

**Date:** July 15, 2021

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director

**Subject:** Item M: Director's Report (Informational)  
July 22-23, 2021, EQC meeting

## 1. Agency Rulemaking Updates

### 1.1 Landfill Methane Emissions Rules (Air Quality)

Governor Brown signed Executive Order 20-04 in March 2020 directing agencies including DEQ to take a range of actions to reduce greenhouse gas emissions in Oregon. One of those actions is for DEQ and the EQC to reduce methane emissions from landfills. DEQ is currently accepting comments on draft proposed rules designed to accomplish those reductions. DEQ will close the public comment period for the landfill methane emission reduction rulemaking later this month, and expects to bring the proposed rules to the commission in September 2021. The proposed rules, if approved, would:

- Align Oregon's landfill gas emission rules with the most stringent requirements of adjacent states and federal government
- Define regulatory applicability and program requirements
- Reduce methane emissions from landfills

### 1.2. Cleaner Air Oregon Alignment Rules (Air Quality)

On July 1, DEQ opened a 30-day public comment period on proposed rule changes to align and update the Air Toxics program (Division 246) with Cleaner Air Oregon (Division 245). Adopted in 2003, the Air Toxics program addresses area sources primarily, and establishes health goals, called Ambient Benchmark Concentrations, that serve as comparative values for air toxics assessments. The Cleaner Air Oregon program, established in 2018, addresses emissions from permitted stationary sources, and has a separate list of compounds and Toxicity Reference Values. The rulemaking proposes changes to OAR 340, division 245 and 246 and forms a new division of OAR rules, division 247, to align these two programs by addressing the following priorities:

- Strengthening the process for setting and revising toxicity values for toxic air contaminants. This includes updating the role of the Air Toxics Science Advisory Committee (ATSAC);

- Aligning the Oregon State Air Toxics Program and the recently established CAO Program to promote clarity and use of best science to protect the health of all Oregonians, including sensitive and vulnerable populations; and
- Clarifying certain CAO requirements for facilities, and addressing inefficiencies in the risk assessment process.

DEQ expects to bring these proposed rules to the commission in November 2021 for a decision.

### **1.3. Clean Trucks Rules (Air Quality)**

DEQ has initiated rulemaking proceedings needed to propose adoption of California's Advanced Clean Truck and Low-NOx omnibus regulations. As discussed at the May commission meeting, section 177 of the federal clean air act (42 USC § 7507) allows states to adopt new motor vehicle emissions standards that are identical to standards adopted by the State of California (California must receive approval from the U.S. Environmental Protection Agency to promulgate standards that differ from national standards set by EPA). This is an authority that sixteen states, including Oregon, have exercised in the past.

These particular rules are intended to accelerate the adoption of Zero Emission Vehicle technology by manufacturers of medium- and heavy-duty trucks (over a gross vehicle weight of 8,500 pounds). The proposed rules also address tailpipe emissions associated with new diesel medium- and heavy duty trucks sold in Oregon. Adoption of these rules is a key element of DEQ's diesel emission reduction strategy, in particular strategic directive #2: "Adopt new and cleaner technologies."

DEQ has convened a Rules Advisory Committee for this rulemaking. The committee includes 19 members representing diverse perspectives, such as: truck manufacturers, fleet operators, clean energy and air quality advocates, environmental justice communities and local governments. The committee had its first meeting on July 12 and will meet again in early August. DEQ intends to propose rules to the commission at its November 2021 meeting. The rules must be adopted in calendar year 2021 in order for Oregon to realize the full benefits of the program.

### **1.4. Water Quality Permitting Fee Rules (Water Quality)**

DEQ is proposing a three percent increase in water quality permitting fees. The comment period will close on July 21, 2021. DEQ plans to take the final proposal, including any modifications made in response to public comments, to the commission for a decision at its September 2021 meeting.

