State of Oregon

Department of Environmental Quality Memorandum

Date: May 22, 2024

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item J, Informational item: Director's Report
May 23, 2024, EQC meeting

1.0 Director's Office

1.1 Update on DEQ's Strategic Plan

DEQ continues to work on finalizing its strategic plan, in particular refining actions needed to support the three goals:

- Build a culture of inclusion and racial equity.
- Build trust through meaningful engagement with, accountability to, and respect for Tribes.
- Integrate environmental and climate justice in all DEQ work.

Given the impending transition in Environmental Quality Commission membership the agency will return later this year to brief new commissioners on this work before submitting a final version to the Governor.

1.2 Recognizing Carol Thornberg, Volunteer Coordinator for Employees' Charitable Fund Drive

Each year the State of Oregon launches the Employees' Charitable Fund Drive, raising funds for a variety of organizations which give back to communities across Oregon. Carol Thornberg, who provides executive support for DEQ's Air Quality Division, served as DEQ's volunteer coordinator for the 2023 "Heart of Oregon" CFD campaign. Under Carol's leadership, DEQ raised an impressive $27,780, making DEQ the top fundraiser based on agency size. Thank you to Carol for giving her time and commitment to this important initiative, and a note of appreciation to all who contributed to this year's Charitable Fund Drive.

1.3 Clean Fuels Program Update

DEQ has received the 2023 annual data on the transportation fuels supplied in Oregon. The2023 data show a strong shift away from fossil fuels, and not just from electric vehicles replacing gasoline vehicles, although that trend continues as well. Below are important highlights:

- Data from just three years ago showed that over 90% of all diesel used in vehicles in Oregon came from fossil fuels. This new data for 2023 shows a dramatic shift to renewable feedstocks, with over 35% of diesel used in Oregon now being non-fossil.
- This significant shift towards non-fossil fuels is an important part of our state's ambitions to address climate change, and for compliance with DEQ's greenhouse gas regulations.
- This shift to non-fossil diesel fuels also provides significant reductions in tailpipe pollution, as renewable diesel produces less particulate matter than fossil diesel, reducing local pollution and the public health consequences.
- DEQ modeling showed that cleaner fuels required by our Clean Fuels Program will save $90

million each year in Oregonians' reduced health care costs.

The Clean Fuels Program is also responsible for exciting new projects in Oregon directly related to the credits provided to electric utilities on behalf of their customers' residential vehicle charging. The utilities monetize those Clean Fuels credits and reinvest them in electric charging infrastructure and vehicle fleets within their utility territories. A few examples of these utility investments include:

- Helping school districts purchase 11 electric school buses.
- Funding the purchase of an electric street sweeper in Salem.
- Funding the purchase of an electric garbage truck in Portland.
- Funding for dozens of non-profits to purchase electric vehicles and/or EV chargers across the state from Wallowa Lake (an EV charger for the lodge) to Coos Bay (chargers for the Coquille Indian Tribe's wellness center), and for organizations as diverse as Friends of Trees and Friends of Noise (which helps young musicians and connects youth from historically underserved communities to culturally appropriate music).
- Providing hundreds of rebates across the state for individuals to purchase electric vehicles, level 2 chargers, and electric bikes.

1.4 Secretary of State Audit Highlights Long-Standing Challenges Facing DEQ
In early April, the Secretary of State Audit Division published results from a recent audit of DEQ. The audit found the agency is not adequately resourced to successfully implement the breadth of programs and policies the legislature has entrusted the agency with. Further, climate change will only worsen this dynamic as the agency is forced to respond to worsening crises such as hazardous air quality from wildfires, drought-related water quality degradation, and other threats to the state's environment and communities. The audit also highlighted internal challenges such as difficulty recruiting and retaining staff (particularly staff identifying as Black, Indigenous or People of Color). The audit recommended the agency continue its strategic planning work to address both internal and external challenges, and to develop systems and structures to fully implement the plan.

DEQ agrees with the audit findings and views the recommendations as consistent with our approach and intentions related to strategic planning.

