction was completed on 8/2/98. The applicant did not respond to the request for additional information; therefore, the Department does not have adequate information to consider this application as filed timely as required in ORS 468.165 (6).

<i>Application Received</i>	<b>10/31/00</b>
<i>Additional Information Requested</i>	<b>1/9/01</b>
<i>Claimed Construction Started</i>	<b>8/98</b>
Last Invoice Date	<b>8/2/98</b>
<i>Claimed Construction Completed</i>	<b>11/1/98</b>
<i>Claimed Placed into Operation</i>	<b>11/1/98</b>

**Facility Cost**

Facility Cost **\$26,438**

The facility cost does not exceed \$50,000. An independent accounting review was not required. Staff did not complete a facility cost analysis.

**Facility Cost Allocable to Pollution Control**

The facility cost does not exceed \$50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control.

**Compliance and Other Tax Credits**

The applicant states the facility is in compliance with Department rules and statutes and with EQC orders. No other DEQ permits have been issued to this facility.

Other tax credits issued to **Barenbrug USA-Production, Inc.:**

App. #	Description of Facility	Facility Cost	Cert. #	Issue Date
3808	Grass Seed Cleaning Line with Dust Control	\$49,107	3199	10/29/1993
5210	Baghouse Dust Control System	\$93,376	4298	5/17/2000

Reviewers: Dannelle Aleshire, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

Director's  
Recommendation: **REJECT—Untimely Submittal**

Applicant	<b>Georgia-Pacific Corporation</b>
Application No.	<b>5519</b>
<u>Claimed</u> Facility Cost	<b>\$303,495</b>
<u>Claimed</u> Percentage Allocable	<b>100%</b>
Useful Life	<b>10 years</b>

## Tax Credit Review Report

EOC 0106

### Pollution Control Facility: Air

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Organized as: **a C corporation**

Business: **a paper products manufacturer**

Taxpayer ID: **58-2142537**

The applicant's address is:

**Toledo Pulp and Paper Operations  
1 Butler Bridge Rd.  
Toledo, OR 97391**

### *Facility Identification*

The applicant identified the facility as:

**Foul condensate removal system**

The applicant is the owner of the facility  
located at:

**1 Butler Bridge Rd.  
Toledo, OR 97391**

### *Technical Information*

The claimed facility consists of a foul condensate removal system. The system removes foul condensates from the sealed sewer and discharges them into the effluent treatment lagoon through a submersed diffuser system.

### *Eligibility*

ORS 468.155 The applicant claimed the **sole purpose** of this **new installation** is to prevent a  
(1)(a) substantial quantity of air pollution.

ORS 468.155 The applicant claimed the **prevention** is accomplished by the elimination of air  
(1)(b)(B) pollution and the use of an air cleaning device as defined in ORS 468A.005.

***Timeliness of Application***

The Department is not able to assure the Commission that the applicant filed the application within the timing requirements at ORS 468.165 (6). The Department requested additional information to support the construction completion and placed into operation dates. The applicant responded they were not able to substantiate the construction completion date of 12/30/1998.

<i>Application Received</i>	<u>12/29/2000</u>
<i>Additional Information Requested</i>	<u>01/09/2001</u>
<i>Additional Information Received</i>	<u>03/12/2001</u>
<i>Construction Started</i>	<u>05/15/1998</u>
<i>Construction Completed</i>	<u>12/30/1998</u>
<i>Facility Placed into Operation</i>	<u>12/31/1998</u>

***Facility Cost***

Facility Cost	<u>\$303,495</u>
Eligible Facility Cost	<u>\$303,495</u>

The facility cost was greater than \$50,000 but less than \$500,000. Therefore, Arthur Andersen, LLP, performed an accounting review according to Department guidelines on behalf of the applicant. The reviewers did not perform a facility cost analysis.

***Facility Cost Allocable to Pollution Control***

The facility cost was greater than \$50,000. According to ORS 468.190 (1), the following factors were considered in determining the percentage of the facility cost allocable to pollution control.

<u>Factor</u>	<u>Applied to This Facility</u>
ORS 468.190(1)(a) Salable or Usable Commodity	No salable commodity.
ORS 468.190(1)(b) Return on Investment (ROI)	The useful life of the facility used for the ROI consideration is 20 years. Calculated according to rule, the percentage of the facility cost properly allocable to pollution control is 100%.
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 were identified.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

***Compliance and Other Tax Credits***

The applicant claims the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

DEQ approved the proposed plans on May 12, 1998, File No. 32947, US-EPA No. OR000134-1.


Reviewers: Maggie Vandehey, DEQ  
Dannelle Aleshire, DEQ

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** May 28, 2001

**To:** Environmental Quality Commission

**From:** Mikell O'Mealy, Assistant to the Commission 

**Subject:** Agenda Item H, Discussion Item: Development of Performance Appraisal Process for Director, June 22, 2001 EQC Meeting

**Purpose** Commissioners discuss development of a formal performance appraisal process for the Director, considering an example from another agency and specific information about the DEQ Director's position.

**Examples** Few examples of appraisal criteria or process exist in Oregon. A recent survey by the Department of Land Conservation and Development (DLCD) found no examples of formal appraisal processes for state agency directors hired by public Boards or Commissions. The Governor, in hiring agency directors, is not required to establish evaluation criteria or process, and does not regularly hold formal evaluations of, or formally participate in evaluations of agency directors.

DLCD is developing a framework for Land Conservation and Development Commission appraisal of the Director (Attachment B provides a summary). This framework was based mainly on the Director's position description and an appraisal example from local government.

**DEQ Director** The EQC identified values and skills to guide the DEQ Director's performance of specific duties in its year 2000 recruitment. Attachment A summarizes specific responsibilities of the Director and provides the Director's position description.

**Director's Suggestion** The EQC asked the Director to provide input in development of a formal performance appraisal process. Attachment C provides the Director's suggestion.

**EQC Discussion** Items for discussion at this meeting could include:

- Appraisal Process – What process would facilitate collaborative EQC evaluation; provide formal or informal roles for the Director, Governor and others; and produce productive dialog and valuable feedback?
- Criteria – What criteria accurately reflect the Director's role and responsibilities?

Agenda Item H: Development of Performance Appraisal Process for Director,  
June 22, 2001 EQC Meeting  
Page 2 of 2

- Timing – How frequently should performance appraisal occur, and how might participants prepare for the appraisal event?

**Next Steps** Provide direction to staff for development of performance appraisal framework for future EQC consideration.

**Attached**

- A. Recruiting the DEQ Director and Director's Position Description
- B. Example Performance Appraisal: DLCD Director
- C. Director's Suggestion for Performance Appraisal

Report Prepared By: Mikell O'Mealy  
Assistant to the Commission

Phone: (503) 229-5301

## Recruiting the DEQ Director

*The Environmental Quality Commission identified values and skills to guide the Director's performance of specific duties in its year 2000 recruitment. These are summarized below to facilitate development of a performance appraisal process.*

### Values

The values which guide the work of the Director include

- Environmental Results
- Customer Service
- Partnership
- Excellence and Integrity
- Employee Growth
- Teamwork and Diversity

### Skills

The Commission sought a Director with the ability to provide leadership in areas of innovation, partnering and problem solving approaches.

### Duties

#### Program Administration and Direction

- Directs development and implementation of strategic environmental plans
- Directs programs in compliance with law and in collaboration with EQC and senior staff
- Forecasts impact of state and federal legislation
- Negotiates with EPA to carry out federal laws and receive federal funds
- Levies civil and criminal penalties under authority delegated by EQC
- Enforces state and federally-delegated environmental laws, seeking voluntary cooperation

#### Agency Management and Administration

- Directs development and implementation of strategic agency budget
- Maintains knowledge of local and national issues to make recommendations to EQC
- Guides and leads agency staff through formal and informal communications
- Directs agency affirmative action plans, employee safety, and quality work-force recruitment
- Directs agency performance improvements, efficiencies and responsiveness to citizens

#### External and Outreach

- Maintains rapport with Legislature, congressional delegation, media, agency directors and stakeholders for successful partnerships
- Promotes environmental and agency awareness to public, customers and stakeholders
- Reports regularly to EQC, Governor and DAS Director (as appropriate)

#### Supervision

- Plans, assigns and approves employee work, appraises performance, disciplines and rewards
- Directs investigation and resolution of complaints
- Directs management of employee recruitment and hiring
- Directs employee training to ensure staff preparation and opportunities for development
- Handles personnel issues expeditiously according to procedures and agreements

STATE OF OREGON

This position is:

DEPARTMENT OF ENVIRONMENTAL QUALITY

- Mgmt Service-Supervisory
- Mgmt Service-Managerial
- Mgmt Service-Confidential
- Classified
- Unclassified
- Executive Service

POSITION DESCRIPTION

New  Revised

SECTION 1. POSITION INFORMATION

- a. Class Title: Principal Executive/Manager H      b. Class No.: Z7014      d. Position No.: 0001
- c. Effective Date:
- e. Working Title: Director
- f. Work Unit: Office of Director
- g. Agency No.: 34000      h. Agency Name: Department of Environmental Quality
- i. Employee Name:
- j. Work Location (City-County): Portland/Multnomah

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- k. Position:  Permanent       Seasonal       Limited Duration       Academic Year
  - Full Time       Part Time       Intermittent       Job Share
- 

- l. FLSA:  Exempt     Non-Exempt      If Exempt:  Exec.     Prof     Admin.
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SECTION 2. PROGRAM/POSITION INFORMATION

- a. Describe the program in which this job exists. Include program purpose, who's affected, size, and scope. Include relationship to agency mission.

The purpose of the Department of Environmental Quality is to be an active leader in restoring, enhancing and maintaining the quality of , Oregon's air, water and land. The Department has approximately 800 positions and a total operating budget of 153.3 million dollars.

- b. Describe the purpose of this position, and how it functions within this program, by completing this statement:  
**The purpose of this job/position is to . . .**

administer and enforce laws regulating air, water, and land pollution; administer authorities delegated by U. S. Environmental Protection Agency (EPA) including the Clean Air, Clean Water and Resource Conservation and Recovery Acts; administer state statutes including solid waste management, recycling, and environmental cleanup; serve as a member of the Governor's cabinet; and assist Assistant to the Governor for Natural Resources in efforts to coordinate Natural Resource Agencies.

### SECTION 3. DESCRIPTION OF DUTIES

List major duties. Note percentage of time duties are performed. If this is an existing position, mark "N" for new duties or "R" for revised duties.

% of Time	N/R	DUTIES
30%		<b><u>I. PROGRAM ADMINISTRATION/DIRECTION</u></b>
*	a.	Directs the development and implementation of Department strategic environmental plans and directions to protect, maintain and enhance Oregon's water, air and land.
*	b.	Develops, implements, evaluates the agency's programs assuring compliance with state/federal laws and regulations, in collaboration with senior staff and Environmental Quality Commission.
*	c.	Monitors, through subordinate staff, state and federal legislation, forecasting impact on agency programs and operations.
*	d.	Negotiates, in collaboration with Division Administrators, with U. S. Environmental Protection Agency (EPA) for Oregon to carry out federal laws on air and water pollution & hazardous waste management and to receive federal moneys.
*	e.	Levies civil and criminal penalties under authority delegated by the Commission which hears appeals from such penalties.
*	f.	Enforces environmental laws of the state, and of the federal government where delegation has occurred, including seeking voluntary cooperation; and administer the directives of the Commission in regulating the discharge of pollutants and disposal of wastes.
45%		<b><u>II. AGENCY MANAGEMENT/ADMINISTRATION</u></b>
*	a.	Develops, through subordinate managers, the agency biennial budget request, implementing the agency's strategic planning goals through this mechanism. Presents the Governor's Recommended Budget to the Legislative Ways & Means Committee, explaining how it achieves goals & describing results of particular portions of the budget when implemented or if not implemented. Implements & manages, through subordinate managers, the agency legislatively-approved budget to achieve goals.
*	b.	Maintains sufficient knowledge of environmental issues locally & nationally & in sufficient technical depth to allow for reasoned policy/administrative rules recommendations to Environmental Quality Commission (EQC) (membership in professional assoc., through trade journals, conferences)
*	c.	Provides guidance & leadership on a regular basis to DEQ Mgmt. & staff through "brown baggers" & through electronic communication, at Natural Resource Agency meetings, and at State agency overall policy development meetings.
*	d.	Provides direction/implementation, through subordinate managers, of agency affirmative action plans, employee safety activities, & plans to attract/retain/manage a diverse, well-trained work force
*	e.	Encourages/implements, in collaboration with senior staff, mgmt. improvements to the agency such as span of control, responsiveness to citizens, efficiencies & improvements to agency performance.
15%		<b><u>III. EXTERNAL/OUTREACH</u></b>
*	a.	Anticipates issues and maintains rapport with the Oregon Legislature, Oregon's congressional Delegation, editorial boards of newspapers in Oregon, directors of state and federal agencies, and special interest groups to assure DEQ the best opportunity for success in receiving resources and support for environmental programs.
	b.	Promotes awareness of environmental issues and agency programs to the public and the regulated community through public informational meetings, public hearings, and the media.
	c.	Reports regularly to the Chairman of the Environmental Quality Commission, as well as providing a Director's report to the EQC at their meetings scheduled every six weeks. Reports, along with other natural resource agency directors, to Governor's Natural Resources assistant, Reports, on appropriate topics, to the Director of the Dept. of Administrative Services.
10%		<b><u>IV. SUPERVISION</u></b>
*	a.	Plans, assigns and approves work, including developing, implementing and updating position descriptions and work plans.
*	b.	Prepares annual performance appraisal and discusses with employee; recommends appropriate personnel actions. Disciplines/rewards staff according to policy & collective bargaining agreement.
*	c.	Directs the investigation, responds and facilitates resolution of grievances and complaints.
*	d.	Directs the management of recruitment in interviewing, reference checking, and makes hiring decisions in accordance with agency policy, goals and programs such as affirmative action, injured worker, and employment laws.