### **1.5. Hazardous Waste Program – Federal Alignment Rules (Land Quality)**

In this rulemaking, DEQ will propose to align Oregon's hazardous waste rules with changes to federal (EPA) rules adopted over the past several years. These changes are needed for Oregon to ask EPA to continue authorizing Oregon DEQ to operate the federal RCRA hazardous waste program in Oregon (in lieu of EPA). To ensure DEQ issues fair and appropriate civil penalties for non-compliance of the adopted rules, DEQ is also including proposed changes to Division 12

enforcement rules with this rulemaking. The public comment period is open until 4 p.m. on Friday, Aug. 13, 2021. DEQ intends to bring the proposed rule changes to the commission at the November 2021 meeting.

## **2. Laboratory**

### **2.1. Wildfire Smoke Trends and the Air Quality Index report**

DEQ's lab is finalizing a "Wildfire Smoke Trends and the Air Quality Index" report that includes data from the September 2020 wildfires. The report summarizes DEQ's air quality monitoring for particulate matter during wildfire season and how that information is translated into an Air Quality Index with categories of potential health effects. The 2020 wildfire season was shorter in duration than past years but far more intense with some of the highest PM2.5 concentrations on record in Oregon. The reported trends show annually increasing wildfire smoke and more frequent days at a more unhealthy level. Oregon should expect to see that trend continue with an increasing number of unhealthy days due to wildfire smoke across the state. The report is now available on DEQ's webpage:

<https://www.oregon.gov/deq/wildfires/Documents/WildfireSmokeTrendsReport.pdf>

## **3. Air Quality Division**

### **3.1. Diesel Mitigation Program Website Launched**

DEQ successfully launched the new Diesel Emissions Mitigation grant program on June 30, and unveiled a new online grant application tool, WebGrants. The program includes a comprehensive user guide to help potential applicants apply for funding to improve air quality statewide. Public agencies, businesses, federally recognized tribes in Oregon, and individual diesel equipment owners are eligible to apply for grant funding to reimburse project costs that upgrade old, more polluting equipment with cleaner technology. DEQ staff are now focused on outreach with the owners of older diesel equipment to provide them with \$8 million of incentive funding to clean up their emissions in 2021. This program is one element of the agency's overall strategy to reduce diesel emissions in Oregon and will continue to provide approximately \$8 million in incentive funding each year for the next five years.

### **3.2. Particulate Matter Reduction Grants Updates**

In June 2019, the Oregon legislature allocated funding to DEQ to support the particulate matter reduction program, which works with local communities to reduce particulate matter emissions through woodstove changeouts, education and outreach, and woodstove curtailment efforts. With this special funding, DEQ awarded grants to seven communities (Harney County, City of La Grande, Town of Lakeview, City of Prineville, City of Pendleton, Multnomah County, and Klamath County). The particulate matter reduction projects funded with these grants have now been completed.

Despite the challenges of implementing projects in 2020 and 2021 due to safety and public health issues associated with COVID-19, DEQ staff worked hard to assist communities to maintain their project goals, and overarching deliverables, while staying safe and abiding by all COVID-19 restrictions and protocols. The communities implemented a variety of projects, including issuing ongoing winter-time wood burning advisories, completing 80 woodstove change outs, constructing 14 new wood storage sheds, hosting a Christmas tree recycling program, as well as hosting an array of education and outreach events including some creative virtual learning experiences.

### **3.3. Portland State University Diesel Particulate Matter Monitoring Grant**

The PSU diesel particulate matter grant project is progressing well, regaining momentum after a slow down due to the pandemic. The initial monitoring phases had been mostly completed before the stay-at-home policies went into place in March 2020. Modeling to help identify the sources of diesel PM impacting vulnerable communities is now underway. PSU has also begun working with Neighbors for Clean Air to initiate planning for community engagement workshops included in the grant design, and workshops are planned to occur in-person. DEQ has also begun the process for requesting a no-cost extension for the diesel PM grant to March 31, 2022, as schedules were delayed due to the stay-at-home policies.

## **4. Land Quality Division**

### **4.1. Materials Management Program: Drug Take-Back Program Launched**

The [Oregon Drug-Take Back Program](#) launched on July 1, 2021, offering Oregon residents a convenient, safe, and secure way to dispose of unwanted prescription and over-the-counter medicines. The program is overseen by DEQ, in partnership with the Oregon Board of Pharmacy, and is funded by drug manufacturers. This is DEQ's third product stewardship program, following the successful Electronics (Oregon E-Cycles) and Paint Product Stewardship Programs (PaintCare) that were established in 2007 and 2009.