2.0 Air Quality Division

2.1 Zero Emissions Rebates for Oregon Fleets – ZERO Fleet
The 2023 Oregon Legislature passed House Bill 3409 which provides $3 million for DEQ to establish and implement a new rebate program incentivizing the purchase of zero emissions medium and heavy-duty vehicles. In Oregon, these vehicles are responsible for an estimated 9.3 million metric tons of greenhouse gas emissions annually. The new rebate program will support Oregon's commercial and public transportation fleets to transition to zero emissions technologies and reduce emissions statewide.

On April 9, 2024, DEQ staff hosted the second rulemaking committee meeting to draft rules for the new rebate program; working through details such as vehicle eligibility, application requirements, rebate allocation criteria, and how to address disproportionate diesel pollution burdens among frontline communities. DEQ staff anticipate bringing proposed rules for the new ZERO Fleet program to the Environmental Quality Commission for consideration and action in the fall of 2024, with a goal of launching the program to the public in early 2025.

2.2 Diesel Emissions Identification Program
DEQ launched the Diesel Emissions Identification Program on April 1, 2024. The new program provides

emission control labels to voluntary participants for nonroad construction equipment and onroad concrete mixer trucks and dump trucks. These labels can be used to assist in tracking compliance with clean construction standards that are required for certain public works contracts. Participation in the program also provides an opportunity to any contractor or subcontractor in the state to show their commitment to cleaner construction practices. Outreach efforts are currently underway to connect with government partners and interested parties to spread awareness of the program to construction fleet owners and operators in the state.

2.3 Oregon Clean Vehicle Rebate Program
This year, the Oregon Clean Vehicle Rebate Program opened April 3, 2024, and will close June 3, 2024. Electric vehicles must be purchased or leased during this period to be eligible for the rebate. Funding for the program is dispersed annually. For the 2024 funding year, the program has already approved 514 rebates equaling over $2 million; 51% of that funding has gone to Charge Ahead Rebates, which are rebates specifically for low- and moderate-income households. Since the program's inception in 2018, the program has issued a total of nearly 30,000 rebates equaling $85 million.

2.4 Community Air Action Planning Program
DEQ was awarded an EPA grant in early 2023 to conduct community-level air monitoring in four communities across the state. The Air Quality Division is using the community-level air monitoring grant to support Community Air Action Planning, or CAAP. CAAP is a community-led air quality improvement pilot program focused on partnering with environmental justice communities across Oregon experiencing air quality challenges. The EPA grant provided the funds to purchase community-scale air quality monitoring equipment.

From November 2023 through January 2024, the CAAP team established a co-design group of external stakeholders to develop the framework of the program. The group consisted of diverse members from local government, nonprofits, advocates, and community groups. The team will use the co-design group's guidance to select the four pilot communities for air monitoring based on identified environmental justice principles.

On May 1, 2024, DEQ announced the opportunity for communities to partner with DEQ on community-based monitoring. DEQ received responses from more than 60 Oregon communities within the first 24 hours. DEQ will continue to promote this opportunity with targeted marketing to environmental justice communities and will select four communities from the applicant pool for the pilot program based on the guidance received from the co-design group.

2.5 Cleaner Air Oregon Program Update
The Cleaner Air Oregon program has begun calling-in the next group of 20 existing sources to perform a Risk Assessment so that DEQ can ensure their Toxic Air Contaminant emissions are meeting the program's health-based standards. CAO will call-in two sources every other month, anticipating completion of this process in late 2025.

The CAO program is also required to periodically review and update the regulatory inhalation values that the program uses to assess risk values in these assessments – these values are called Toxicity Reference Values, or TRVs. As part of this process, DEQ has convened an Air Toxics Science Advisory Committee, or ATSAC, to provide subject matter expertise when reviewing and updating the TRVs. DEQ recently held its third ATSAC meeting where members of the public presented a petition to revise the short-term (24-hour) TRV for manganese. The petitioners presented their scientific evidence and then DEQ, along with support from the Oregon Health Authority, facilitated a conversation with ATSAC members seeking their input on the petition. The information presented and discussed at that meeting will inform any

proposed changes to this TRV. DEQ hopes to complete this rulemaking in early 2025.

