

State of Oregon

Department of Environmental Quality Memorandum

Date: Nov. 14, 2023

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Item H: Director's Report (Informational)
Nov. 16-17, 2023, EQC meeting

1.0. Air Quality

1.1 Smoke Management and Prescribed Fire

In early November 2023, DEQ Air Quality staff will meet with regional and headquarters representatives from the United States Forest Service, U.S. Department of Interior, U.S. Environmental Protection Agency, and their state and local counterparts in Bend to discuss prescribed fire and smoke management practices. Conversations will focus on barriers to the use of prescribed fire, both real and perceived, impacts to public health from all forms of smoke, and planning for the use of prescribed fire. DEQ staff will provide information on the Oregon Smoke Management Plan and our overall efforts to meet the legislature's direction to balance the use of prescribed fire with the protection of public health from smoke.

Also in November 2023, DEQ and Oregon Department of Forestry leadership will meet with EPA Region 10 and USFS Region 6 leadership to discuss both challenges and opportunities to protect public health from smoke while increasing the use of prescribed fire to reduce hazardous fuels and improve forest health and resilience in the Pacific Northwest. This initial conversation is expected to lead to increased engagement across land management and air quality regulators to meet the need for increased pace and scale of prescribed fire while also protecting public health through increased communication and smoke mitigation efforts.

1.2 Diesel Emissions Mitigation

On Oct. 16, 2023, Oregon DEQ announced \$8.2 million in grant awards to 11 projects that will reduce harmful diesel emissions by removing older, more polluting diesel equipment from service and funding the replacement with lower- and zero-emissions equipment. As a part of this work, DEQ's Air Quality Program staff reviewed 69 grant applications, totaling \$35 million in requested funds. The [Diesel Emissions Mitigation Grants](#) program provides direct funding to support the scrapping and replacement of medium- and heavy-duty diesel-powered trucks, buses, and equipment across the state. These 11 projects provide funding for some of the first battery electric powered, zero emissions medium and heavy-duty trucks and equipment being purchased and put into service in Oregon.

Funded with settlement revenue established in 2018 after Volkswagen was found to have cheated on emissions standards, DEQ has distributed \$8 million a year since 2021. Thus far, it has invested nearly \$50 million to replace or retrofit over 450 school buses and dozens of trucks and equipment with cleaner alternatives. The agency will continue to award grants through 2025.

2.0. Land Quality

2.1 Fuel Tank Seismic Stability Rules Implementation Update

EQC approved program rules in September 2023, and implementation is underway to meet the seismic vulnerability assessment submission deadline of June 1, 2024. Staff contacted each of the 17 regulated facilities and are scheduling technical assistance meetings. DEQ is developing contracts or agreements with the Oregon Department of Geology and Mineral Industries, Portland State University, and other supporting groups. The first seismic vulnerability assessment report was received on Oct. 2, 2023, from PDX Fuels, LLC facility (Portland Airport). DEQ is working with PDX Fuels to coordinate the approval process for assessment and building plans in early 2024. This step is necessary for facility construction to proceed in spring 2024.

3.0 Eastern Region

3.1 Hydro Extrusions USA – The Dalles (Wasco County)

This aluminum recycling facility in The Dalles has submitted a Title V permit modification that proposes to process unclean (oil, paint, etc.) scrap aluminum. DEQ initially fined the facility \$1.3 million dollars in January 2020 for multiple air quality permit violations, which included processing unclean charge. Since then, the facility has installed pollution control equipment that would allow it to burn unclean scrap and still meet air quality standards.

3.2 Lower Umatilla Basin Groundwater Management Area (LUBGWMA) (Morrow and Umatilla Counties)

On Nov. 1, 2023, the Port of Morrow and DEQ signed a Mutual Agreement and Order to settle a \$2.4 million penalty against the port. Under the agreement, the port will pay \$1.9 million to support Oregon Health Authority's program to deliver clean drinking water to homes with private wells that have high levels of nitrate as well as provide well testing and other services. Sources of nitrate in the LUBGWMA include agricultural fertilizers, animal manure, industrial wastewater from the Port of Morrow and other similar businesses and septic systems.

3.3 Grassy Mountain Gold Mine (Malheur County)

In an "Oregon first," the Technical Review Team for the project unanimously approved the Consolidated Permit Application (CPA) on Oct. 4, 2023. This action occurred six and a half years after the Notice of Intent was filed with the State. DEQ, along with DOGAMI, ODFW, OWRD, DLCD, SHPO, ODA, and ODSL, agreed that all remaining comments to the CPA can be addressed in the draft permit phase in 2024. On Nov. 3, 2023, DOGAMI issued the Notice to Proceed to Paramount, the company that will be developing the gold mine.