As part of its oversight, DEQ reviewed and approved plans by two program operators to implement statewide drug take-back programs in Oregon. The program operators offer free disposal options for Oregon residents across the state, including take-back boxes at pharmacies and law enforcement agencies and prepaid, preaddressed envelopes for mailing in unwanted medicines.

The program was established by law in 2019, 12 years after the Oregon Pharmaceutical Take Back Stakeholder Group first presented its recommendations for a pharmaceutical take-back program to the Environmental Quality Commission. More recently, Drug Take-Back rules were adopted by the EQC in September 2020. The rules facilitate program implementation and ensure that the Program is grounded on a strong equity foundation that requires reasonable, convenient and equitable access for minority, lower-income, rural and other historically underserved

communities. The rules also require program operators develop a goal to raise awareness of their drug take-back programs within these communities.

Historically, consumers have borne the full cost for discarding unwanted products. Under product stewardship, producers and consumers share responsibility and cost for managing products at the end of their useful life. By taking unwanted drugs out of medicine cabinets, the program aims to reduce opportunities for misuse of prescription pain relievers and other medicines and to keep them out of our waters.

#### **4.2. Materials Management Program: Oregon E-Cycles Starts New Outreach Campaign**

DEQ recently launched a new campaign designed to inform, remind and motivate people in Oregon to take advantage of the state's free electronics recycling program, Oregon E-Cycles. The campaign, [Monster in Your Closet](#), was the result of extensive research, involving focus group testing and a statewide survey of 800 people. The public awareness campaign uses humor to call attention to household clutter in our closets, garages and workspaces, while helping people find a convenient drop off location.

Findings from DEQ research revealed that two-thirds of Oregon households have old, unused electronics taking up space in their home. These same individuals share the concern that they want to dispose of them safely, to keep our state free from hazardous materials. The problem is that many people do not realize the Oregon E-Cycles is free and easy to use. The campaign helps connect those dots. DEQ has made all [campaign materials](#) available in both English and Spanish.

### **5. Water Quality Division**

#### **5.1. Drought in Oregon – DEQ's Role in Multi-Agency Committee**

DEQ is participating in a multi-agency committee convened by the Oregon Water Resources Department on Oregon drought conditions. Drought conditions indirectly affect DEQ's work due to the relationship between water quantity and water quality. Low quantity can make it more difficult to meet water quality standards, as there may be less surface water within approved mixing zones to provide dilution for discharged pollutants.

DEQ offers technical assistance to wastewater permit holders who have questions about discharge limits during drought conditions and may consider drought conditions in cases where violations of water quality standards occur. DEQ also offers below-market rate loans for wastewater and irrigation infrastructure upgrades through the Clean Water State Revolving Fund program. Infrastructure upgrades could be a long-term option for organizations planning for wastewater management in drought conditions. Eligible public entities include tribal nations, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts, various special districts and certain intergovernmental entities.

## **5.2. DEQ-ODF Water Quality MOU**

The Department of Forestry and DEQ are working to complete a new Memorandum of Agreement outlining how they will work together to improve water quality on non-federal and non-tribal forest lands in Oregon. DEQ and ODF have been collaborating with the objective of clarifying ODF's role and responsibilities as Total Maximum Daily Loads (TMDLs) are developed, adopted and implemented. This work includes describing how information and analysis will be used in determining the adequacy of forest practice rules to meet TMDL load allocations (reductions in pollution necessary to meet water quality standards).

In March, the Oregon Department of Justice provided written legal advice explaining the respective responsibilities of the agencies and their Board and Commission for the protection of water quality on non-federal and non-tribal forestland. In broad terms, the EQC and DEQ assess waters, set water quality standards to protect beneficial uses, and adopt TMDLs where reductions in pollution are needed to meet those standards. The Board of Forestry and ODF are responsible for setting forest practice rules and implementing measures that will reduce pollution to levels where water quality standards are met.