3.0 Land Quality Division

3.1 Materials Management Grants Program Update — Reduce, Reuse, Reimagine

The Materials Management Program's grants program is relaunching on May 21, 2024, after being paused in 2020 to address inequities and inefficiencies within the application process and to better align with DEQ's 2050 Vision for Materials Management and 2020 Framework for Action.

The goal of the Reduce, Reuse, Reimagine Grants Program is to build local capacity and support community solutions that address the environmental, social and health impacts created by production, consumption, use and disposal of materials. The program will distribute up to $1 million annually for the next two calendar years to local governments, nonprofits, Tribal Nations, small businesses, and educational institutions. More information about eligibility, timeline and how to apply is available on the Materials Management Grants Program website.

4.0 Water Quality Division

4.1 Water Quality Permitting Fees Rulemaking for July EQC Meeting

DEQ's Water Quality Division is currently pursuing a fee increase rulemaking to support current service levels in several key programs. The proposed rules would increase fees by 3% for National Pollutant Discharge Elimination System and Water Pollution Control Facility permitting, stormwater permitting, 401 dredge and fill water quality certification, underground injection control authorization, wastewater system operator certification, and residential onsite septic system permitting. The proposed 3% increase is critical to address rising costs associated with administering the programs and ensuring that DEQ can continue to deliver at current service levels. The proposed rules would also increase fees by an additional 14% in the residential onsite septic system permitting program to implement a policy option package adopted by the 2023 Legislature that authorized two new positions. DEQ hosted a Rules Advisory Committee meeting in February 2024 with a group of Oregon business leaders, regulated entities and interested community groups, and held a public hearing on the proposed rules on May 15, 2024. The public comment period closes on May 23, 2024. DEQ will present the proposed rules to the commission in July 2024.

4.2 Aquatic Life Toxics Criteria Rulemaking for September EQC Meeting

DEQ is conducting a rulemaking to update Oregon's water quality criteria for toxic chemicals to protect aquatic life. While Oregon's water quality standards currently include criteria for toxic chemicals, DEQ's last comprehensive update to the criteria was in 2004. Since then, EPA has published several new aquatic life criteria recommendations. In 2021, this project was rated as a high priority in the Water Quality Standards Triennial Review workplan, which included a public review and input process to determine the highest priority projects for the program.

Water Quality Standards consist of three main components: 1) designated beneficial uses (including uses such as fish and aquatic life, water recreation, water supply, and aesthetic quality); 2) criteria for specific pollutants or conditions necessary to protect beneficial uses which include numeric or narrative criteria; and 3) an antidegradation policy to protect existing water quality and prevent degradation. The objective of this rulemaking is to adopt new and updated aquatic life criteria to keep Oregon's water quality standards consistent with federal recommendations and based on the best available science.

DEQ is proposing to adopt new aquatic life criteria for six toxic chemicals into OAR-340-041-8033 Table 30: acrolein, aluminum, cadmium, carbaryl, diazinon and tributyltin. The proposed aluminum and freshwater cadmium criteria are based on equations that account for the effects of water chemistry on toxicity. The draft proposed criteria are based on the most recent EPA national criteria recommendations. It is important to note that EPA has previously established a federal rule that applies specifically to Oregon for the acute and chronic freshwater criteria for aluminum and acute freshwater criteria for cadmium as a consequence of previous litigation. This rulemaking will incorporate these two criteria into the state's water quality standards rules.

Additionally, DEQ is proposing to remove "Aquatic Life Water Quality Guidance Values for Toxic Pollutants" from OAR-340-041-8033 Table 31. The values in this table are outdated and are not regulatory criteria; therefore, their presence in the rules can be confusing. DEQ is proposing to remove Table 31 for clarity.

DEQ held a public hearing on April 23, 2024, and the public comment period for this rulemaking closed on May 3, 2024. DEQ plans to present the recommended rule amendments to the EQC in September 2024.

4.3 Draft 2024 Integrated Report

Oregon's Draft 2024 Integrated Report on Surface Water Quality and 303(d) List of Impaired Waters was released on April 18, 2024, for a 60-day public comment period. Every two years, DEQ is required to assess water quality and report to the EPA on the conditions of Oregon's waters. DEQ prepares an Integrated Report that meets the requirements of the federal Clean Water Act. The draft 2024 Integrated Report represents the state's most comprehensive evaluation of surface water quality data and information about Oregon's waters. DEQ evaluated four new pollutants/conditions in the draft 2024 Integrated Report: ocean acidification and hypoxia, aquatic trash and PFOS as part of a fish consumption advisory.