**IV. SUPERVISION (Continued)**

- \* e. Evaluates and implements unit training needs to ensure staff are prepared to perform assigned duties including evaluation and creation of opportunities for staff development.
- \* f. Handles personnel issues expeditiously according to procedures & collective bargaining agreement.

\*Indicates essential function. Regular, consistent & punctual attendance is an essential function of all positions at DEQ.

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**SECTION 4. WORKING CONDITIONS**

Describe special working conditions, if any, that are a regular part of this job. Include frequency of exposure to these conditions.

Involves substantial travel in-state and nationally to attend meetings and conferences. Extended work hours.

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**SECTION 5. GUIDELINES**

- a. List any established guidelines used to do this job, such as state or federal laws or regulations, policies, manuals or desk procedures.

Oregon Revised Statutes and Oregon Administrative Rules  
Collective Bargaining Agreement  
EPA guidelines, rules, policies, procedures  
Employment laws, policies and procedures  
Agency administrative policies and procedures

- b. How are these guidelines used to perform the job?

Used to provide direction in leading the Department, faithful to the Commission's directives and the best environmental actions.

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**SECTION 6. WORK CONTACTS**

With whom outside of co-workers in this work unit must this position regularly come in contact?

<u>Who Contacted</u>	<u>How</u>	<u>Purpose</u>	<u>How Often?</u>
Agency Management Staff	in person/phone/e-mail	Direct activities, answer questions	daily
Agency employees	"	"	daily
Other Agency Directors	in person/phone/mail	share information	daily
Legislature	in person	present programs/answer questions	as needed
Governor	in person/phone	share information/answer questions	as needed
Other governments	in person/phone/mail	share information	as needed
Public/media	in person/phone	provide info./promote agency programs	as needed
EQC	in person/phone	report on activities	as needed

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**SECTION 7. JOB-RELATED DECISION MAKING**

Describe the kinds of decisions likely to be made by this position. Indicate effect of these decisions where possible.

Makes all leadership decisions related to the operation of the Dept. Makes decisions which have long term effects on Oregon's livability, healthy environment & valued resources. Selects all senior management staff in Dept.

**SECTION 8. REVIEW OF WORK**

Who reviews the work of this position? (List classification title and position number.) How? How often? Purpose of the review?

The Director reports to, and is appointed by, a five-member policy and administrative commission. The Commission is appointed by the Governor. Informally, the Director also reports to the Governor, through the Governor's Assistant for Natural Resources and the Director of the Department of Administrative Services.

**SECTION 9. SUPERVISORY DUTIES TO BE COMPLETED ONLY FOR POSITIONS IN MANAGEMENT SERVICE**

a. How many employees are directly supervised by this position? 14 Through Subordinate Supervisors? 600+

b. Which of the following supervisory/management activities does this job perform?

- Plans Work
- Responds to Grievances
- Hires/Fires (or Effectively Recommends)
- Assigns Work
- Disciplines/Rewards
- Prepares and Signs Performance Appraisals
- Approves Work

**SECTION 10. ADDITIONAL JOB-RELATED INFORMATION**

Any other comments that would add to an understanding of this position:

SPECIAL REQUIREMENTS: List any special mandatory recruiting requirements for this position:

BUDGET AUTHORITY: If this position has authority to commit agency operating money, indicate in what area, how much (biennially) and type of funds:

Agency budget

**SECTION 11. ORGANIZATIONAL CHART**

Attach a current organizational chart. See instructions for detail to be included on the chart.

Employee Signature	Date	Supervisor Signature	Date

Appointing Authority Signature	Date

## **Example Performance Appraisal: DLCD Director**

*The Land Conservation and Development Commission is in the process of developing a formal performance appraisal process for the DLCD Director. This summarizes the emerging LCDC appraisal as an example for EQC consideration.*

### **Evaluation of Leadership**

Commissioners evaluate Director's leadership in the following categories.  
(Written description; in Commissioners' own words)

- Strategic Priorities
- Skills and Abilities
- Relationships
- Managing for the Future
- Policy Implementation
- Assures Department compliance with applicable Oregon Statutes

### **Scoring Performance related to Department Priorities**

Commissioners score Director's performance on the following Department priorities.  
(Evaluation form provided)

- Public Involvement
- Regional and Local Problem Solving
- Rural Growth Management
- Economic Development
- Natural and Cultural Resources
- Agricultural and Forest Land
- Coastal Communities

### **Scoring Management Skills and Abilities**

Commissioners score Director's skills and abilities related to Department management.  
(Evaluation form provided)

### **Scoring Overall Performance**

Commissioners score Director's overall performance regarding Department policies and statutory duties.  
(Evaluation form provided)

<b>PERFORMANCE</b>	<b>PLEASE CIRCLE ONE</b>
<u>PUBLIC INVOLVEMENT</u> 1. Evidence of improved citizen involvement in all phases of the planning process. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
<u>REGIONAL AND LOCAL PROBLEM SOLVING</u> 2. Evidence of improvement in resolution of regional land use and management problems, recognition of regional differences within the state and improved relationships between state and local governments. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
<u>RURAL GROWTH MANAGEMENT</u> 3. Evidence of fair and reasonable regulations and enforcement of existing regulations; as well as development of additional processes to address major concerns of the public. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
<u>ECONOMIC DEVELOPMENT</u> 4. Evidence of improved DLCD coordination of land use and economic development services and state community development resources to small cities and rural communities in order to achieve the state's growth management objectives. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0

<b>PERFORMANCE</b>	<b>PLEASE CIRCLE ONE</b>
<p><u><b>NATURAL AND CULTURAL RESOURCES</b></u></p> <p>5. Evidence of program development and implementation to improve protection of riparian for the preservation of salmon and steelhead habitat and improved systems for protection of life and property from natural disasters and hazards.</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>	<p>Excels 5</p> <p>Exceeds Expectations 4</p> <p>Meets Expectations 3</p> <p>Needs Improvement 2</p> <p>Unsatisfactory 1</p> <p>Do not know 0</p>
<p><u><b>AGRICULTURAL &amp; FOREST LAND</b></u></p> <p>6. Evidence of movement toward more effective statutes and rules to protect agricultural and forest lands and better public understanding of Oregon's agricultural and forest land protection efforts.</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>	<p>Excels 5</p> <p>Exceeds Expectations 4</p> <p>Meets Expectations 3</p> <p>Needs Improvement 2</p> <p>Unsatisfactory 1</p> <p>Do not know 0</p>
<p><u><b>COASTAL COMMUNITIES</b></u></p> <p>7. Evidence of decreased development in hazardous areas, improved visual quality of coastal communities and improved local planning decisions due to DLCD consultation.</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>	<p>Excels 5</p> <p>Exceeds Expectations 4</p> <p>Meets Expectations 3</p> <p>Needs Improvement 2</p> <p>Unsatisfactory 1</p> <p>Do not know 0</p>
<p>8. Evidence of ... [priority from Goal Setting]</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>	<p>Excels 5</p> <p>Exceeds Expectations 4</p> <p>Meets Expectations 3</p> <p>Needs Improvement 2</p> <p>Unsatisfactory 1</p> <p>Do not know 0</p>

<b>Skills and Abilities</b>	PLEASE CIRCLE ONE
1. Effectively Supervises the activities of all divisions through subordinates. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
2. Provides effective internal leadership to department employees. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
3. Effectively represents the Department of Land Conservation and Development in the governor's office, before the legislative and executive branches of state government and the general public. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
4. Effectively develops, presents and manages the agency's budget ensuring that all applicable procedures are followed throughout the department. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0
5. Fulfills the Agency's role of representation on various governmental policy advisory committees. Comments: _____ _____ _____	Excels 5 Exceeds Expectations 4 Meets Expectations 3 Needs Improvement 2 Unsatisfactory 1 Do not know 0

<p><b>OVERALL PERFORMANCE:</b></p>	<p>Excels 5</p>
<p>Fulfills the purpose of the position to implement the policies of the Land Conservation</p>	<p>Exceeds Expectations 4</p>
<p>Development Commission (LCDC) and carry out the duties of the department as defined by</p>	<p>Meets Expectations 3</p>
<p>ORS 197.</p>	<p>Needs Improvement 2</p>
<p>Comments: _____</p>	<p>Unsatisfactory 1</p>
<p>_____</p>	<p>Do not know 0</p>
<p>_____</p>	
<p>_____</p>	

## Director's Suggestion for Performance Appraisal

### Evaluation Process

#### Timing

- Minimum of once per biennium; could be annual

#### Preparation

- Director provides EQC one to two page written summary of key accomplishments and deficiencies
- EQC makes contacts outlined below; envisioned as brief telephone conversations; no lengthy checklists
- Executive session meeting with Director

#### Results

- Written evaluation to the Governor with compensation and/or performance improvement recommendations if appropriate
- If deficiencies noted in any area, establish expectations for improvement and evaluate in 6 months

### Criteria for Evaluation

- Satisfaction of Governor's office
- Satisfaction of stakeholders
- Effectiveness with state/federal partners/peers
- Effectiveness in management of agency
- Satisfaction of Environmental Quality Commission

#### Satisfaction of Governor's Office

- Chair or designee contacts Governor or Chief of Staff and Governor's Natural Resource Policy Advisor
- Chair or designee contacts Director, Department of Administrative Services
- Brief write up of results

#### Satisfaction of Stakeholders

- Each EQC member contacts their legislative representatives
- Each EQC member contacts two representatives of stakeholder groups
- Brief write ups of results

#### Effectiveness with state/federal partners/peers

- Chair contacts EPA Region 10 Administrator
- Four Commissioners each contact a Director from one key agency DEQ deals with
- Brief write ups of results



Effectiveness in Management of the Agency

- Chair meets with Executive Management Team for confidential discussion of Director performance
- Chair meets with agency union representatives for confidential discussion of Director performance
- Brief write up of results

Satisfaction of Environmental Quality Commission

- Review and discuss Director's self-evaluation
- Review and discuss write ups from various contacts
- Review and discuss quality of materials and presentations to EQC by DEQ
- Discuss quality and timeliness of EQC involvement in key policy issues
- Identify expectations and areas of importance for upcoming evaluation period

Minutes are not final until approved by the EQC

## **Environmental Quality Commission Minutes of the Two Hundred and Ninety-Fifth Meeting**

**May 3-4, 2001  
Regular Meeting**

On May 3 and 4, 2001, the Environmental Quality Commission (EQC) held a regular meeting at the Department of Environmental Quality, Room 3A, 811 SW Sixth Avenue, Portland, Oregon. The following Environmental Quality Commission members were present:

Melinda Eden, Chair  
Tony Van Vliet, Vice Chair  
Mark Reeve, Member  
Deirdre Malarkey, Member  
Harvey Bennett, Member

Also present were Larry Knudsen and Larry Edelman, Oregon Department of Justice (DOJ); Stephanie Hallock, Director, Department of Environmental Quality (DEQ); and other DEQ staff.

Note: Staff reports and written material submitted at the meeting are made part of the record and available from DEQ, Office of the Director.

Chair Eden called the meeting to order at 1:30 p.m. on May 3, 2001. Agenda items were taken in the following order.

### **A. Action Item: Contested Case No. WMC/SW-HQ-98-143 regarding Northwest Plastics Recovery, Inc.**

Larry Edelman, DOJ, presented the appeal from Northwest Plastics Recovery, Inc., of a March 3, 2000 Hearing Order finding the company liable for a civil penalty of \$800 for failing to submit a 1997 Oregon Material Recovery Survey to DEQ. Larry Knudsen, DOJ, asked Commissioners to declare any ex parte contacts or conflicts of interest regarding this case. Commissioners declared none.

Eric Norton, representing Northwest Plastics Recovery, Inc., summarized exceptions to findings of the Hearing Order, including: (a) Northwest Plastics Recovery violated the requirement to submit the 1997 Survey, and (b) Northwest Plastics Recovery was liable for a civil penalty. Mr. Norton requested the Commission reverse the Order. Mr. Edelman, representing DEQ, summarized findings of the Order and requested the Commission uphold the Order.

Commissioner Bennett asked Mr. Norton about the burden on his business of compliance with DEQ's survey reporting requirement. Mr. Norton explained the process he would go through to collect information in his business operation for the survey, and the time associated with collecting and reporting the information to DEQ. Commissioner Reeve commented that this was a straightforward legal issue and he did not see much room for the Commission to take action other than uphold the Order. Commissioner Reeve added that because DEQ and Mr. Norton share many of the same goals related to recycling, it was unfortunate that significant resources were spent in opposition in this situation. Chair Eden commented that she shared Commissioner Reeve's disappointment, but agreed that this was a straightforward legal issue.