The MOU will articulate how the agencies will work together to implement their respective programs and achieve these objectives. The existing MOU between ODF and DEQ is over 20 years old and does not reflect current requirements and operations, nor does it reflect current technical and scientific analyses and understandings of the relationship between landscape conditions and water quality. The MOU will delineate the agencies' respective areas of authority and expertise, and clearly outline how they will meet state and federal requirements. In addition, the MOU will reduce redundancy in analyses and speed implementation. A draft outline of the new MOU was presented to the Board and EQC at their joint meeting in March.

The agencies will release a draft for a 30-day public comment period in August. DEQ and ODF plan to provide an informational overview of the final MOU to a joint session of the EQC and Board of Forestry in November prior to finalizing the MOU.

## **6. Eastern Region**

### **6.1. Klamath Basin Water Quality Projects**

The Klamath River basin, located along the southern edge of Oregon and into the northern part of California, is important to a wide range of communities, including four federally-recognized tribes. Water resources in the basin have been managed in ways that are not sustainable. DEQ is working with many entities, including governments and community-based organizations, in the basin related to water concerns, a summary of which are include here as a general update to the commission.

### *Wastewater*

Domestic wastewater for the City of Klamath Falls is treated and disposed of by two independent entities, the City of Klamath Falls and South Suburban Sanitary District. Currently, both facilities discharge wastewater directly to the Klamath River under newly issued National Pollution Discharge Elimination System permits. These discharges are subject to stringent water quality based effluent limits required to meet Total Maximum Daily Load wasteload allocations for nutrients and temperature that are designed to meet both Oregon and California water quality standards. These limits require the City of Klamath Falls and South Suburban Sanitary District to make significant new investments in their wastewater treatment systems. Community desire for growth and new industry, along with continued pressure to improve water quality, is leading both the city and the district to explore options for discontinuing discharge to the river. This would be done by beneficially reusing treated wastewater for irrigation or other uses. The city is in discussions with DEQ and other partners about multiple options.

### *Klamath Dams License Transfer Approval*

The Federal Energy Regulatory Commission (FERC) announced on June 17 that it had approved the transfer of a hydroelectric license for four dams on the Klamath River from PacifiCorp to the Klamath River Renewal Corporation (KRRC) and the states of Oregon and California for the purpose of dam removal. John C. Boyle dam is the farthest upstream and is the only one of the four dams in Oregon. FERC's approval of the transfer is an important step in the process leading to ultimate decommissioning and removal of these dams, but FERC review of dam removal is still pending. DEQ issued a section 401 certification for license transfer and surrender in 2018 and has continued to review progress in meeting conditions of that certification. Next steps include National Environmental Policy Act (NEPA) review by FERC, fisheries consultations, and a final decision by FERC on license surrender and decommissioning, expected in 2022. Following dam removal, if approved by FERC, KRRC will continue to carry out restoration work for a number of years in order to stabilize and restore conditions in and along the river. Upon dam removal, salmon will once again have access to a significantly larger portion of the basin in both California and Oregon.

### *Farmer's Conservation Alliance*

DEQ has been working with the Farmer's Conservation Alliance in the Klamath Basin as it works to help modernize irrigation systems. DEQ, U.S. Bureau of Reclamation, and the California North Coast Regional Water Quality Control Board hosted a meeting in Klamath Falls to introduce Farmer's Conservation Alliance to basin irrigators in 2016. This meeting included presentations from state and federal agencies with possible funding options. The Alliance is currently engaged with five irrigation districts (Modoc Point, Wood River Ditch Co., Klamath Drainage District, Tule Lake and Klamath Irrigation District). Modernization of these systems could result in both water conservation and improved water quality.

## **6.2. Boise Cascade Elgin (Union County)**

DEQ has periodically updated the commission on our work with Boise Cascade's plywood mill in Elgin. In 2020, after becoming aware of unexpected potential impacts from contamination in leachate (runoff) from BCE's landfill, DEQ established limits to protect the environment and public health. BCE filed a lawsuit challenging DEQ's actions.

DEQ has worked with BCE toward resolution of the concerns regarding this matter. During 2021 many of the issues regarding containment of the leachate contamination were addressed in updated DEQ orders. The orders authorize BCE to continue its operations in 2021 and require BCE actions to address and mitigate the source of the contamination and prepare information for DEQ's review during BCE's upcoming permit renewal process, as the permit expires Jan. 31, 2022).

