

State of Oregon

Department of Environmental Quality Memorandum

Date: July 20, 2023

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Item B Director's Report (Informational)
July 20, EQC meeting

1.0. Director's Office

1.1 Statewide tour

One of my priorities as new Director is to travel the state meeting with communities, partners and the nine federally tribes of Oregon. This tour also includes visiting each of DEQ's offices and Vehicle Inspections Stations. My most recent visits included:

- A government-to-government consultation with Coquille Tribe. Staff from DEQ's Water Quality Division and Western Region office participated in conversations focused on the City of Powers Wastewater Treatment Plant, impacts from seafood processing, and the cultural significance of the land.
- A visit to DEQ's Eugene and Pendleton offices. I met with managers and staff in both offices to share outcomes from the 2023 legislative session, hear about regional office priorities, and discuss the department's next steps in response to the Organizational Assessment discussed below.
- An afternoon with staff and Board of Trustee members of the Confederated Tribes of the Umatilla Indian Reservation. Agency leadership were briefed on the tribe's efforts to ground their natural resources work in the first foods framework, followed by discussion with board members on their natural resources and environmental quality priorities.

1.2 Organizational Assessment

In mid-June DEQ received a long-awaited and critically important Organizational Assessment from our Diversity, Equity, Inclusion and Belonging consultants "Engage to Change." In the words of Engage to Change, the assessment is "part workbook, part report, and part toolkit" and "...is meant to be a living and growing and interactive experience." Since the release, Engage to Change has convened three agency-wide sessions to introduce the report and facilitate conversation about its purpose, intent and contents.

This report details hard truths about the experience of agency employees that identify as Black, Indigenous, People of Color, or part of other marginalized communities. It also provides tools and frameworks for the department to use as we strive to become a more equitable, inclusive and antiracist workplace, including a set of specific recommendations.

I have communicated my expectations that the agency take time, work time, to read this document and approach it with curiosity and openness. This is especially true of managers. In the coming months DEQ leadership, affinity groups, the DEI council and staff will work to assess this report, create additional opportunities to engage in conversation, and begin to embed findings and recommendations in the department's strategic plan.

1.3 Field safety

DEQ, in partnership with other natural resource agencies is renewing its commitment and focus on assuring safety for staff doing field work. A multiagency staff survey revealed concerning incidents and trends with regards to employee safety that conduct inspections and other field work, at times in remote areas.

Governor Kotek's office is convening a process to address these issues at the enterprise-level, and DEQ is an active participant. Until that time, I have reiterated to all staff that when they are on an assignment, whether it is an inspection or other work outside of an office and don't feel safe – for any reason – they should leave. We are also clarifying that field staff can always bring another staff member when going into the field.

2.0. Air Quality

2.1 Cleaner Air Oregon's Cumulative Health Risk Pilot

The 2018 Senate Bill that led to the Cleaner Air Oregon program authorized DEQ to conduct a pilot project to evaluate and address the cumulative risks from multiple facilities emitting toxic air contaminants in a specified area. In the last year, the program was able to hire the staff necessary to begin planning and implementing the pilot program. DEQ refers to this pilot as the Cumulative Health Risk Pilot. DEQ staff are currently in the information gathering and planning stage and have formed a three-phase approach.

The first phase is developing site selection criteria and determining the location of the pilot area. To meet the requirements set by legislation and inform the location of this pilot, DEQ will use existing data from facility permits, emissions inventories and other tools. DEQ will consider other information such as demographics and environmental exposures and will host a public meeting for community feedback. Staff will inform the EQC of its proposed pilot area in November 2023. For additional information about this project, please check the [pilot's website](#).

2.2 PM NAAQS

In January, EPA announced its intention to reduce the annual fine particulate matter National Ambient Air Quality Standard from 12 micrograms per cubic meter to within the range of 9-10 $\mu\text{g}/\text{m}^3$, a reduction of up to 25%. This is the primary standard for PM 2.5, or soot, that communities must comply with at an airshed level. Oregon Health Authority provided public comment recommending EPA adopt standards that protect public health and are based on the current state of public health science. In preparation for an adjusted standard, the Air Quality Division along with staff from the Lab have begun work on proactive conversations with communities at risk of not attaining the new standard. It is expected that EPA will make a decision on the final standard this year. Following a revised standard, states must submit proposals to EPA on which communities do and do not comply with the revised standard. EPA makes final attainment designations based on state proposals. A nonattainment designation can result in serious

consequences. In addition to the public health impacts of the elevated air pollution, industry in nonattainment designations may face more stringent control requirements. DEQ and EPA Region 10 will collaborate on proactive emissions reduction efforts over the next two years.

3.0. Land Quality

3.1 Dry Cleaner Program

The program was legislatively adopted in 1995 with a goal of maintaining a \$1 million fund from fees paid by dry cleaners, solvent suppliers and dry stores. This fund would support program administration, inspection and cleanup of dry cleaner sites contaminated with perchloroethylene (perc). Oregon has kept pace with national trends in the decline of the dry cleaning industry. This, along with success in switching dry cleaners to non-perc solvents and more efficient machines has resulted in the funding declining to a point at which we can no longer administer the program or clean up sites.

The 2023 Legislature approved [HB 3273A](#), which sunsets all aspects of the DEQ Dry Cleaner Program by Jan. 1, 2024, and prohibits the use of perc and n-propyl bromide as dry-cleaning solvents by Jan. 1, 2027. Cleanups still in progress will wind down as DEQ closes out the environmental response account and returns the financial responsibility to the site owners and operators, consistent with other cleanup sites in the state. It will also effectively remove the cleanup liability protection for participating active and former dry cleaners. There has been mixed support from this industry group. The program may receive positive and negative public attention as it closes.