Commissioner Reeve moved to uphold the Hearing Order. Commissioner Malarkey seconded the motion and it carried with five "yes" votes. The Commission directed Mr. Knudsen to prepare the Order for the Director to sign on behalf of the Commission, and to include notice of appeal rights as requested by Mr. Norton. Director Hallock

commented that DEQ would review what was learned from this contested case and consider opportunities for rulemaking to improve current agency processes. Commissioner Van Vliet asked what the penalties would be if Mr. Norton refused to comply with the Order. Mr. Knudsen summarized enforcement procedures for pursuing collection of the penalty in this case.

## **B. Action Item: Contested Case No. WMC/SW-NWR-98-060 regarding Pacific Western Company**

Larry Edelman, DOJ, presented the appeal from Pacific Western Company of a March 29, 2000 Hearing Order finding the company liable for a civil penalty of \$24,622 for establishing, maintaining and operating a solid waste disposal site without a permit. Larry Knudsen, DOJ, asked Commissioners to declare any ex parte contacts or conflicts of interest regarding this case. Commissioners declared none.

Bill Cox, Attorney for Pacific Western Company, present with William Patton, President of Pacific Western Company, summarized exceptions to findings of the Hearing Order, including: (a) asphalt roofing is solid waste, (b) the company was operating a solid waste disposal site without a permit, and (c) the company was liable for a civil penalty including economic benefits. Mr. Cox requested the Commission reverse the Order. Mr. Edelman, representing DEQ, summarized findings of the Order and requested the Commission uphold the Order.

Commissioner Van Vliet asked what legal protection Mr. Patton had against someone giving him asbestos material without his knowledge. Mr. Edelman explained that Mr. Patton agreed to accept roofing material, which often contains asbestos, as shown in the Hearing record. Commissioner Bennett asked Mr. Patton about the expected timeline for putting the material on his site to use. Mr. Patton responded that it could be used, processed or disposed of in six months or sooner, but processing would be expensive. Commissioner Malarkey asked why it took the company over three years to sample the smaller pile of material, why the other material pile was not sampled, and why the company did not apply for a solid waste disposal permit. Mr. Patton responded that the company did not apply for a permit because it did not believe it was a solid waste disposal facility. He added that DEQ suggested an independent agency test the material, but testing would have been a significant cost. Material testing by Pacific Western Company was not feasible because it required spreading the material over a larger amount of area than was available at the site. Commissioner Bennett asked whether the amount of time the untested material was on the site was the basis for its classification as solid waste. Mr. Edelman answered that time was not the basis and the material was classified as solid waste until beneficial reuse. He added that if the site was permitted as a disposal site, an operation plan would have required sampling of the material. Commissioner Reeve asked how the penalty and economic benefit assessment were calculated, and the Commission discussed the calculation process with Mr. Edelman and Mr. Knudsen. Chair Eden asked Mr. Cox whether the company questioned DEQ authority to require testing of the material. Mr. Cox answered that the company did question this. Mr. Edelman responded that DEQ authority includes determination of the existence of a solid waste disposal site unless testing shows no environmental or public health threat. Commissioner Van Vliet asked what it would cost Mr. Patton to dispose of the material on his site. Mr. Cox answered that it would cost approximately \$150,000 to remove the material using Metro.

Commissioner Reeve stated his agreement with the Hearings Officer decision regarding the legal issues of this case, but added his concern with the economic benefit calculation and assessment of a penalty to resolve the problem at this stage. Commissioner Reeve moved the Commission uphold the Order and reduce the amount of the civil penalty from \$24,622 to \$9,600 by eliminating the economic benefit assessment of \$15,022, contingent upon correct disposal of the material by Pacific Western Company within 60 days. Commissioner Malarkey seconded the motion and it passed with four "yes" votes. Commissioner Bennett voted no. The Commission directed Mr. Knudsen to prepare the Order for the Director to sign on behalf of the Commission.

## **C. Informational Item: Potential Legislation Regarding City of Portland Clean River Plan**

Director Hallock explained that DEQ has worked with the City of Portland for many years to address Willamette River water quality issues. Currently, the City is required by an Order from the Commission to nearly eliminate combined sewer overflow (CSO) to the Willamette River by 2011. The City's recently released Clean River Plan (CRP) proposes completion of the CSO project by 2020. DEQ has raised questions and concerns about extension of the CSO project deadline. This informational item was planned to provide an opportunity for the City and Department to discuss the CRP with the Commission, and to provide Representative Randy Leonard and Nina Bell, Executive Director of Northwest Environmental Advocates (NEA), an opportunity to comment.

Dean Marriott, Director of the City of Portland Bureau of Environmental Services, explained the history and status of the CSO project, summarized the CRP and asked for Commission endorsement of independent third-party review of the CRP. Commissioner Van Vliet asked how the City is financing the CSO project. Mr. Marriott answered that the City is selling 20-year revenue bonds as part of a \$4 million capital program. Commissioner Van Vliet asked why the City was not asking for legislative consideration of lottery bonding to support the CRP. Mr. Marriott responded that the City has requested federal funding, but is unsure whether adequate funds will be provided. Commissioner Bennett asked whether the CRP took an approach that extended beyond political boundaries to watershed boundaries. Mr. Marriott answered that the CRP included projects focused on whole-watershed restoration. Commissioner Malarkey asked about the City's coordination with local watershed councils. Mr. Marriott responded that the City is in close coordination with and provides funding to many urban watershed councils. Commissioner Malarkey encouraged the City to continue placing high priority on partnering with councils.

Representative Leonard shared his belief that elimination of CSO is critical to restoring Willamette River water quality and described his support for proposed legislation to reduce CSO. Although he understood DEQ's concern about extension of the CSO project deadline, he supported the CRP as a plan to achieve greater watershed improvements over a longer time period. He encouraged the Commission to endorse independent review of the costs and benefits associated with the CRP. Commissioner Van Vliet asked why there was no legislative interest in a bond measure to pay for implementing CSO projects in major cities statewide. Representative Leonard responded that current legislative priorities for using the state's bonding capacity included K-12 education, infrastructure needs in Eastern Oregon, and baseball stadium funding.

Ms. Bell encouraged the Commission to support DEQ in directing the City to halt attempts to postpone implementation of the CSO project. Ms. Bell presented several reasons for NEA opposition to the City's proposal to postpone CSO elimination as proposed by the CRP. Commissioner Reeve, Ms. Bell and Jan Betz, attorney for the City of Portland, discussed the legal process associated with challenging the agreement between the City and Commission.

Director Hallock and Neil Mullane, Acting Deputy Director, briefly summarized Department questions and concerns with extension of the CSO project deadline as proposed by the CRP. Commissioner Reeve commented that he did not see the benefit of independent third-party review of the general ecological value of the CRP. If questions about technical aspects of the report existed, independent review could be used to resolve these. Director Hallock commented that while the City and Department do have minor disagreements about some technical aspects, endorsement of the CRP comes down to consideration of the best approach to addressing water quality problems. Director Hallock asked that if the Commission endorses proceeding with independent panel review, Commissioners provide direction for a valuable panel product and panel membership.

Chair Eden stated that while she supported the restoration projects included in the CRP, she was concerned with the City's proposal to extend the CSO project deadline and did not support the City's request for Commission reconsideration of the current Order. Commissioner Bennett suggested the possibility of financing the CSO project with a tax to provide an incentive to taxpayers for environmental protection. Commissioner Van Vliet and Commissioner Reeve asked for more time for Commission discussion of the City's request. Chair Eden added continuation of Commission discussion to the May 4 meeting agenda, scheduled for approximately 1:00 p.m.

Chair Eden adjourned the meeting at approximately 5:30 p.m.

On May 4, 2001, the Commission met in executive session at 8:00 a.m. to consult with legal counsel regarding rights and legal duties relating to certain pending litigation including Hawes v. State of Oregon, Northwest Environmental Advocates v. EPA and NMFS and Tualatin River Keepers v. Browner, and potential litigation relating to certain general permits issued by the Department.

On May 4, 2001, Chair Eden called the meeting to order at 8:30 a.m.

#### **D. Approval of Minutes**

January 11-12, 2001 Minutes: Commissioner Reeve proposed amendments to draft minutes. On page 2, Item B, "designated" was changed to "delegated," and "The Commission considered delegating" replaced "Commission considered deferring." On page 3, Item C, "Establish" was changed to "Established." On page 5, Item I, "EQP" was changed to "EQC." Commissioner Van Vliet moved the Commission approve minutes as amended for January 11-12, 2001. Commissioner Bennett seconded the motion and it passed with five "yes" votes.

March 8-9, 2001 Minutes: Commissioner Reeve proposed amendments to draft minutes. On page 1, Item A, "the" was deleted. On page 4, Item B, "they're" was changed to "it is" and "DEQ" was added. On page 6, Item F, "full" was changed to "fullest" and "in" was deleted. On page 7, Item G, "motioned that" was changed to "moved" and this change was made throughout the minutes. On page 8, Item K, "Malarkey" was added. On page 9, Item L, "this" was changed to "these." Commissioner Van Vliet moved the Commission approve minutes as amended for March 8-9, 2001. Commissioner Bennett seconded the motion and it passed with five "yes" votes.

March 30, 2001 Minutes:

Commissioner Reeve proposed amendments to draft minutes. On page 2, Item A, "apart" was changed to "a part" and "reeve" was changed to "Reeve." Commissioner Van Vliet moved the Commission approve minutes as amended for March 30, 2001. Commissioner Bennett seconded the motion and it passed with four "yes" votes. Commissioner Malarkey abstained from voting because she was not present at the March 30, 2001, meeting.

## **E. Commissioners' Reports**

Commissioners had no reports.

## **F. Director's Report**

Director Hallock gave the Director's Report and led Commission discussion of future interaction with other state Commissions and Boards. DEQ was in the process of planning a potential joint Commission meeting with the Oregon Economic and Community Development Commission for December 2001. Commissioners identified the Oregon Water Resources Commission and Land Conservation and Development Commission as priority joint meetings for 2002. The Oregon Board of Education was identified as a potential priority meeting for 2003.

## **G. Rule Adoption: Revisions to Point Source Air Management Rules**

Andy Ginsburg, Air Quality Division Administrator, commended staff for extensive work with stakeholders and the public in developing proposed rules, which streamline current air quality rules while maintaining the same level of environmental protection. Dave Kauth, Air Quality staff, presented proposed rule amendments and explained changes DEQ made throughout the public involvement process.

Commissioner Van Vliet asked whether DEQ established a procedure to evaluate the effectiveness of the proposed rule changes. Mr. Ginsburg responded that DEQ plans to monitor the effectiveness of the rule changes in enabling staff to process and manage permits more quickly and efficiently. Commissioner Van Vliet asked whether a stakeholder education program was part of the proposed rules. Mr. Kauth answered that DEQ plans training sessions for staff and workshops for stakeholders and the public on the program changes. The Commission discussed with Mr. Ginsburg the implementation of proposed rules in the Medford/Ashland Air Quality maintenance area, which experiences heavy air inversions, resulting in a more complex permitting situation than in other areas of the state. Commissioner Van Vliet noted that while remaining revenue neutral, proposed rules simplify and improve the structure for air quality permitting fees. Editorial changes to the proposed rules were made part of the record as Addendum One and Addendum Two to the staff report.

Commissioner Van Vliet moved the Commission adopt the proposed rules including Addendum One and Addendum Two regarding the Air Quality permitting program as an amendment to the State Implementation Plan. Commissioner Reeve seconded the motion and it carried with five "yes" votes. Mr. Knudsen noted that the Commission received a request for public comment on proposed rules, and that the Commission was aware that public testimony could not be taken during this agenda item because the public comment period had closed. Mr. Ginsburg and Director Hallock recognized key staff for the exceptional work that resulted in this rulemaking. Chair Eden thanked DEQ staff on behalf of the Commission.

## **H. Informational Item: Lane Regional Air Pollution Authority**

Andy Ginsburg, Air Quality Division Administrator, introduced Brian Jennison, Director of the Lane Regional Air Pollution Authority (LRAPA). Mr. Jennison presented the roles and responsibilities of LRAPA in relation to DEQ. Mr. Ginsburg described coordination between LRAPA and DEQ regarding air quality rulemaking and program implementation. The Commission discussed the partnership between LRAPA and DEQ and thanked Mr. Jennison for his presentation.

## **I. Discussion Item: Development of Performance Appraisal Process for Director**

Director Hallock described DEQ performance evaluation processes as a foundation for Commission discussion of a

performance appraisal process for the Director. Larry Knudsen, DOJ, explained that while the Commission has significant flexibility in designing an appraisal process, any appraisal criteria or standards must be developed and adopted in a public forum. Appraisal of the Director using the criteria could occur in executive session. The Commission discussed ideas and examples for performance appraisal, and asked staff to solicit models from the Governor's Office and other Commissions and Boards for consideration at a future meeting. The Commission asked Director Hallock to provide ideas for how she would like her performance to be evaluated. The Commission and Director agreed to strive for finalization of an appraisal process by late 2001 or early 2002. Chair Eden suggested that when the Commission considers additional information, it appoint an executive committee of two or three Commissioners to evaluate the information and report back to the Commission.

### **Public Comment**

At approximately 11:30 AM, Chair Eden asked whether anyone wished to provide public comment. Dr. Robert Palzer, who signed up to provide public comment, stated that he chose not to provide comment to the Commission.

### **J. Informational Item: Oregon Watershed Enhancement Board Strategic Plan**

This item was postponed because Geoff Huntington, Director of the Oregon Watershed Enhancement Board, was unable to attend.