Because the BCE lawsuit challenges a DEQ order that is no longer in effect because of updated DEQ orders and approvals, the Oregon Department of Justice has asked BCE to voluntarily dismiss the litigation. DEQ will continue to work with the company on its upcoming permit renewal to support continued operations that protect public health and the environment.

## **6.3. PGE Carty Air Quality Permit Modification (Morrow County)**

DEQ is evaluating actions needed to proceed with a second public comment period for a requested modification to an existing air quality permit for the PGE natural gas-fired Carty Generating Station near Boardman.

The permit that PGE is proposing to modify is called a Prevention of Significant Deterioration Air Contaminant Discharge Permit. The permit modification is requested for two reasons: first because the adjacent coal-fired power plant (which is covered in the same permit) closed in October 2020, and second because the manufacturer of the Carty plant's natural gas turbine released new information that startup and shutdown emissions for two pollutants, carbon monoxide and volatile organic compounds, are higher than originally estimated.

The proposed permit modification does not change how much natural gas PGE Carty uses or change the hours the plant can run. The modification proposes to remove emissions allotted for operation of the coal boiler and incorporate the new manufacturer information for natural gas turbine start-up emissions.

## **6.4. Staffing Changes**

On April 30, Eric Nigg retired from his role as Eastern Region Watershed Manager after 23 years of service with DEQ across multiple Water Quality programs. Eric is serving in a temporary position as part-time Klamath Basin Policy Advisor for DEQ through October 31. After a very competitive recruitment process, DEQ selected Sara Slater as the new Eastern Region Watershed Manager. Sara has nearly 20 years of water quality experience with state and local regulatory agencies and the consulting field. Most recently, she led DEQ's statewide 401 Water Quality Certification Program where she developed program policies and priorities, led



implementation of process changes, and managed engagement with multiple federal and state agencies and a very diverse set of stakeholders and governments.

On June 28, DEQ reopened recruitment for the Eastern Region Administrator position, after pausing last year during the budget uncertainty related to COVID-19. DEQ's Implementation Administrator, Lauri Aunan, has served as the interim Eastern Region Administrator since July 1, 2020. DEQ's goal is to fill this position by mid-September, at which time, Lauri Aunan will step back into her role as Implementation Administrator.

## **7. Northwest Region**

### **7.1. NW Metals (Portland)**

On June 21, 2021, the Multnomah County Circuit Court entered a Permanent Injunction in DEQ's action against NW Metals. The Permanent Injunction provides that if NW Metals violates any applicable environmental requirement of DEQ's permits in the future, it may be subject to a contempt of court order, which is punishable by a penalty and jail sentence for its senior management. The injunction grants DEQ the authority to inspect NW Metals' facility at any reasonable time and without NW Metals' consent. Denying a DEQ inspector reasonable access to perform an inspection may also subject NW Metals and its management to a contempt of court order.

DEQ's administrative enforcement order that assesses civil penalties to NW Metals is still pending before the Oregon Court of Appeals.

### **7.2. Owens-Brockway (Portland)**

Owens-Brockway Glass Plant #21 produces a variety of glass bottles and jars from post-consumer glass and raw materials. This plant has been operating in northeast Portland since 1956.

#### *Air Quality Permit*

Following DEQ's issuance of Owens-Brockway's Title V air quality permit and EPA's approval, EarthJustice submitted a petition on Feb. 4, 2020, objecting to the permit issuance. On May 10, 2021, EPA granted part of the petition, issuing an order requiring DEQ to revise the permit and/or the permit record within 90 days of receipt of the order. Specifically, it requires DEQ to re-examine how the permit ensures compliance with particulate matter emission limits. DEQ also received information from EarthJustice on April 24, 2021, that included emissions modeling of the facility, raising concerns about Owens-Brockway exceeding the National Ambient Air Quality Standards, or NAAQS, for one-hour sulfur dioxide, one-hour nitrogen dioxide and 24-hour PM2.5.