In total, the draft 2024 Integrated Report includes the evaluation of over nine million water quality monitoring results collected by 141 organizations at over 3,000 unique locations statewide. Impairment of waterbodies in Oregon most commonly harms the fish and aquatic life beneficial use, with stream temperature and dissolved oxygen being the most prevalent causes. In this reporting cycle, DEQ is also proposing to remove over 70 waterbodies from impaired status based on new data showing improving water quality conditions.

The development of the draft 2024 Integrated Report included a robust public process, including a two year technical working group effort, public comment on the draft assessment methodology, open calls for data and public webinars where DEQ staff presented complex information in an accessible way and offered technical support.

The next steps for the 2024 Integrated report are to incorporate comments received, write a formal response to comments, and submit to EPA for final approval. DEQ plans to submit the final report in September 2024, and an EPA decision within 60 days of submittal. The Water Quality Assessment program will provide an informational presentation at the November 2024 EQC meeting on the final Integrated Report.

4.4 Onsite Septic Financial Aid Program Update

In 2021, the Oregon Legislature allocated $15 Million to DEQ to establish the Onsite Septic Financial Aid Program. The purpose of this funding is to provide financial assistance for the repair and replacement of septic systems that were damaged by the 2020 Labor Day wildfires, as well as address needs throughout the state where septic systems are outdated or failing. DEQ has issued pass-through grants to

counties and local agencies, which in turn are assisting property owners. Since June 2022, 208 systems have been repaired, upgraded, or connected to sewer. All the American Rescue Plan Act funds have now been obligated to nine subrecipients, which is based on quarterly reports for January 2024 through March 2024. More than 925 property owners have submitted funding requests for their septic systems, which demonstrates the significant need and success of this program.

5.0 Eastern Region

5.1 Lower Umatilla Basin Groundwater Management Area

State agencies hosted a public meeting and open house with agency directors on April 18, 2024, in Boardman. DEQ Director Leah Feldon, Oregon Department of Agriculture Director Lisa Charpilloz Hanson, and Oregon Water Resources Department Acting Director Doug Woodcock provided updates and answered questions in a facilitated session about nitrate groundwater contamination in the LUBGWMA. While the public meeting focused on environmental issues, the Oregon Health Authority was present to answer questions about public health services offered to residents. Community members also had the opportunity to speak one-on-one with staff from the different agencies during an open-house style tabling session. Spanish language interpretation was provided both in person and online. Additionally, the agency directors joined the LUBGWMA Committee meeting in Irrigon on April 19, 2024.

5.2 Chemical Waste Management of the Northwest

Chemical Waste Management, a hazardous waste treatment, storage and disposal facility in Gilliam County near Arlington, is in the process of renewing its hazardous waste landfill permit. CWM is the only hazardous waste landfill in Oregon. While that renewal is being processed, CWM is seeking a permit modification to expand its existing landfill so it can continue properly disposing of hazardous waste. Permit modifications are more limited in scope than renewals, and this modification would be focused on expanding an existing landfill unit. Waste streams, or what the facility is currently authorized to accept, would remain the same. CWM hosted a public information meeting on May 15 to provide information about the proposal and answer questions from the public. The public may submit comments to DEQ on the proposed permit modification application until July 1, 2024. DEQ will review all comments received by the deadline, and then draft the permit modification. The draft permit modification will also have a public comment opportunity.

6.0 Northwest Region

6.1 North Portland Temporary Alternative Shelter Site

The City of Portland is working to develop a temporary alternative shelter site in North Portland's St. Johns neighborhood near the Columbia Boulevard wastewater treatment plant. The City's current site plan is to accommodate up to 200 people in tiny home pods and parking spaces for people living in RVs and campers. Developing this site is a priority for the City and is connected to the state of emergency to address the housing and homelessness humanitarian crisis declared by the City and the State of Oregon.