### **K. Informational Item: Enforcement Issue Follow-up to November 2000 EQC/DEQ Summit**

Neil Mullane, Acting Deputy Director, explained that the need for the Commission and Department to work jointly on addressing enforcement issues arose in the November 2000 EQC/DEQ Summit. Anne Price, Office of Compliance and Enforcement Administrator, presented agency compliance and enforcement priorities and potential improvements. The presentation covered many aspects of enforcement, including technical assistance, information and data management, agency resource allocation, regional coordination, equity and fairness in enforcement, and managing difficult cases. The Commission discussed with Mr. Mullane and Ms. Price opportunities for administrative, regulatory and legislative improvements to the enforcement program.

Commissioner Van Vliet and Chair Eden expressed concern that some portions of the penalty calculation matrix could be interpreted as subjective. Director Hallock suggested a future presentation on the process for penalty calculation to describe in detail DEQ efforts to be fair and objective in enforcement. Chair Eden asked for a follow-up presentation in approximately six months to discuss progress on compliance and enforcement initiatives and improvements. Director Hallock noted specific issues for future discussion, including equity in enforcement, taking quick action and ticketing in the field, reducing the number of contested cases that reach the Commission, and calculation of penalties. Chair Eden thanked Ms. Price for her presentation.

### **Added Discussion Item: City of Portland Clean River Plan**

The Commission continued discussion on the City of Portland Clean River Plan (CRP). Chair Eden asked DEQ to continue its presentation and City representatives and audience attendees to respond. Director Hallock summarized some Department concerns with the CRP, including potential impacts of delaying the deadline for addressing combined sewer overflow (CSO) from 2011 to 2020.

Commissioner Reeve invited City of Portland Commissioner Dan Saltzman to comment. Commissioner Saltzman stated the unanimous support of the City Council for the CRP, and asked the Commission to endorse an independent panel evaluation of the plan. Chair Eden asked whether the parties involved had an agreement to dedicate resources toward elements of the CRP while continuing CSO project implementation. Commissioner Saltzman answered that agreement had been reached, but the City believed the CRP to be a better approach to improving water quality. Commissioner Van Vliet expressed concerns about endorsing an evaluation of the CRP by a panel financially supported by the City, and creating public perception that the Commission was interested in considering changes to the current Order. Commissioner Van Vliet noted that the primary question was not the ecological value of the CRP, but how the City would pay for the changes required by the Order. Commissioner Saltzman responded that he did not perceive a public perception problem, and that the City would be willing to share costs of a panel to avoid a potential problem if necessary.

Commissioner Reeve asked Dean Marriott, City of Portland Bureau of Environmental Services Director, about the three action alternatives in the CRP, noting that an independent evaluation would probably support the third alternative, which proposes the most environmental improvements by 2011. Commissioner Reeve asked whether it

was the City's current position that financial constraints made the third option impracticable. Mr. Marriott responded that he believed the CRP, with extension of the CSO project deadline, was a better approach to restoration because of public education and involvement opportunities related to the proposed on the ground watershed projects. Commissioner Reeve commented that while public education and involvement would continue to be a part of restoration, he remained uncertain about the value of an independent review of the CRP.

Commissioner Malarkey commented that watershed councils were engaged in the type of restoration work the CRP proposed, and encouraged the City to partner with councils as much as possible. Commissioner Malarkey added that the EQC and DEQ must adhere to statutory responsibilities to protect and maintain water quality standards. Commissioner Reeve suggested that the City could initiate a panel to examine creative financing options for doing CRP projects while continuing CSO project implementation.

Chair Eden summarized the discussion, affirmed that the Commission did not support extension of the CSO project deadline, and encouraged the City to explore funding options to comply with the current order and implement parts of the CRP. Commissioners clarified that while DEQ would not have a role in a panel designed to explore financing, DEQ would be responsible for working with City on elements of the CRP to ensure projects are based on reliable science and monitoring information.

There being no further business, Chair Eden adjourned the meeting at approximately 2:30 p.m.

Minutes are not final until approved by the EQC

## **Environmental Quality Commission Minutes of the Two Hundred and Ninety-Sixth Meeting**

**June 22, 2001  
Regular Meeting**

On Thursday, June 21, 2001, the Commission toured Lower Willamette River clean-up sites and the Gresham Wastewater Treatment Plant. On Thursday evening, the Commission dined with local officials at McMenamins Edgefield in Troutdale. The following Environmental Quality Commission members were present for the regular meeting:

Melinda Eden, Chair  
Mark Reeve, Member  
Deirdre Malarkey, Member  
Harvey Bennett, Member

Also present were Larry Knudsen, Assistant Attorney General, Oregon Department of Justice (DOJ), Neil Mullane, Acting Deputy Director for the Department of Environmental Quality (DEQ), and DEQ staff.

Note: Staff reports and written material submitted at the meeting are made part of the record and available from DEQ, Office of the Director, 811 SW Sixth Avenue, Portland, Oregon 97204.

The Commission held executive session at 8:00 a.m. on June 22, 2001, to consult with counsel concerning legal rights and duties with regard to current and potential litigation involving the Department. Executive session was held pursuant to ORS 192.660(1)(h).

Chair Eden called the meeting to order at approximately 8:45 a.m. Agenda items were taken in the following order.

### **I. Approval of Minutes**

May 3-4, 2001 Minutes: Commissioner Reeve proposed amendments to draft minutes. On page 3, Item C, in the sixth paragraph, the words "and did not support the City's request for Commission reconsideration of the current Order," were deleted from the first sentence and the word "offset" was added to the second sentence. General changes were made to Item C and the Added Discussion of Item C to clarify that the City asked the Commission to provide guidance on the need for an independent review panel. On page 5, Item K, the words "or three" were deleted from the last sentence. Commissioner Bennett moved the Commission approve minutes as amended for May 3-4, 2001. Commissioner Malarkey seconded the motion and it passed with four "yes" votes.

### **B. Rule Adoption: Title V Permitting Program CPI Fee Increase**

Pat Vernon, Air Quality Program coordinator, introduced proposed rule revisions and Scott Manzano, Air Quality Program staff, described key aspects of the rulemaking. The proposed rule increased Title V fees by the 2000 Consumer Price Index (CPI) of 3.3 percent to fund higher Title V program costs caused by salary increases and inflation. The increase was not proposed to fund additional program staff. The Department informed fee payer representatives of the proposed increase during rulemaking development and received no public comment on the proposal.

Commissioner Reeve moved the Commission adopt the proposed rules for the Title V permitting program CPI fee increase. Commissioner Malarkey seconded the motion and it passed with four "yes" votes.



### **C. Rule Adoption: Underground Injection Control Rules**

Ed Woods, Water Quality Program manager, introduced proposed rule revisions and Mark Charles, Water Quality Program staff, presented key aspects of the rulemaking. Proposed revisions updated existing Oregon Underground Injection Control (UIC) rules to incorporate 1999 federal rule changes, added provisions for basic UIC program elements, and clarified existing state regulatory requirements for underground injection. The Department coordinated extensive stakeholder and public involvement during this rulemaking.

Commissioner Malarkey and Commissioner Reeve commended the Department for resolving complex issues associated with this rulemaking. Commissioners discussed technical aspects of the rule, UIC program funding, next steps for rule implementation, and achieving program compliance.

Commissioner Malarkey moved the Commission adopt the proposed UIC rules. Commissioner Reeve seconded the motion and it passed with four "yes" votes. Chair Eden commended the Department and stakeholders for their work.

### **D. Action Item: Mid County Sewer Project: Final Report by Gresham and Portland**

Richard Santner, Northwest Region Water Quality Program staff, presented the final report of the Mid-County Sewer Project from the Cities of Gresham and Portland. Mr. Santner summarized the project and asked the Commission to accept the final report and recognize the Cities for completing the project ahead of schedule and under budget.

Dean Marriott, Director of the Portland Bureau of Environmental Services, and John Dorst, Acting Director of the Gresham Department of Environmental Services, explained challenges and successes associated with the project and thanked the Commission and Department for their support. Commissioners discussed various aspects of the project with Mr. Marriott and Mr. Dorst.

Commissioner Reeve moved the Commission adopt the following motion:

The EQC hereby accepts the Final Report for the Mid County Sewer Project from the Cities of Gresham and Portland. The Project has provided sanitary sewer service in previously unsewered Mid-Multnomah County and ended the use of cesspools and seepage pits there.

The EQC hereby offers its congratulations and appreciation to Gresham and Portland for having so effectively provided sewer service well in advance of the required completion date. The Commission appreciates the immense effort made to implement this vast project.

The EQC requests that in February 2006, the cities send letters to the Department Director documenting final disposition of the deferrals and delinquencies.

Commissioner Malarkey seconded the motion and it passed with four "yes" votes.

On behalf of the Commission, Chair Eden presented certificates of appreciation to the Cities of Gresham and Portland and key project staff, including Neil Mullane, Michael Huston, Tom Lucas, Harold Sawyer and Richard Santner.

### **E. Emergency Rule Adoption: Emergency On Site Fee Rules**

Ed Woods, Water Quality Program manager, proposed emergency rules to reduce fees for several On-Site program services, to become effective July 1, 2001. Mr. Woods explained that the proposed fee reduction was necessary to comply with potential legislative action included in Senate Bill 5516. The proposed rule would reduce On-Site program revenue by an estimated \$352,000 over the next biennium, end development of a certification program for on-site service providers, end development of an on-site operating permit project, and reduce enforcement capability. Larry Knudsen, Assistant Attorney General, asked the Commission to approve a Statement of Need and Justification as Addendum One to the proposed rule.

Commissioners discussed the reasons for and effects of the proposed rule with Mr. Knudsen and Mr. Woods. Mr. Knudsen clarified that if adopted by the Commission, rule effectiveness would be contingent upon Senate Bill 5516 becoming law. Commissioner Bennett moved the Commission adopt proposed emergency On-Site fee rules and approve the Statement of Need and Justification as Addendum One to the rule, contingent upon Senate Bill 5516 becoming law. Commissioner Reeve seconded the motion and it passed with four "yes" votes.

## **G. Consideration of Tax Credit Requests**

Maggie Vandehey, Tax Credit Program coordinator, presented pollution control tax credit applications for Commission action. Ms. Vandehey recommended the Commission approve thirty-nine applications and reject two applications. Application number 5526, from Willamette Industries, Inc., was removed from the agenda as requested by the company. Commissioners discussed the applications and Department recommendations with Ms. Vandehey.

Commissioner Reeve moved the Commission approve thirty-nine applications as recommended by the Department. Commissioner Malarkey seconded the motion and it passed with four "yes" votes. Commissioner Malarkey moved the Commission reject two applications as recommended by the Department. Commissioner Bennett seconded the motion and it passed with four "yes" votes.

## **F. Director's Report**

Neil Mullane, Acting Deputy Director, gave the Director's Report on behalf of Stephanie Hallock, Director. Commissioners discussed recent events and legislative actions, and suggested a future informational presentation to the Commission on the Federal Energy Regulatory Commission relicensing program for major hydroelectric projects.

## **Public Comment**

At approximately 11:30 a.m., Chair Eden asked whether anyone wished to provide public comment. No public comment was provided.

## **H. Discussion Item: Development of Performance Appraisal Process for Director**

Commissioners discussed development of a formal performance appraisal process for the Director, considering an example from another agency and specific information about the DEQ Director's position. Chair Eden asked Commissioner Bennett and Commissioner Van Vliet to review materials and report back to the Commission at the August 10, 2001, Commission meeting.

## **J. Commissioners' Reports**

Chair Eden gave a report on the Chemical Stockpile Emergency Preparedness Program. The Executive Review Panel planned to issue its second report to the Governor in late June and deliver final recommendations in November 2001.

There were no other Commissioner reports.

There being no further business, the meeting was adjourned at approximately 12:30 p.m.

State of Oregon  
Department of Environmental Quality

Memorandum

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**To:** Environmental Quality Commission

**From:** Kim Cox, Portland Harbor Project Coordinator  
Eric Blischke, Portland Harbor Technical Coordinator

**Subject:** EQC Portland Harbor Boat Tour

Attached you will find a packet of information on the Portland Harbor Cleanup Project, in preparation for the boat tour on June 21, 2001.

The boat tour will begin at 10:00 AM, from the Ankeny Dock at the West Side of the Burnside Bridge. Mikell will be escorting you to the dock from the Edgefield.

The tour will last approximately 3 hours, and a box lunch will be provided.