On June 25, 2021, DEQ sent a letter to Owens-Brockway informing the facility of DEQ's intent to reopen the air quality permit. Based upon DEQ's analysis regarding Owens-Brockway's

permitted and actual emissions, DEQ is proposing to revise the facility's air quality permit to assure compliance with Plant Site Emissions Limits and with NAAQS. Additionally, the permit reopening will address the EPA order. Through permit revisions, DEQ anticipates imposing interim requirements to reduce emissions until Owens-Brockway can install or implement permanent controls.

### *Cleaner Air Oregon*

In April, DEQ approved documents necessary for the facility to complete its air toxics risk assessment. As part of the approval process, and to address community concerns and questions, DEQ met with the Cully Association of Neighbors on April 13, 2021. At this meeting, DEQ reviewed the assessment plans and got input from the community about key facilities of concern in terms of potential health impacts, such as day care centers, parks and other community places. This information will further inform the risk assessment and ensure all aspects of the community are considered. Based on DEQ's initial estimates of risks, DEQ requested Owens-Brockway expedite completion of its risk assessment.

Owens-Brockway subsequently clarified that Furnace A, which was the source of emissions creating most of the potential for elevated health risk, had been shut down since June 2020 and that the company intends to keep it shut down indefinitely. Owens-Brockway proposes to prepare the necessary paperwork to remove Furnace A and its related emission units from its Title V permit. The company also proposes to submit revised versions of the Emissions Inventory, Modeling Protocol, and Risk Assessment Work Plan that DEQ previously approved in March and April 2021, excluding Furnace A emissions. Owens-Brockway also proposed to submit the risk assessment information within 45 days after DEQ's approval.

In June, DEQ presented updates regarding the facility's status in Cleaner Air Oregon to the neighborhood association, including clarification of Furnace A's operating status. To date, DEQ has not received a permit modification application from Owens to remove Furnace A from its Title V permit. DEQ has not yet received the revised Emissions Inventory, Modeling Protocol, and Risk Assessment Work Plan, and has not received the facility's risk assessment.

### *Enforcement*

On June 3, 2021, DEQ issued a \$1,032,354 civil penalty and order to Owens-Brockway for air quality violations, including ongoing exceedances of the total particulate matter and opacity limits in the permit. With respect to Furnace A, DEQ ordered the Owens-Brockway to submit a permit modification application to remove the furnace from the permit, consistent with the company's stated intentions to keep Furnace A shut down indefinitely. With respect to Furnace D, DEQ ordered the facility to come up with an immediate plan to mitigate opacity and particulate matter emissions to install pollution controls as a permanent solution to address these issues. Owens-Brockway filed an appeal with DEQ on June 25, 2021 to contest the civil penalty and order.

### **7.3. NEXT Renewables (Clatskanie)**

NEXT Renewable Fuels Inc. is a new 100+ acre biofuels facility slated to be built adjacent to Columbia Pacific Bio Refinery along the Columbia River at the Port of Columbia County's Port Westward site. NEXT has submitted an air quality permit and Cleaner Air Oregon emissions inventory and is working closely with DEQ Water Quality Division staff to submit construction and industrial stormwater permit applications. Both NEXT and the Port have recently hosted in-person open houses for the community and DEQ is planning a virtual community engagement and information meeting for late August to answer questions and hear concerns.

### **7.4. Zenith Energy (Portland)**

Zenith Energy, an oil-shipping terminal in Northwest Portland, has two pending permit applications with DEQ: renewal of a Title V air quality permit and a new 1200-C construction stormwater general permit. DEQ previously determined that the Land Use Compatibility Statement the City of Portland issued on Jan. 18, 2005, was insufficient to satisfy the LUCS requirement for either of the two applications, and requested that Zenith provide a new LUCS to support each of its permit applications.

DEQ has determined that the LUCS Zenith provided to DEQ for the 1200-C construction stormwater general permit is sufficient for Zenith's proposed new offloading facilities for renewable fuels on its property. The public comment period for this permit will start in late July.