3.2 Fuel Tank Seismic Stability Rule

The team continues to support rulemaking on new earthquake seismic stability requirements for large capacity fuel storage facilities. Three public hearings were held on June 15, 17 and 20, 2023. The written public comment period was extended to July 12 in response to multiple requests from the public. This rule proposal is planned for consideration at the September 2023 EQC meeting.

4.0 Water Quality

4.1 Columbia River Total Dissolved Gas and Spill for Fish Passage

On Jan. 24, 2020, the Environmental Quality Commission approved an order modifying the total dissolved gas water quality standard to allow voluntary fish passage spill by the U.S. Army Corps of Engineers to assist juvenile salmonid migration past four lower Columbia River dams: McNary, John Day, The Dalles and Bonneville. The order modifies the 110 percent Total Dissolved Gas water quality standard to 125 percent for spring spill and 120 percent for summer spill.

For the 2022 spill season, cool spring conditions and late precipitation events resulted in forced spill at the lower Columbia River dams in June and contributed to more Total Dissolved Gas criteria exceedances compared to the previous two spill seasons. There was low level occurrence of gas bubble trauma in both juvenile salmonids and non-salmonid fish species and no exceedances of the biological benchmarks in 2022. Biological monitoring results indicate a low gas bubble trauma risk to out-migrating juvenile salmonids or non-salmonid fish species when the Corps conducts spill in accordance with the spring 125 percent and summer 120 percent Total Dissolved Gas standard modifications. A more detailed summary memo of the 2022 spill season is available.

4.2 Integrated Report Assessment Methodology

The Assessment Methodology for Oregon's 2024 Integrated Report will include updates for inland, estuary and marine waters. Currently, the draft 2024 methodology document includes only inland and estuarine waters. DEQ's Water Quality Assessment Program plans to present more information at the September EQC meeting.

5.0 Eastern Region

5.1 Eastern Region management changes

Ann Farris started on May 4 as the new Eastern Region Cleanup, Emergency Response, and Hydrogeology Program Manager. Ann has been working in the Cleanup Program at DEQ since 2018 and takes over for David Anderson, who managed the program for 10 years. Ann will work on key projects, including Alkali Lake and the Lower Umatilla Basin Groundwater Management Area, or LUBGWMA. Ron Doughten, Eastern Region Materials Management/Hazardous Waste Manager, will be Acting Eastern Region Administrator during July and August, while Shannon Davis continues her role as DEQ's Interim Deputy Director.

5.2 Brownfields grants

EPA Region 10 in May announced a recent round of [recipients for brownfield funding](#) to help restore contaminated or underutilized sites to productive use. The City of Burns and OSU-Cascades campus (Bend) were recipients of cleanup grants, and Mid Columbia Economic Development received site assessment funding. The grants fund assessment efforts and cleanup projects to spur economic development.

5.3 Powder Basin Total Maximum Daily Load (Baker County)

DEQ is seeking [public input on a proposed rulemaking for the Powder River Basin Bacteria Total Maximum Daily Load](#). DEQ is holding a virtual public hearing July 26 to accept verbal comments on the proposed TMDL, which addresses impairments within the basin, including excess bacterial. This rule would establish a plan to manage pollution, a list of responsible parties, and a timeline to reduce pollution and attain water quality standards.

5.4 Oregon's first major oil-by-rail training exercise

Eastern Region hosted Oregon's first large-scale training exercise designed to help the state better prepare for a major oil spill from a railroad. More than 150 people from federal, state, tribal, and local governments, as well as BNSF Railroad and its spill response contractors, convened at the Fort Dalles Readiness Center in The Dalles on June 13 to practice responding to a simulated oil spill scenario. This joint exercise with the Washington Department of Ecology strengthened our cross-border partnerships and served as a valuable training opportunity for both agencies.

6.0 Northwest Region

6.1 Waste Tire Fires

At least three fires broke out at the site of large piles of chipped waste tires along the Willamette River near the Steel Bridge in Portland on and around May 25, 2023. DEQ inspected the site and estimated that

the quantity of piles of chipped waste tires exceeded 3000 cubic yards. DEQ previously determined and communicated that a waste tire storage permit was not required for storage of chipped tires at this facility. DEQ later determined applicable rules require a permit for the storage of 200 or more cubic yards of chipped waste tires.

On June 3, 2023, DEQ informed the facility of the violations and requested a plan to maintain less than 200 cubic yards of chipped tires or apply for a permit. Neither of those occurred. On July 3, 2023, DEQ issued a notice of civil penalty to Castle Arden LLC and Tire Disposal and Recycling LLC requiring that the size of chipped waste tire piles be reduced, or a waste tire storage site permit be applied for. The notice includes a penalty of \$13,600.

7.0 Western Region

7.1 Winchester Dam

Winchester Water Control District is planning to complete repairs on the Winchester Dam this summer. DEQ issued a 401 water quality certification to the district for dam maintenance in March 2023.

Since then, DEQ has received a petition for reconsideration of the certification and information indicating that the actual project planned for dam maintenance included components not considered in the original certification. DEQ granted the petition and withdrew the certification pending receipt of additional information from the applicant.

The Roseburg drinking water intake is below the dam, and elevated turbidity could impact Roseburg's ability to provide drinking water during the summer months. There are also threatened and endangered species (salmon) and culturally sensitive species (Pacific Lamprey) in the area.

DEQ is working with the applicant to ensure that we are responsive to the revised application and the entire project plan is considered in the certification evaluation.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

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