Your packet provides brief information on the status of DEQ's upland cleanup sites. During the tour we will focus on the following sites:

- Port of Portland Shipyard
- McCormick and Baxter
- Willamette Cove
- Atofina Chemicals
- Gunderson

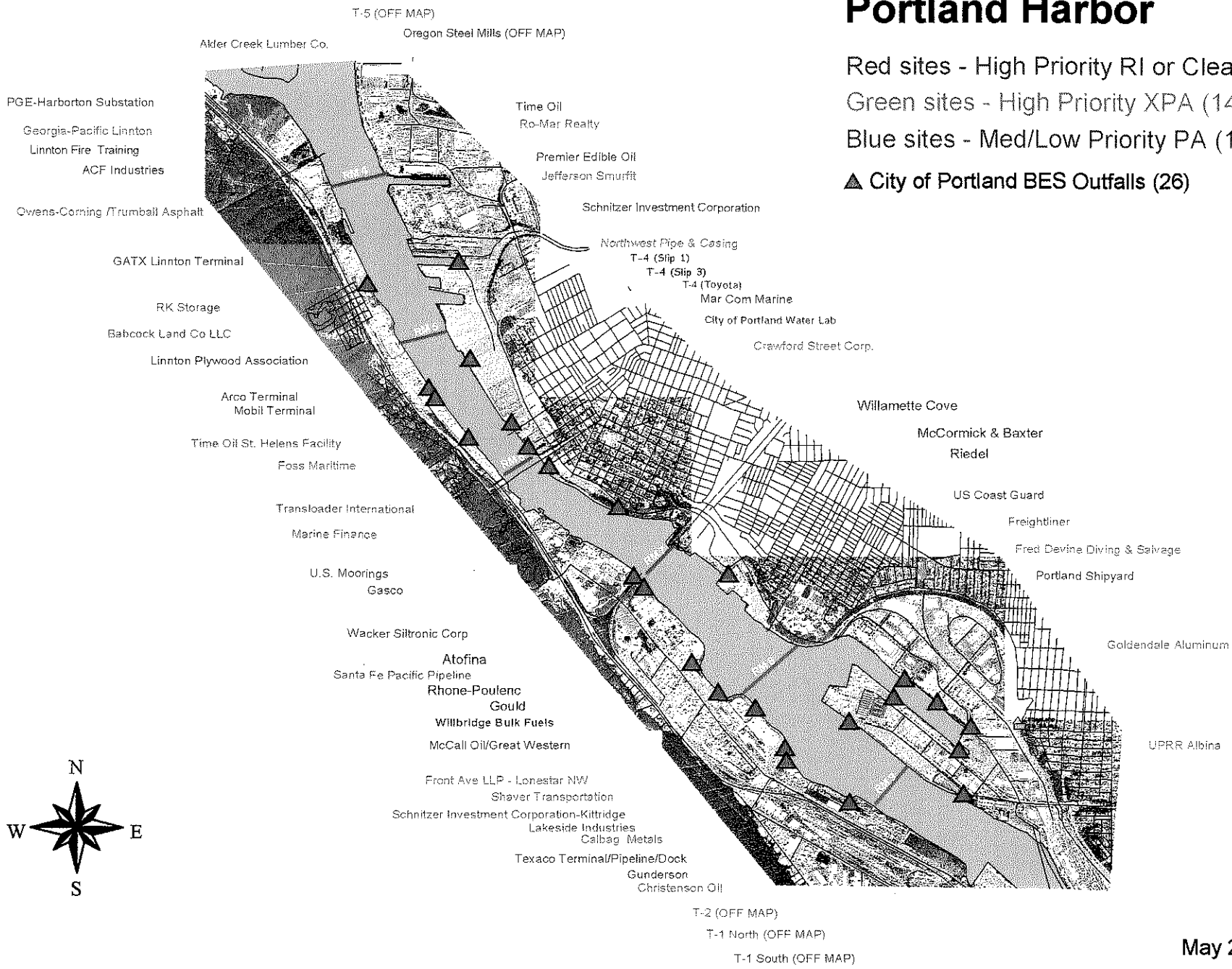
Specific information on these sites is included in your packet.

If you have any questions, or would like additional information before the tour, please call either Kim Cox at 503-229-6590 or Eric Blischke at 503-229-5648.



# Upland Cleanup Sites Portland Harbor

Red sites - High Priority RI or Cleanup (29)  
 Green sites - High Priority XPA (14)  
 Blue sites - Med/Low Priority PA (15)  
 ▲ City of Portland BES Outfalls (26)



May 2001



## Superfund Fact Sheet

May 2001

*This fact sheet provides information about the Portland Harbor Superfund site. This site was added to the Environmental Protection Agency (EPA) National Priorities List (NPL) on December 1, 2000. Portland Harbor is a Superfund site because the river sediments are contaminated with metals, pesticides, PCB's and petroleum products.*

### **Working Together to Clean Up Portland Harbor: A Memorandum of Understanding is Signed!**

The Environmental Protection Agency (EPA) and Oregon Department of Environmental Quality (DEQ) have entered into a unique partnership agreement with three natural resource trustee agencies and six tribal governments. The natural resource trustee agencies are U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration and the Oregon Department of Fish and Wildlife. The tribal governments are the Siletz, Grand Ronde, Yakama, Umatilla, Warm Springs and Nez Perce. EPA, DEQ and the project team are working together to plan and coordinate the Portland Harbor Superfund cleanup.

This team of agency and tribal representatives have developed a Memorandum of Understanding (MOU) that outlines coordination between all parties and lists specific EPA and DEQ responsibilities. This MOU is significant because it provides for meaningful participation and involvement of natural resource trustee agencies and tribal governments at the beginning of the Superfund process. Portland Harbor is a large and complex project, so the MOU provides the framework for cooperation and which will optimize federal, state and tribal expertise.

#### ***In this issue:***

- ***Working Together to Clean Up Portland Harbor: A Memorandum of Understanding is Signed!***
- ***What is in the Memorandum of Understanding?***
- ***What is happening on the Portland Harbor cleanup?***
- ***Preliminary Public Health Assessment***
- ***Learning More About the Cleanup***
- ***How You Can Get Involved***

Under the agreement, DEQ serves as the lead agency for cleanup work along the banks of the river (upland work), controlling sources of contamination to river sediments. EPA is the lead agency for the in-water work, investigating sediment contamination and determining the risks to humans and wildlife posed by the contaminants. The MOU was effective for EPA and DEQ on February 8, 2001. The other project team members will become parties to the agreement as they sign on. This MOU represents the commitment of all these parties to work together as this project goes forward, solving issues that arise during the cleanup process.

## What is in the Memorandum of Understanding?

The Memorandum of Understanding is a document that provides a written record of agreement between the agencies and tribes involved. A MOU is not required, but putting one in place reflects the desire of all the parties to combine their resources and expertise in a productive working partnership. The MOU establishes:

- ❑ DEQ as the lead agency at upland sites, continuing its cleanup work along the banks of the river, using its authorities under the State cleanup law;
- ❑ EPA as the lead agency for the in-water (sediment) investigation and cleanup, using its authority under the federal Superfund law.
- ❑ A Technical Coordination Team and a Legal Coordination Team that will identify and resolve issues during the in-water sediment investigation and uplands cleanup work;
- ❑ How tribal cultural resource issues will be addressed;
- ❑ That EPA will review and provide comment on key source control decisions proposed by DEQ; and
- ❑ A dispute resolution process that is available to all of the parties who signed the MOU.

## What is Happening on the Portland Harbor Cleanup?

**EPA Negotiating With Potentially Responsible Parties:** As part of the Superfund process, EPA contacts landowners and business operators who may be responsible for contamination. EPA notifies these Potentially Responsible Parties (PRPs) that they may be liable for cleaning up the site. In December 2000, EPA mailed letters to 69 PRPs, providing notice that they may have some liability in the Portland Harbor cleanup. A sub-group of approximately 20 of these PRPs came forward, and EPA started the process of negotiating the details of the upcoming sediment investigation with them. EPA anticipates that responsible parties will pay for and conduct the sediment investigation. The EPA, DEQ and the rest of the Portland Harbor team will review and approve the work as it proceeds. EPA anticipates starting the in-water investigation this summer.

**DEQ Upland Cleanup Work Continues:** DEQ continues cleanup activities at many locations along the banks of the Harbor at the upland sites. At the present time, DEQ is actively working on clean up at 44 sites. The work ranges from the very early stages of investigation to removal of contaminated soil and other remedial activities. DEQ will be working with EPA and the rest of the project team determining which upland sites are potential sources of sediment contamination, and how upland work will be coordinated with in-water work. Responsible parties are funding all work except at three upland locations.

A complete list of sites and a description of site activity is located on DEQ's web page.

## Preliminary Public Health Assessment

When you heard that Portland Harbor was listed as a Superfund site, you may have wondered how the contamination might affect you or your family. A federal agency called the Agency for Toxic Substances and Disease Registry (ATSDR) is working on this question and playing an active role in the cleanup of Portland Harbor. The ATSDR looks at possible ways the contaminants could reach humans through the air, water, soil or food chain. The ATSDR is required to assess the potential health risks to the public from Superfund sites within one year of the site being proposed for listing on the NPL. Representatives from ATSDR are already working with EPA and the Oregon Health Department, and will be providing some preliminary information later this year. For more information on ATSDR's work on Portland Harbor, contact Dan Holcomb, ATSDR Health Communications Specialist at 404-639-6064 or [dwh6@cdc.gov](mailto:dwh6@cdc.gov). You can also visit their website at [www.atsdr.cdc.gov](http://www.atsdr.cdc.gov)

*Portland Harbor provides many things to many people. On a recent spring day a fisherman tries his luck angling in sight of a Portland Harbor industrial site and residential community.*



### Learning More About the Cleanup

Your participation is an important part of the decision making process for the Portland Harbor Superfund site.

Since some of the information is very technical in nature, the EPA will be awarding a Technical Assistance Grant (TAG) to a community group to help explain technical information and share it with members of the community.

The availability of the TAG was advertised last year and EPA is in the process of reviewing the application it received from Willamette Riverkeeper, a local environmental group.

EPA anticipates awarding the grant this summer. The grant funding is intended to help the local community understand and participate in the cleanup process.

Later this spring, EPA and DEQ will develop a joint public involvement plan to reflect both DEQ's upland and EPA's in-water activities. Starting with the DEQ's Draft Public Involvement Strategy, the two agencies will focus on creating opportunities for meaningful participation in the state and federal cleanup planning process. Look for a fact sheet in the near future asking how you would like to participate. You may have information or insight that can help project manager make better decisions about the Portland Harbor Superfund site.

## How You Can Get Involved

There is a variety of ways you can find out more or get involved in the cleanup of Portland Harbor:

**Organize a Meeting:** DEQ and EPA would like to meet with your organization to answer questions and provide information about Portland Harbor. If you would like project team representatives to meet with your group, please contact Community Involvement Coordinators Kim Cox or Judy Smith.

### **Call or e-mail a Request:**

#### **Judy R. Smith**

EPA Community Involvement Coordinator  
206-553-6246 or 800-424-4372  
Smith.JudyR@epa.gov

#### **Kim Cox**

DEQ Portland Harbor Project Coordinator  
503-229-6590  
Cox.Kim@deq.state.or.us

#### **Wallace Reid**

EPA Project Manager  
206-553-1728 or 1-800-424-4372  
Reid.Wallace@epa.gov

#### **Chip Humphrey**

EPA Project Manager  
503-326-2678  
Humphrey.Chip@epa.gov

#### **Eric Blischke**

DEQ Project Manager  
503-229-5648  
Blischke.Eric@deq.state.or.us

### **Visit the EPA or DEQ Portland Harbor websites:**

EPA Region 10 website:

<http://www.epa.gov/r10earth/>

Click on "Index", then "P," then "Portland Harbor."

DEQ website:

<http://www.deq.state.or.us>

Click on "Programs," then "Environmental Cleanup and Spills," and then "Portland Harbor."

*To ensure effective communication with everyone, additional services can be made available to persons with disabilities by contacting one of the EPA representatives listed above.*



## Chronology of Portland Harbor Project

- March 1997 **DEQ and EPA begin a joint study to sample near-shore, in-river sediments.**
- DEQ already active at 17 cleanup sites along the river.
  - The study was initiated due to concerns identified during DEQ's cleanup work along the banks of Portland Harbor
  - EPA provides grant funds for a sediment study.
  - Almost 200 samples are taken,
- Spring 1998 **Sediment study results published ("Weston Study")**
- The harbor sediments contain pesticides such as DDT, polychlorinated biphenyls (PCBs), heavy metals, and polynuclear aromatic hydrocarbons (carcinogenic compounds found in petroleum products).
  - Preliminary Study Interpretations
    - Data show highly elevated contamination levels in discrete areas;
    - Highest contaminant levels occur near existing and pending DEQ cleanup sites;
    - Some sampling locations show lower, elevated contamination, but no known sources; and
    - Contaminant migration and re-suspension are very limited within the study area.
- Fall 1998 **EPA considers placing Portland Harbor on National Priorities List (NPL)**  
Due to contaminant levels, EPA considers placing Portland Harbor on NPL.
- Fall 1998 **DEQ asks that decision to place Portland Harbor on NPL be delayed.**
- State wants cleanup to continue under state-lead, and defer listing
  - EPA delays making a decision until June 1999
  - In order to lead the cleanup, DEQ needs to meet deferral criteria, and provide:
    - A Superfund-equivalent Remedial Investigation and Feasibility Study;
    - Protection of the Natural Resource Trustees rights;
    - Tribal involvement and participation;
    - A public involvement plan; and
    - An enforcement plan for ensuring responsible parties (RPs) perform and pay for the cleanup of the harbor.
- November 1998 **DEQ signs a funding agreement with the Portland Harbor Group (PHG)**
- The PHG is a coalition of 10 private and public entities owning property or conducting business within the Portland Harbor area.
  - The PHG provides \$ 500,000 for DEQ to put a plan together describing a state-led cleanup of Portland Harbor

## Chronology of Portland Harbor Project

- December 1998 -  
June 1999      **DEQ prepares Portland Harbor Sediments Management Plan (PHSMP)**
- This plan provides the framework for a state led approach to evaluating and managing contaminated sediments.
- June 1999      **EPA postpones making listing decision until October 1999**
- By the end of June, DEQ had made significant progress in meeting EPA's criteria for a deferral.
  - EPA postponed the decision to allow the state to continue making progress on two outstanding deferral areas: coordination with natural resource trustees and tribal participation and involvement.
  - In order to support a state-led cleanup, and to protect their legal rights, the natural resource trustees need the RPs to sign tolling agreements.
  - These agreements provide the trustees the same capability to file NRDA claims under a state-led cleanup as they are guaranteed under the federal process.
  - EPA has a federal trust responsibility and government-to-government relationship with federally recognized tribes. This relationship assures tribes of appropriate consultation during a Superfund cleanup process.
  - The Tribes needed assurance that a State-led cleanup would provide a similar level of involvement.
- July 1999      **July 16, 1999 Natural Resource Trustee Meeting**
- Attended by Governor Kitzhaber and representatives of Region 10 EPA, federal and state natural resource trustee agencies, Native American tribes and DEQ.
  - Discussed a resolution to the trustee rights issue.
  - Governor's message: If DEQ is not successful in satisfying the two outstanding deferral criteria by March 2000, the state will support an NPL listing for the Harbor
- July 1999 -  
October 1999      **DEQ continues coordinating with Tribes**
- DEQ meets with four Tribal Councils and has participation and funding agreements signed with two tribes
- October 1999 -      **EPA postpones decision to March 2000**
- EPA provides more time so DEQ could continue to make progress with tribes and trustees
  - EPA Region 10 proceeds with developing a Superfund listing package, which will recommend a Superfund listing for Portland Harbor.