However, the LUCS Zenith provided to DEQ on April 16, 2021, for Title V air quality permit renewal application is inadequate for the following reasons:

- Zenith's LUCS application to the City of Portland stated that the uses that Zenith was requesting the City to review were only in relation to Zenith's proposed new construction and operation of facilities for transloading of renewable fuels.
- The proposed facility expansion and operation involves only new operations (renewable fuels management) at a portion of the site.
- The uses described in the application to the city do not include the ongoing operation of Zenith's facilities as described in Zenith's Title V permit renewal application.

Zenith has not provided DEQ with a LUCS that approves the facility's substantial intensification in activity and throughput, or the request for a new Standard industrial Classification code that Zenith is proposing as part of its Title V air quality permit renewal. Until Zenith submits this LUCS, the Title V renewal application to DEQ is incomplete. If DEQ does not receive the requested additional information by Aug. 31, 2021, then DEQ may proceed to deny Zenith's Title V permit renewal application. In order to address public questions about this facility and the various DEQ permitting actions, DEQ is going to hold a general public information meeting in early August 2021.

#### *Enforcement*

In July 2021, DEQ issued a \$23,598 civil penalty and order to Zenith Energy Terminals for beginning construction work before getting the required stormwater permit from DEQ, officially

called a National Pollutant Discharge Elimination System Construction Stormwater General Permit No. 1200-C. Stormwater permits ensure proper erosion and sediment controls are in place to protect water quality. At the time of the violation, there were no erosion or sediment controls in place, and water was able to get into the stormwater system, which flows to the Willamette River.

Over half of the penalty (\$13,998) is based on economic benefit, which represents the value of the regulatory costs avoided or delayed. Economic benefit penalties are designed to financially disincentive non-compliance, and DEQ has the ability to modify that portion of a penalty if the facility obtains the proper permits or other regulatory mechanisms as part of resolving the penalty. Zenith has applied for this permit, which DEQ intends to issue for public notice in late July 2021, as mentioned above.

## **8. Western Region**

### **8.1. Jordan Cove (Coos County)**

Pembina formally withdrew its applications for the Jordan Cove facility to the U.S. Army Corps of Engineers for section 404 and 408 approvals in June 2021. The Corps confirmed that the withdrawal was sent on June 10, 2021. The Jordan Cove Energy Project had indicated in recent court filings that they have put their project on pause, due to recent FERC decisions. Jordan Cove has not formally notified DEQ of any intent to withdraw currently pending applications, but has verbally indicated their intent to withdraw AQ permit applications for the North Spit facility and Malin Compressor Station.

### **8.2 Philomath Methane Concern (Benton County)**

DEQ updated the commission at the May EQC meeting about methane gas found in the soil of Millpond Crossing, a residential subdivision at the former Philomath Mill site. Since then, the developer of the site has indicated a willingness to enter into a Consent Order that requires the developer to complete the requested investigation. The City of Philomath has determined that it will not approve further phases of development until the investigation is complete.

Millpond Crossing is building homes on the former Philomath Mill site, which included two large wood waste-filled log ponds. The developer has already built about 60 homes and has plans for 169 in total. The former sawmill operated under various names between 1955 and 1998, and had two large log ponds. The ponds were filled with wood waste and rock during the 1980s. DEQ is requiring a thorough investigation to determine if decaying organic material within the former log ponds are generating gases, including methane. High levels of methane can be a safety hazard and a public health risk.

### **8.3 Riverbend Landfill update (Yamhill County)**

Since the last report to the commission in May, Riverbend has modified its operations to limit waste disposal. Initially this was reported as the landfill was closing, but in a June letter to DEQ,

Riverbend clarified that it was slowing operations until markets changed and until “delays” in their expansion were resolved. DEQ continues to work with the company to understand the implications of this operational shift and to determine appropriate next steps on the Solid Waste permit renewal.

#### **8.4. Hellsgate Grant Pass 401 Dredge and Fill Application (Josephine County)**

DEQ is reviewing a 401 water quality certification application for a proposed permit from the U.S. Army Corps to modify the Rogue River channel to facilitate passage by jetboats. The application is from Hellsgate Jetboats,, and the application has received significant public interest and comment to-date. So far, DEQ has received over 1000 comments on the public notice, and Rogue Riverkeeper has expressed concern and interest in the certification. The applicant, Hellsgate Jetboats, has periodically deepened parts of the channel in the past to enable their operation.