DEQ has been working with the City through the cleanup planning process to ensure future occupants and staff will be safe. To date, DEQ has approved the contaminated media management plan which allows the City to begin construction. Once the final details are submitted to DEQ, the agency will review the City's risk assessment and remedial action plan to determine if the site will be protective of human health and the environment, and if additional protective actions are necessary.

In addition to the cleanup nexus, DEQ has also approved an erosion and sediment control plan associated with the construction activities and a water permit application for managing sewage at the site.

DEQ and the City hosted a public information meeting on April 30, 2024, to share information about the contaminated media management plan and risk assessment as well as to answer questions from community members.

7.0 Laboratory and Environmental Assessment Division

The month of May kicks off monitoring programs at the laboratory. One of these programs has recently received public comment and added new areas and two of these programs are kicking off for the first time in May and June.

7.1 Water Quality Monitoring

Oregon Beach Monitoring Program
The purpose of the Oregon Beach Monitoring Program, which is EPA-funded annually, is to investigate, measure and communicate about bacterial contamination in Oregon's coastal marine and fresh waters. If DEQ measures bacterial concentration in marine water above a Beach Action Value, OHA issues an advisory, local partners deploy warning signs on the beach and DEQ resamples the location until bacterial measurements decrease below the BAV.

The lab samples approximately 20 beaches along Oregon's 360 coastal miles and every two years reconsiders these locations based on potential source investigations and public comment. The 2024 beach list includes 24 beaches and three new locations, Crissey Field Recreation Site (Brookings), Siletz Bay (Lincoln City) and Ona Beach (Beaver Creek State Park). According to EPA environmental justice assessment tools, two (Crissey Field and Siletz Bay) of these new sampling locations contribute to the federal Justice40 Initiative goal – to assure that 40% of federal environmental funding serves disadvantaged communities. Overall, 58% of OBMP sites provide assessment in disadvantaged communities. DEQ shares all data collected through this monitoring on our Water Quality Monitoring Data website and reports data annually to EPA. For a full list of monitored beaches, visit OHA's Beach Monitoring website.

Harmful Algal Blooms Recreational Water Monitoring
The purpose of the lab's Harmful Algal Bloom recreational monitoring network is to survey certain waterbodies statewide for algal toxin concentration at regular intervals throughout the summer months. DEQ received funding for a six-month seasonal monitoring specialist position in the 23-25 Legislatively Adopted Budget which allowed the lab to expand the 2023 pilot scale recreational HAB network from 10 waterbodies to 40 lakes and reservoirs this year. The lab will sample these 40 waterbodies four times each from May 2024 through October 2024 in six regional circuits across the state.

In selecting these waterbodies, DEQ reviewed boater use data, algal bloom history, and demographic characteristics of surrounding areas such as income and educational levels. Field staff will measure water quality parameters and chlorophyll in the field; at the laboratory, chemists will analyze for the four algal toxins for which OHA has established advisory thresholds for recreational water contact: anatoxin, saxitoxin, cylindrospermopsin and microcystin. If the analysis indicates algal toxins above advisory thresholds, DEQ will notify OHA. All results will be available to the public on our Water Quality Monitoring Data website.

7.2 Air Quality Monitoring

Photochemical Assessment Monitoring Stations Equipment in Portland
Photochemical Assessment Monitoring Stations is an EPA program to understand ground-level ozone concentrations by measuring ozone precursor compounds and related meteorological measurements. Ground level ozone is the second greatest concern for health after PM2.5 and may cause health effects such as coughing, scratchy throat and difficulty breathing. These effects can occur in healthy people but are especially prevalent in those with asthma or other lung related health factors. High ozone concentrations are common on hot, sunny days in the Portland metro area.

The most significant component of these measurements is measuring hourly concentrations of volatile organic compounds. This is a form of continuous air toxics monitoring which represents the most elaborate, complicated monitoring the lab has performed to date. It is similar to VOCs monitoring performed already, but instead of one 24-hour sample once every six days, for a total of 3,111 data points every year, PAMS VOCs data would amount to 110,160 data points over the three-month PAMS season. This additional data will prove valuable understanding of the chemical dynamics of ozone formation and ozone precursors.

Translation or other formats

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