## Chronology of Portland Harbor Project

- October 1999 - April 2000 - **DEQ continues making progress**
- DEQ continues with developing a RI/FS Workplan, conducting community interviews, completing a Public Involvement Plan, and meeting with tribal councils and natural resource trustees
- December 13, 1999 **Governor Kitzhaber meets with representatives of the natural trustee agencies.**
- Expresses desire to reach solution on natural resource damage claims issues.
- December 13, 1999 **Governor Kitzhaber meets with representatives from five of the six interested Tribes.**
- Expresses Oregon's willingness and commitment to tribal participation throughout a state-led cleanup
- January 13, 2000 **Natural Resource Trustee Meeting**
- Governor's Office, DEQ, federal, state and tribal natural resource trustees meet with the Portland Harbor Group to negotiate a resolution to the trustee rights issue.
  - Additional discussions take place on February 4, 2000 and March 10, 2000
- March 2000 **Concerns of natural resource trustees and tribes regarding natural resource damage claims still not met.**
- PRPs and trustees unable to sign tolling agreement.
- April 2000 - **EPA Decides to go ahead with listing**
- EPA sends letter to Governor Kitzhaber asking for concurrence with proposed listing
- July 2000, **Governor Kitzhaber sends a letter to EPA concurring with the proposal to place Portland Harbor on the NPL.**
- The Governor attached a set of principles to his concurrence letter that provide a framework within which both agencies could begin to discuss roles and responsibilities.
- July 27, 2000 **Proposed listing appears in Federal Register**
- December 1, 2000 **Final listing appears in Federal Register**
- December 2000 - January 2001, **Memorandum of Understanding (MOU)**
- EPA, DEQ and Portland Harbor Project Team develop MOU. The MOU outlines how all the parties will coordinate on technical and legal issues, develop a source control strategy and implement dispute resolution.
  - The team also works on a RI/FS Statement of Work (SOW) and Administrative Order on Consent (AOC) for in-water work.
- February 2001 **MOU is signed**
- MOU is signed by DEQ and EPA, and is effective on February 8, 2001.
  - Other members of the project team continue to sign MOU.
  - EPA begins negotiations with PRPs to sign AOC for implementation of in-water RI/FS

## Portland Harbor Questions and Answers

- **What is DEQ's role now that Portland Harbor is an NPL site? What is EPA's role?**

EPA has the lead on sediment work and DEQ will continue with its lead on the upland sites. The two agencies are coordinating closely with six tribal governments and the other natural resource trustee agencies for the site. The trustees are designated by law to act on behalf of the public or tribes to protect and manage natural resources, such as land, air, water, fish, and wildlife.

DEQ will also be responsible for coordinating state and local efforts such as the Governor's Oregon Plan and the City of Portland Combined Sewer Overflow (CSO) project. Since DEQ is already directing many cleanups along both banks of the river, this approach allows for close integration of the on-going shoreline efforts with work on in-water sediments. It also ensures that work in the Harbor ties in well with other state and city efforts already underway for the Willamette. The coordination of the Portland Harbor project team which includes EPA, DEQ, six Tribes and natural resource trustee agencies is outlined in a Memorandum of Agreement (MOU).

- **What does the MOU cover?**

The MOU:

- Specifies EPA is the lead agency for in-water work and DEQ is the lead agency for upland work.
- Calls for EPA to negotiate DEQ in-water coordination costs
- Describes the approach to managing Tribal Cultural Resource issues
- Provides a Dispute Resolution Process among all parties but keeps EPA in the lead to represent Tribes and Trustees on upland concerns
- Specifies that EPA will provide comment on DEQ's key source control decisions

- **What will be required of parties responsible for contamination in Portland Harbor?**

In-water work:

EPA has sent letters to over 60 landowners and business operators in the Portland Harbor area who may be responsible for contaminated sediments. The letters informed these parties of their potential liability and asks them to fund or perform the investigation of the sediment contamination.

EPA is currently with a group of 24 potentially responsible parties (PRPs) to pay for and implement a Remedial Investigation and Feasibility Study (RI/FS). The RI/FS includes an assessment of current data, necessary additional environmental sampling and an assessment of the risk posed by contaminated sediments to humans, fish and wildlife. Information from the RI and risk assessment will be used to develop options for handling the contaminated sediments. EPA anticipates working with some of the

## Portland Harbor Questions and Answers

parties responsible for the contamination to implement the long-term Superfund cleanup process.

### Upland Sites:

In 1998, there were 17 active upland cleanup sites in Portland Harbor. Due to DEQ's site discovery work DEQ is now working with 44 sites along the banks of the Harbor under individual agreements with the RPs. All of these sites will be evaluated as possible sources of sediment contamination. The work ranges from early investigation to cleanup. DEQ will also be developing a broader Source Control Strategy that will look at identifying and reducing upland sources of sediment contamination, beyond contaminated sites, such as waste and materials handling, and storm water runoff.

- **How much will it cost to clean up Portland Harbor?**

The total cost of in-water investigation and remediation has not yet been determined. In-water RI/FS costs could exceed \$5,000,000. The results of the RI/FS will determine the appropriate remedial actions, which will determine the cost.

These in-water costs are in addition to the cost of individual cleanups along the harbor banks. Only three out of 44 active sites are using OSA funds

- **How long will the cleanup take?**

EPA anticipates beginning in-water work in 2001. It could take up to 4 years to complete the RI/FS and design the remedial action. Implementing the remedial action could take an additional 5 years. Control of contamination sources along the harbor need to be completed before the remedial action is implemented. DEQ's source control strategy will identify the actions needed to stop recontamination of sediments.

- **What will be the impact on businesses operating in the harbor?**

As part of DEQ's Source Control Strategy, the Agency will be evaluating ongoing operations for their potential to contribute contamination to the sediments, and will be reviewing hazardous material and hazardous waste handling practices. Other areas that will be evaluated include permitted discharges of toxics through NPDES and storm water permits. Additional impacts will likely be financial, depending on each business's contribution to in-water investigation and cleanup costs, each individual site's cleanup costs, and potential complications of conducting business at a Superfund site.

## **Outline of Portland Harbor Memorandum of Understanding (MOU)**

EPA will be the lead agency for the in-water (sediment) investigations and DEQ will have the lead at upland sites, continuing its cleanup work along the banks of the river. DEQ will also be responsible for coordinating the Portland Harbor work with other state and local efforts such as the Governor's Oregon Plan and the City of Portland Combined Sewer Overflow (CSO) project. EPA and DEQ are part of a larger project team that includes natural resource trustee agencies (U.S. Fish and Wildlife, National Marine Fisheries Service and Oregon Department of Fish and Wildlife), and the following Tribal governments: Siletz, Grand Ronde, Yakama, Umatilla, Warm Springs, Nez Perce. Tribal interests stem from treaty rights and natural and cultural resource issues.

The project team has been developing a Memorandum of Understanding (MOU). As of February 8, 2001, both EPA and DEQ had signed the MOU, making it effective. The agreement will be effective for the other parties as they sign on.

### **Portland Harbor Memorandum of Understanding (MOU)**

The MOU:

- Provides for EPA's negotiation of DEQ in-water coordination costs;
- Describes how Tribal Cultural Resource issues will be addressed;
- Provides for a Dispute Resolution Process among all parties but keeping EPA in the lead to represent Tribes and Trustees on upland concerns; and
- Specifies that EPA will provide comment on key source control decisions proposed by DEQ.

Summary of the key sections:

- The parties signing include EPA, DEQ, ODFW, NOAA, USFW, US DOI, and the six Tribes.
- DEQ is designated as the upland lead agency and EPA the support agency.
- EPA is the in-water lead agency and DEQ is the support agency.
- EPA will cover its costs through the in-water consent order, except for uplands facilities requiring significant EPA review or involvement. Under these circumstances, EPA may work with DEQ to amend a site-specific

agreement to provide for recovery of EPA costs or, add a new provision to a site-specific agreement to be negotiated by DEQ, and/or co-sign the new agreement. All of the proceeding is subject to a site-specific discussion between the two agencies.

- EPA will take the lead on Administrative Order on Consent (AOC) negotiations for the in-water work.
- A Technical Coordination Team and a Legal Coordination Team will be established to identify and resolve issues during AOC negotiations and during the implementation of the in-water RI/FS and ongoing uplands work. (During the AOC negotiations, both teams will check in weekly by phone.)
- Dispute resolution will be implemented by DEQ and EPA starting at the project manager level and moving up to the section managers, the Division Administrators and then to the Agency Director and Regional Administrator.
  - Disputes will generally be resolved within 15 days, or sooner, if necessary and possible.
  - Any of the signing project partners can have a representative at the dispute discussion or provide a written statement, but the dispute will be run through EPA and DEQ staff.
  - EPA will make the final decision for in-water issues and, DEQ for uplands.

# PORT OF PORTLAND SHIPYARD

## ANNUAL STATUS REPORT

Page 1 of 2

### PROJECT OVERVIEW

The Port of Portland Swan Island Portland Shipyard (PSY) (ECSI #271) is located at 5555 N. Channel Avenue in Portland. Swan Island is located near the north side of the Willamette River approximately 2.5-miles down-river of the Broadway Bridge. The property comprises most of the north, west, and south perimeter of Swan Island. The PSY is the largest industrial property on Swan Island. Cascade General purchased the PSY from the Port in Summer 2000, but the Port has retained the lead for resolving the existing outstanding environmental concerns.

Historically, Swan Island was a low-lying island in the middle of the Willamette River. The Port bought the island in 1921; built a land bridge to the mainland; and filled the perimeter, increased the size, and raised the grade. In 1927, the Port constructed Portland's first airport on the island, which operated there until 1941. After airport closure, the island was vacant until World War II when the Kaiser Company built and operated a military shipyard. After the war, the island was returned to the Port. The Port then added dry dock and ship repair facilities. In 1979, the PSY underwent further expansion with the addition of Dry Dock 4, the largest dry dock on the West Coast.

The PSY occupies approximately 95-acres of the island, most of which is paved. The primary components of the PSY include marine vessel docking, dry docks, wastewater treatment, repair facilities, and support facilities.

The Port is participating in DEQ's Voluntary Cleanup Program through an Intergovernmental Agreement. The Port will investigate and cleanup both upland and river sediment contamination released from on-site sources of contamination. The Port is currently revising a Remedial Investigation/Feasibility Study (RI/FS) work plan designed to:

- Evaluate the nature, extent, magnitude, and sources of contamination in the vicinity of the site;
- Identify and evaluate potential risk to human and ecological receptors; and,
- Support identification and selection of a Remedial Action for the site, if necessary.

Over the past 20 years, the Port has completed a number of upland soil investigations and removals. The RI is designed to supplement our existing understanding of environmental conditions and to evaluate groundwater conditions at the site. The Port also completed an expensive sediment investigation in Fall 1998, that at least preliminarily defined the nature, extent, concentration and toxicity of sediment contamination at the facility.

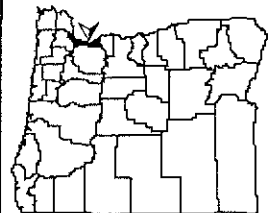


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Updated: 03/2001





## **PROJECT STATUS**

The PSY is a large site with a long history of industrial use. Potential on-site sources of contamination include: dry dock operations, waste water discharge, underground storage tanks, contaminated sediments, stormwater runoff, and soil contamination from previous operations.

The contaminants most likely to occur in upland soil and groundwater are petroleum hydrocarbons and their constituents, solvents, metals, and Polychlorinated Biphenyls (PCBs). The contaminants most likely to occur in sediment are paint, sand blast grit, petroleum hydrocarbons and their constituents, PCBs, and tributyltin.

The primary exposure pathway for upland contamination at the PSY appears to be either direct contact with contaminated soils or inhalation of vapor from contaminated soil and/or groundwater. Exposure via these pathways is currently considered limited because most of the upland portion of the PSY is paved.