4.0 Northwest Region

4.1 Columbia Slough Cleanup Agreement with City of Portland (Multnomah County)

During November 2023, DEQ is seeking comments on its proposed agreement with the City of Portland to address stormwater and sediment contamination in the Columbia Slough. A public meeting on the proposed agreement is scheduled for Wednesday, Nov. 15, 2023, at 6:00 p.m.

The proposed agreement addresses the City's obligations related to the 2005 Record of Decision, or cleanup plan, for Columbia Slough sediments. The focus is on cleanup design and construction and will more effectively bring the community into the cleanup and restoration processes and elevate environmental justice opportunities.

Under the proposed agreement the City of Portland will perform the following activities:

- Pay DEQ \$19.5 million over a period of three years for cleanup, habitat improvements and upland source control evaluations.
- Perform \$4 million of alternative cleanup measure projects that benefit watershed health, with the project selection criteria that incorporates environmental justice.
- Perform one comprehensive, slough-wide fish tissue and sediment sampling event between 2025 and 2026.
- Evaluate all 209 City stormwater basins discharging to the Columbia Slough and treat stormwater in 15 priority outfall basins within the next 15 years.

If implemented, DEQ will issue a series of certificates of completion once the City's work is satisfactorily completed. In exchange, the City will receive a release from liability for its potential contribution to historical releases of hazardous substances and associated natural resource damages to the Columbia Slough.

DEQ is reaching out to agencies and organizations interested and involved in this work. More information about the Columbia Slough cleanup work is available online at ordeq.org/columbiasloughcleanup.

5.0 Western Region

5.1 J. H. Baxter Eugene Update (Lane County)

A total of 62 yards have been tested in the neighborhood directly north of the J. H. Baxter site in Eugene. That testing identified 49 yards above the residential use cleanup (RBC) of 4.7 parts per trillion (ppt). Since Baxter has not proven to be a viable responsible party and due to the limited nature of orphan funding, DEQ worked with the Oregon Health Authority to prioritize the most contaminated yards for cleanup. OHA developed a site-specific priority cleanup level of 40 ppt. So far, 11 yards have tested above 40 ppt. The first seven yards above 40 ppt were identified for cleanup this year and DEQ needs further sampling at the remaining four yards over 40 ppt to better understand the depth of the contamination at each property before planning the next steps. There has been a high degree of public interest around testing and cleanup in the affected neighborhood.

Key updates include:

- Vegetation and tree removal – Occurred Oct. 4-10, 2023.
- Pre-bid site walk for soil removal contract – Occurred Oct. 26, 2023.
- Regional decision team meeting – Originally scheduled for Nov. 1, 2023, will be re-scheduled for December 2023 (date to be determined).
- Virtual public meeting – Scheduled for Nov. 13, 2023.
- Bids for soil removal contract – Due Nov. 13, 2023.

- Soil removal work – Anticipated start date is Nov. 27, 2023.
- Results of soil depth testing for four additional properties over 40 ppt – Expected during November 2023.

5.2 Winchester Dam Update (Douglas County)

In August 2023, the Winchester Water Control District and its contractor, TerraFirma, began a repair project on the Winchester Dam, located on the North Umpqua River near Roseburg. DEQ issued the district a 401 Water Quality Certification, authorizing the project's in-water work. During the repair, the district and TerraFirma drained a portion of the Winchester Reservoir which resulted in the death of approximately 550,000 Pacific lamprey. On Oct. 6, 2023, the Oregon Department of Fish and Wildlife filed a complaint against the district and its contractors seeking \$27 million in the recovery of damages for the unlawful killing of wildlife.

On Oct. 26, 2023, DEQ issued the district and TerraFirma two separate enforcement orders, totaling \$134,378 in civil penalties, for water quality violations that occurred during the repair project. DEQ fined the district \$106,778 for violating at least 10 conditions of the 401 certification, including:

- Performing work that was inconsistent with the projection description contained in the permit application materials.
- Failing to install erosion and sediment controls.
- Discharging concrete into the North Umpqua River.
- Placing tire mats in the river.
- Operating equipment in the flowing channel of the river.
- Failing to install a turbidity curtain upstream of the dam gates.
- Failing to fully isolate the in-water work area.
- Failing to report concrete discharges to the Oregon Emergency Response System (OERS).
- Performing in-water work outside the approved in-water work window.
- Failing to maintain unobstructed fish passage.

In addition, DEQ fined TerraFirma \$27,600 for causing pollution to the North Umpqua River when it discharged uncured concrete into the river and placed tire mats in the river. The mats may leach toxic chemicals, microplastics, and heavy metals known to be harmful to aquatic life, particularly coho salmon. The district and TerraFirma have 20 days from the date the orders were issued to file a written appeal with DEQ.

Non-discrimination statement

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