The primary human receptor exposure pathway for sediment contamination at the PSY appears to be direct contact with sediments, ingestion of sediments and/or surface water impacted by sediment contamination, or consumption of aquatic organisms impacted by sediment/surface water contamination. The primary ecological receptor exposure pathway for sediment contamination at the PSY appears to be direct contact with sediments or surface water impacted by contaminated sediments, or through bioconcentration in the food web. *o*

# McCORMICK & BAXTER

## PROJECT STATUS REPORT

Page 1 of 1

### PROJECT OVERVIEW

The McCormick & Baxter site is located at 6900 North Edgewater Street in Portland. The site includes about 43 acres of land and about 15 acres of sediments in the adjacent Willamette River.

McCormick & Baxter Creosoting Company operated between 1944 and 1991, treating wood products with creosote, pentachlorophenol, and inorganic (arsenic, copper, chromium, and zinc) preservative solutions. Historically, process wastewaters were discharged directly to the Willamette River, and other process wastes were disposed of in several areas of the site. Significant concentrations of wood-treating chemicals have been found in soil and groundwater at the site, and in river sediments adjacent to the site.

DEQ conducted investigations at the site between September 1990 and September 1992, and issued a proposed cleanup plan in January 1993. However, a final Record of Decision (ROD) was postponed when the United States Environmental Protection Agency (EPA) proposed to list the site on the National Priorities List (NPL). EPA listed the site in June 1994. In the interim, DEQ implemented a number of removal measures, including plant demolition, sludge and soil removals, and extraction of creosote from the groundwater aquifers. DEQ and EPA issued a proposed cleanup plan in October 1995, and the ROD was formally signed in April 1996.

DEQ is the lead agency for implementation of the selected remedy. A component of the groundwater remedy, initiated in 1994, consisted of an automated creosote extraction and groundwater treatment system. However, due to poor product recovery and elevated operating costs, the automated system was discontinued in late 2000. Creosote is currently being recovered by passive and manual methods.

DEQ and EPA amended the ROD in March 1998, to change a portion of the soil remedy from on-site treatment to off-site treatment and/or disposal of the most highly contaminated soil. Soil removal began in March 1999, and was completed in May 1999. Approximately 33,000 tons of contaminated soil and debris were removed. The soil remedy will be completed by capping the entire site with two feet of clean soil once the groundwater remedy has been fully implemented.

DEQ and its contractors are now designing the final components of the remedy. An impermeable subsurface barrier wall will be installed to prevent or reduce migration of residual wood-treating chemicals to the Willamette River, and innovative creosote recovery techniques are being considered. In addition, areas of contaminated river sediments posing an unacceptable risk to human health and/or the environment will be capped.

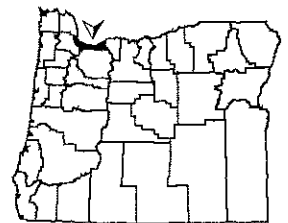
DEQ plans currently call for installation of the barrier wall during the Fall of 2001, the sediment cap during the Summer of 2002, and the soil cap during the Fall of 2002. *es*



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# WILLAMETTE COVE

## ANNUAL STATUS REPORT

Page 1 of 1

### PROJECT OVERVIEW

The Willamette Cove property (ECSI #2066) encompasses approximately 27 acres of vacant land along the eastern bank of the Willamette River on North Edgewater Street. METRO purchased the property in 1996, and plans to preserve it as greenspace. Willamette Cove's industrial uses date back to the 1930s. Industrial activities ended by the late 1960s and the site has been vacant since. The following types of facilities operated at the Willamette during its active period:

1. Wood barrel manufacturer (cooperage);
2. Lumber mill;
3. Shipbuilding and repair (drydocks); and
4. Plywood plant.

The Willamette Cove property is located immediately downstream of the McCormick and Baxter (M&B) wood-treating site (ECSI #74). M&B was added to the U.S. EPA's National Priority List (NPL *a.k.a.* the Superfund List) in June 1994. Contaminated groundwater and sediments from M&B have migrated onto the upstream edge of the Willamette Cove property.

The site is located within a portion of the Willamette River known as the Portland Harbor. A 1997 investigation by DEQ and EPA detected significant sediment contamination within the Harbor. In December 2000, EPA placed Portland Harbor on the NPL.

DEQ's Site Assessment Section completed a Strategy Recommendation for Willamette Cove property in January 1998 (Revised December 1998). Soil, groundwater, and sediment contamination have been confirmed on-site. The contaminants of interest include: Total Petroleum Hydrocarbons (TPH); Polycyclic Aromatic Hydrocarbons (PAHs), Volatile Organic Compounds (VOCs), and metals. The strategy recommendation determined that remedial action is necessary at the site to assure protection of public health, safety, and welfare of the environment.

METRO and the Port of Portland entered into a Voluntary Agreement with DEQ for a Remedial Investigation (RI) and source control measures on November 3, 2000.

METRO and the Port of Portland submitted an *Existing Data Site History Report* and the *Remedial Investigation Scoping Document* in November 2000. DEQ comments on these documents will be incorporated into the Remedial Investigation work plan to be submitted to the DEQ in February 2000.

### ENVIRONMENTAL CONCERNS

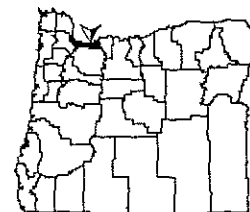
Releases of petroleum hydrocarbons, Polycyclic Aromatic Hydrocarbons (PAHs), Volatile Organic Compounds (VOCs) and metals, into the soil, groundwater, and sediments, have been documented at the site. Additional investigation is needed to assure protection of future greenspace users and ecological receptors on the property and in the Willamette River. *z*



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Updated: 3/2001



# ATOFINA CHEMICALS, Inc.

## ANNUAL STATUS REPORT

Page 1 of 1

### PROJECT OVERVIEW

The ATOFINA Chemicals, Inc., Portland Plant (ECSI #398) is located at 6400 NW Front Avenue in Portland. The insecticide Dichlorodiphenyltrichloroethane (DDT) was manufactured at the Portland Plant from approximately 1947 to 1954. The Pennwalt Corporation operated the facility at this time. Chemical base stocks used in the DDT manufacturing process included chloral, Monochlorobenzene (MCB), and sulfuric acid.

DDT manufacturing waste was initially discharged to floor drains, which are believed to have been connected to a storm sewer, which drained to the Willamette River. From approximately 1948 until the end of production, DDT manufacturing waste was discharged to an unlined pond adjacent to the bank of the Willamette River. In 1951, a 300-foot overflow trench was added to the north end of the disposal pond.

DEQ and ATOFINA entered into a Voluntary Letter Agreement in February 1996. ATOFINA requested that DEQ review the investigation and planned remediation of the *former* DDT manufacturing area. In August 1998, ATOFINA entered into a Voluntary Agreement with DEQ to perform a Remedial Investigation and Feasibility Study (RI/FS) of the *former* DDT manufacturing area.

DDT concentrations in the *former* pond range from 5,000 mg/kg to 150,000 mg/kg. DDT levels in the soils outside of the immediate pond and trench areas range from 0.25 mg/kg to 12,000 mg/kg. Groundwater in the *former* DDT manufacturing area and downgradient is contaminated with MCB, DDT and chloroform, which is believed to be a degradation product of chloral. Data from monitoring wells adjacent to the Willamette River indicate that contaminated groundwater is discharging to the river.

Sediment sampling in 1997 by EPA and DEQ detected elevated concentrations of DDT up to 22 mg/kg along the ATOFINA facility. More recent sediment sampling by ATOFINA detected DDT up to 81 mg/kg in sediments.

ATOFINA removed accessible soil from the *former* pond trench area during 2000, and disposed of it in the hazardous waste landfill in Arlington, Oregon. The stormwater system was also upgraded and surface improvements made to prevent stormwater from transporting DDT-contaminated soil to the river.

ATOFINA is currently evaluating options to limit or prevent the migration of contaminants in groundwater to the Willamette River. Remedial investigation of the uplands is also ongoing.

### ENVIRONMENTAL CONCERNS

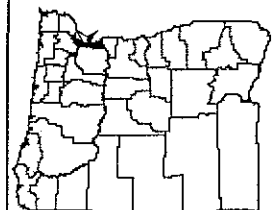
DDT has a high tendency to bioaccumulate and interferes with bird reproduction. The presence of DDT in an aquatic environment, such as the Willamette River, where DDT can be taken up into the food web, is a concern. ⚡



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Updated: 3/2001



# GUNDERSON

## PROJECT STATUS REPORT

Page 1 of 1

### PROJECT OVERVIEW

Gunderson manufactures and refurbishes rail cars and manufactures barges. The property consists of 67 acres along the west bank of the Willamette River. Four separate companies have used the property for similar operations and salvage work since the 1940s.

Considerable soil and groundwater investigation was completed at the site before Gunderson joined the Voluntary Cleanup Program in 1992. This investigation documented elevated levels of metals and PCBs in the southern portion of the site formerly used for dismantling ships and as an automobile salvage yard. TCA was detected in shallow groundwater in the vicinity of a TCA degreasing tank (north end of site) and decommissioning issues were identified for two underground storage tanks (USTs). One inactive tank, which contained solvents and waste oil, is located beneath a paint storage room. Leaks from the other tank resulted in xylene, ethylbenzene and toluene contamination of soil.

Gunderson and DEQ entered into a Voluntary Agreement on April 15, 1994 to complete a remedial investigation (RI) and feasibility study (FS). The Agreement limited the RI/FS to the TCA and two tank areas (north half of site). The Agreement was amended in 2000 to expand the scope of work to include the entire facility.

A vapor extraction system was constructed in May 1998 to remediate soil contamination associated with the solvent UST and is currently operating.

Cleanup issues associated with the other UST have been resolved and a no further action letter was issued by DEQ in February 1998.

The above ground TCA tank has been decommissioned, and the remedial investigation of the TCA releases to groundwater is on going. TCA concentrations in the area of the former tank are high, up to 170 mg/L, and extend into the Columbia River Basalt Aquifer approximately 40 feet below ground surface. TCA in groundwater has migrated off-site to the north beneath the Lakeside industries property and is discharging to the Willamette River. Gunderson is currently evaluating interim remedial options to limit or prevent the discharge of the TCA plume the river. Gunderson is also developing a plan for the remedial investigation of the portions of the facility not covered by the initial Voluntary Agreement.

### ENVIRONMENTAL CONCERNS

Groundwater has been impacted by TCA and is in communication with the Willamette River. Groundwater is not currently used at the site for either drinking or process water. There is potential for direct contact with contaminated site soils. Characterization of the former ship dismantling and auto salvage areas has not been completed so the risk associated with these areas is currently undefined.



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**Portland Harbor Site Status**

**May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Gould Electronics, Inc. (NPL)	O&M	High	Jill Kiernan	1985*	Cleanup completed. Operation and maintenance activities underway	Former battery manufacturer
McCormick & Baxter (NPL)	RD/RA	High	Bill Dana	1987	Cleanup underway	Former wood treating facility. DNAPL present in sediments.
Rhone Poulenc	RI	High	Eric Blischke	1989	RI/FS underway	Former herbicide and pesticide manufacturer. DNAPL present in source area.
Mobil Oil	RD/RA	High	Matt McClincy	1991	ROD signed. RD/RA Agreement under negotiation	Bulk fuel facility. Source control measures in place
Gunderson	RI	High	Matt McClincy	1991	RI/FS underway. RI/FS Agreement amended to address entire property November 2000.	Rail car manufacturer
Time Oil	RI	High	Tom Roick	1991	RI/FS underway	Bulk fuel facility.
Linnton Oil Fire Training Grounds	O&M	High	Tom Roick	1991	Cleanup completed. Operation and maintenance activities underway	Former fire training facility
GASCO (NW Natural)	RI	High	Eric Blischke	1993	RI/FS underway. Free product recovery system installed as pilot project.	Former oil gasification plant. Tars present in sediments. High concentrations of groundwater contamination near river.
Willbridge (Includes Chevron, Tosco, Shell, UNOCAL and GATX)	RI	High	Jill Kiernan	1995	RI/FS underway	Bulk fuel facility
Atofina	RI	High	Matt McClincy	1996	RI/FS underway. Interim action addressing contaminated soil completed. Pilot study for source control in planning stage.	Former DDT manufacturer. High levels of DDT in sediments. High concentrations of groundwater contamination near river.
Riedel (Zidell -Triangle Park)	RI	High	Jim Anderson	1997	PPA. RI/FS underway. RP responsible for soil contamination. State orphan program responsible for groundwater contamination.	Former scrap metal handler.
Terminal 4 - Port of Portland	RI	High	Tom Roick	1998	RI/FS underway. Sediment bioassay data collected.	Sediments contaminated with PAHs from pencil pitch off loading operations and diesel.

**Portland Harbor Site Status**  
**May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Portland Shipyard (Cascade General)	RI	High	Jim Anderson	1998	RI/FS underway	Ship maintenance yard
Willamette Cove (METRO)	RI	High	Rod Struck	1998**	RI Agreement signed October 2000. RI underway.	Former Port of Portland facility.
US Moorings	RI (Inactive)	High	Alicia Voss	1999**	Federal facility. RI Agreement negotiations on hold.	USACE dock facility. Sediment contamination likely from former GASCO site.
McCall Oil and Great Western Chemical (includes Port of Portland - McCall)	RI	High	Tom Gainer	2000	Review complete. Strategy Recommendation sent November 21, 1999. Agreed to perform RI December 21, 1999. RI Agreement signed April 2000. RI underway.	Bulk petroleum facility. Numerous releases of asphalt and diesel. Groundwater contaminated with petroleum hydrocarbons. PAHs detected in sediments above baseline.
Linnton Plywood Association (includes Columbia River Sand and Gravel)	RI	High	Don Pettit	2000	Review complete. Strategy recommendation sent 10/8/1999. Agreed to cooperate. Adjacent to Columbia River Sand and Gravel. RI Agreement signed June 2000. Pre-RI Assessment underway.	Plywood manufacturing and sand and gravel facility. Documented release of oil to Willamette River. PAHs detected in sediments above baseline.
ARCO	RI	High	Tom Gainer	2000	RI Agreement signed June 2000. RI underway.	Bulk fuel facility.
Schnitzer Investment Corporation - N. Burgard Industrial Park (includes Boydston Metal Works, Portland Container Repair Company, and Western Machine Works)	RI	High	Alicia Voss	2000	Review complete. Sent November 24, 1999. Agreed to perform RI December 27, 1999. RI Agreement signed June 2000. Pre-RI Assessment underway.	Scrap metal recycling facility. Former location of Oregon Shipbuilding Corporation. Numerous storm drains present. PAHs and metals detected in sediments above baseline.
GATX Linnton Terminal	RI	High	Don Pettit	2000	Review complete. Strategy Recommendation sent July 27, 1999. Agreed to perform RI November 13, 1999. RI Agreement signed June, 2000. RI underway.	Bulk petroleum facility. Free product present in groundwater. PAHs in sediments exceed baseline concentration by 2 orders of magnitude.

**Portland Harbor Site Status**

**May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Oregon Steel Mills	RI	High	Rod Struck	2000	Review complete. Strategy Recommendation sent September 27, 1999. Agreed to perform RI October 27, 1999. RI Agreement signed June 2000. Pre-RI Assessment underway.	Steel manufacturing facility. Petroleum products and metals detected in sediments during dredging operations.
PGE Harborton Substation	RI	High	Rod Struck	2000	Review complete. Strategy Recommendation sent September 27, 1999. Agreed to perform RI October 27, 1999. Adjacent to ACF and Georgia Pacific. RI Agreement signed June 2000. Pre-RI Assessment underway.	Substation and former electrical generator facility. Large quantities of petroleum historically stored on-site. PAHs detected in sediments more than 10 times baseline.
Mar Com Marine	RI	High	Alicia Voss	2000**	Review complete. Strategy Recommendation sent October 1, 1999. Agreed to perform RI October 27, 1999. Adjacent to Hendren Tow-Boats and General Construction. Unilateral Order issued August 8, 2000. Mar Com declined to comply September 5, 2000. Declared orphan site January 4, 2001. Access Agreement under negotiation.	Barge and ship repair facility. USCG documented releases of oil and paint to river. PAHs and metals in sediments exceed baseline concentration.
Texaco Unloading Dock (Includes Pipeline and Terminal)	RI	High	Matt McClincy	2000**	Review complete. Strategy Recommendation sent 9/27/1999. Agreed to perform RI 11/18/1999. RI Agreement signed August 2000. Pre-RI assessment underway.	Bulk petroleum facility. Known releases of petroleum associated with pipeline and terminal. Documented releases of petroleum to Willamette River. Lead and LPAHs detected in sediments above baseline.



**Portland Harbor Site Status  
May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
US Coast Guard	RI	High	Eric Blischke	2000**	Review complete. Strategy Recommendation sent September 27, 1999. Received letter agreeing to cooperate. Adjacent to Freightliner and Fred Devine Diving and Salvage. Federal facility. RI Agreement negotiations on hold. USCG has completed independent investigation without state or federal oversight.	USCG boat operation and maintenance facility. Documented diesel spill and UST releases. PAHs detected in sediments above baseline.
Fred Devine Diving and Salvage	XPA	High	Eric Blischke	2000**	Review complete. Strategy recommendation sent October 1, 1999. Adjacent to US Coast Guard and Freightliner. Re-evaluation completed. Site downgraded to XPA. Letter Agreement under negotiation.	Diving and salvage facility. Documented petroleum sheen in river adjacent to facility. PAHs detected in sediments more than 5 times baseline.
ACF Industries	RI	High	Dan Hafley	2000**	Review complete. Strategy Recommendation sent September 27, 1999. Adjacent to Georgia Pacific and PGE Harborton. Declined to perform RI Voluntarily. Unilateral Order issued August 8, 2000. ACF agreed to comply August 18, 2000. RI underway.	Former railroad car maintenance facility. Contaminants from waste pond may have reached river via drainage ditch.
Wacker Siltronic	RI	High	Eric Blischke	2000**	Strategy Recommendation Complete; sent October 19, 1999. Agreed to perform RI November 19, 1999. On March 30, 2000, Wacker declined to sign proposed RI Agreement. Unilateral Order issued October 4, 2000. RI underway.	Silicon wafer manufacturing facility. Waste tars from adjoining GASCO facility disposed on site. PAHs detected in sediments at concentrations above baseline.

**Portland Harbor Site Status**

**May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Premier Edible Oils	RI	High	Alicia Voss	2000**	Part of Schnitzer Site. Strategy recommendation and request for RI sent to Premier Edible Oils March 2, 2000. DEQ subsequently recommended that Schnitzer perform an RI at the site. Schnitzer has agreed to perform the work. RI Agreement negotiations are underway.	Groundwater contaminated with chlorinated solvents and petroleum compounds. PAHs and metals detected in sediments above baseline.
Port of Portland Terminal 1-South	RI	NA	Rod Struck	2000	PA performed by Port of Portland. Joined voluntary cleanup program as a result of property transaction.	Port of Portland Terminal
Shaver Transportation	XPA	High	Eric Blischke	2000**	Review complete. Strategy Recommendation sent December 7, 1999. Received letter indicating cooperation. Signed Letter Agreement received March 16, 2001.	Freight transportation facility. Tugboat dock and maintenance operations. Metals detected in sediments above baseline.
Georgia Pacific - Linnton	XPA	High	Tom Gainer	2000	Review complete. Strategy Recommendation sent October 1, 1999. Signed Letter Agreement received. Supplemental PA and sampling plan received February 2, 2000. Review of investigation results underway.	Former wood chip export terminal. Creosoting plant once occupied site. PAHs detected in sediments above baseline.
Marine Finance Corporation (Includes Hendren Tow Boats)	XPA	High	Rod Struck	2000	Review complete. Strategy Recommendation sent October 1, 1999. Signed Letter Agreement received January 21, 2000. Unclear whether Marine Finance has financial resources to complete investigation. Orphan site declaration prepared. Review of investigation results underway.	Little known about site operations. PAHs detected in sediments above baseline.

**Portland Harbor Site Status  
May 18, 2001**

<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Owens Corning Fiberglas (includes Trumball Asphalt)	XPA	High	Tom Gainer	2000	Review complete. Strategy Recommendation sent October 1, 1999. Signed Letter Agreement received. Investigation underway.	Asphalt manufacturing facility. Wood treating operations once took place on site. PAHs detected in sediments above baseline.
	XPA	High	Tom Gainer	2000	Review complete. Strategy Recommendation sent October 8, 1999. Signed Letter Agreement received. PA received February 11, 2000. Investigation underway.	Steel forging, fabrication and distribution facilities operate on property. Small spills of hydraulic, motor or lubrication oil have occurred on site. Metals and PAHs detected in sediments above baseline.
UPRR - Albina Railroad Yard	XPA	High	Rod Struck	2000	Review complete. Strategy Recommendation sent October 8, 1999. Letter received refusing request. Declared orphan site January 19, 2000. Investigation complete. RI required. RI Agreement negotiations complete.	UPRR has operated rail yard at this location since at least 1936. Numerous petroleum spills have occurred at the site. No sediment samples collected immediately adjacent to site.
Foss Marine	XPA	High	Rod Struck	2000	Review complete. Strategy Recommendation sent November 19, 1999. Signed Letter Agreement received December 28, 1999. PA received February 15, 2000. Investigation underway.	Maritime maintenance and repair facility. Numerous spills of petroleum products to river. PAHs detected above baseline immediately downstream.
Jefferson Smurfit	XPA	High	Alicia Voss	2000**	Review complete. Strategy Recommendation sent November 19, 1999. Signed Letter Agreement received December 2000. Expanded preliminary assessment under review by DEQ.	Corrugated container manufacturing facility. 100 gallon fuel spill occurred in 1996. PAHs detected in sediments above baseline.

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<u>Site</u>	<u>Phase</u>	<u>Priority</u>	<u>Project Manager</u>	<u>Project Start Date</u>	<u>Status</u>	<u>Environmental Issues</u>
Northwest Pipe Company	XPA	High	Alicia Voss	2000**	Review complete. Strategy Recommendation sent November 19, 1999. Signed Letter Agreement received August 2000. Expanded preliminary assessment underway.	Steel pipe manufacturing facility. TPH, PAHs and chlorinated solvents detected in stormwater catch basin sediments. PAHs, metals and phthalates detected in river sediments above baseline.
Goldendale Aluminum	XPA	High	Tom Gainer	2000	Review complete. Strategy Recommendation sent December 7, 1999. Signed Letter Agreement received February 3, 2000. PA received March 15, 2000. Investigation underway.	Alumina transfer facility. Lead, zinc and oil/grease detected in stormwater. PAHs detected in dredge composite sample above baseline.
Front Avenue LLP - Lone Star Northwest (includes Tube Forgings USA and CMI/Hampton Lumber)	XPA	High	Eric Blischke	2000**	Review complete. Strategy Recommendation sent December 14, 1999. Received letter declining request to execute Letter Agreement. Reevaluation of site underway.	Pipe fitting manufacturing, lumber distribution and concrete plant facilities. Petroleum, VOCs, SVOCs, PCBs and metals detected on Tube Forgings property. Stormwater line discharges from site to river. Metals detected in sediment above baseline.
Schnitzer Investment Corporation - Kittridge	PA	High	Rod Struck	2000**	Review complete. Strategy Recommendation sent December 14, 1999. Signed Letter Agreement received September 15, 2000. Preliminary assessment under review by DEQ.	Numerous industrial operations have occurred at site. Acetylene plant operated from 1942 until 1985. Two drain lines discharge from site to river. Metals detected in sediments above baseline.
Cal Bag Metals	XPA	High	Tom Gainer	2000**	Review complete. Strategy Recommendation sent December 21, 1999. Signed Letter Agreement received January 19, 2001. Expanded preliminary assessment underway.	Metal recycling facility. Ash residue found to contain leachable metals. Metals detected in sediment above baseline.

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Christenson Oil	XPA	High	None Assigned	2000**	Strategy Recommendation Complete; sent July 14, 2000. Signed letter agreement received August 10, 2000. Expanded preliminary assessment underway.	Petroleum contamination likely entered Willamette River from site.
City of Portland Outfalls	Outfall Evaluation	NA	Rod Struck	2000	Evaluation of City of Portland Outfalls underway.	Sediment data suggests that stormwater outfalls may be a significant source of sediment contamination.
Port of Portland Facilities (Includes T-1 North, T-2, T-4 and T-5)	PA	NA	Eric Blischke	2000	Preliminary assessments for Port facilities under DEQ review.	Under evaluation
Santa Fe Pipeline	PA	Medium	None Assigned	2000***	Review complete. Strategy recommendation sent January 3, 2000.	Site runoff discharges to North Doane Lake. No migration pathway from site to river.
Freightliner Corporation	PA	Medium	None Assigned	1999***	Review complete. Strategy recommendation sent October 1, 1999. Independent Cleanup Pathway option requested.	Truck assembly and painting facility. Metals and phthalates detected in sediments above baseline. However, Freightliner's contribution to sediment contamination is unclear.
Babcock Land Company	PA	Medium	None Assigned	1999***	Review complete. Strategy recommendation sent October 8, 1999. Independent Cleanup Pathway option requested.	Steel and railroad materials storage facility. No site related contaminants present in sediments.
RK Storage	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent October 8, 1999.	Historic operations include lumber storage and phenol formaldehyde glue manufacturing. Site does not appear to have affected sediment quality.
RoMar Reality	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent November 19, 1999.	Warehouse facility. Site does not appear to have affected sediment quality.

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Lakeside Industries	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent December 7, 1999.	Asphaltic concrete manufacturing facility. Site does not appear to have affected sediment quality.
Time Oil St. Helens Road	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent December 7, 1999.	Bulk petroleum transfer facility. PAHs detected in upstream sample above baseline.
City of Portland Water Laboratory	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent December 8, 1999.	Water pollution control laboratory. Former lumber mill. Site related chemicals not detected in sediment above baseline.
Alder Creek Lumber Company	PA	Medium	None Assigned	1999***	Review complete. Strategy Recommendation sent December 21, 1999.	Lumber Mill. Site does not appear to have affected sediment quality.
Transloader International (a.k.a. General Construction)	PA	Low	None Assigned	1999***	Review complete. Strategy Recommendation sent December 21, 1999.	Current use of facility unknown. No contaminants detected in sediments above baseline.

Notes:  
 All dates listed are the date of a Letter Agreement, RI Agreement or Consent Order between DEQ and RP with exceptions listed below:  
 \* Date of EPA Consent Order; DEQ not a party to EPA Consent Order  
 \*\* Date of DEQ Agreement negotiations; Agreement not yet executed  
 \*\*\* Low or medium priority with no agreement in place; date of DEQ Strategy Recommendation  
 NA - Priority not assessed