



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission meeting

404th regular meeting

July 18-19, 2019

Cloverleaf Hall at Wallowa County Fair (668 NW 1st Street, Enterprise)

Thursday, July 18, 2019: 9 a.m. to 6:30 p.m.

Chair George convened the meeting at 9:05 a.m.

- Present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

Before the start of item A, Chair George and Commissioner Mosby introduced Board of Forestry member Joe Justice, liaison from that body to the commission.

A. Action item: Meeting opening and minutes

Commissioners reviewed the proposed draft minutes from the May 16-17, 2019, meeting and made no changes.

Action: Approve the May 16-17, 2019, minutes as presented

Move: Vice-chair Baraso

Second: Commissioner Mosby

The commission unanimously approved the action.

B. Action item: Proposed rule revisions for Composting Program

Audrey O'Brien, Northwest Region manager, introduced the item. She described the proposed rule revisions, which are the same as temporary rule revisions approved by the commission earlier this year. O'Brien discussed the advisory committee and public comment processes DEQ held for the rule proposal. Commissioners asked clarifying and informational questions about the proposal. Jeremy Fleming, DEQ solid waste specialist, provided responses to some questions.

Action: Adopt the rule amendments for pathogen reduction standards in composting, as seen in Attachment A of the staff report for this item, as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Addington

Second: Commissioner Kile

The commission unanimously approved the action.

C. Action item: Hazardous Waste Program fee increase proposal

David Livengood, Hazardous Waste Program manager, introduced the item and provided background information about program fees and funding. Jeanette Acomb, Senior Hazardous Waste policy analyst, co-presented and provided an explanation of each element of the proposed rule and fee revisions. Audrey O'Brien, Northwest Region Hazardous Waste Program manager, provided additional clarifying responses regarding the advisory committee process. Commissioners asked clarifying and informational questions throughout the presentation.

Action: Adopt the proposed rules for Hazardous Waste Program fees as seen in Attachment A of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Mosby

Second: Vice-chair Baraso

The commission approved the motion with four in support and one abstaining (Kile)

D. Informational item: Willamette Basin Mercury TMDL development

Jennifer Wigal, Water Quality Division Deputy Administrator, introduced the item and provided background information about the draft Willamette Basin Mercury TMDL. Gene Foster, Water Quality Division Watershed Management section manager, described the status of the draft TMDL. He described the elements of the draft TMDL, including the proposed reductions needed across various source types. He described engagement meetings scheduled with potentially affected entities, including the Designated Management Agencies that could be assigned reduction responsibilities in the TMDL.

Wigal and Foster described elements of the draft TMDL, and how DEQ is working with entities with reduction responsibilities to ensure successful implementation. Commissioners asked clarifying and informational questions throughout the presentation.

Comment opportunity for Item D

Following the staff presentation, the commission opened a comment period specific to the draft Willamette Basin Mercury TMDL, as discussed in item D. One person signed up to present comment in-person. One person presented comment by toll-free call-in line.

1. Mary Ann Cooper, Oregon Farm Bureau, provided comments regarding her participation in the Willamette Basin Mercury TMDL Advisory Committee, and her feedback on that process and its outcomes.

2. Ryan Pessah, Western Wood Preservers Institute, asked a question regarding a June 2019 report released by DEQ on this matter. Gene Foster, DEQ, responded to the caller's question, and noted that staff will follow up directly.

E. Action item: Petition to initiate Outstanding Resource Waters designation process for

Waldo Lake

Connie Dou, Water Quality Division Standards and Assessments section manager, introduced the item and provided a brief overview of the proposal. Aron Borok, Water Quality Standards specialist, summarized the petition that initiated this process and provided the DEQ analysis of the petition and agency recommendation.

Borok described what an Outstanding Resource Waters Designation means in Oregon, and provided additional information about the rules for these designations. He presented the elements required in the petition, including public comment requirements, and DEQ's response to the petition and its supporting materials.

Commissioners asked clarifying and informational questions about the proposal. Director Whitman provided additional clarification of the effects of an Outstanding Resource Waters Designation and its relationship to the protection of Oregon's waters.

Action: Direct DEQ to initiate rulemaking on the rule amendments proposed by the Northwest Environmental Defense Center on April 22, 2019.

Move: Commissioner Kile

Second: Vice-chair Baraso

Prior to commission action, Commissioner Addington presented additional comments specific to the action. Commissioner Mosby expressed a need to visit Waldo Lake to assess the actual land management prior to any final designation decision.

The commission approved the action as presented with three in support and two in opposition (Addington and Mosby)

Following the commission action, Chair George welcomed representatives of the Northwest Environmental Defense Center, the petitioner in this matter, to provide any comments or responses. Alex Houston, clerk with NEDC, thanked the commission for its action today and provided additional remarks in support of the protections for Waldo Lake.

F. Action item: Proposed Outstanding Resource Waters designation process for Crater Lake

Director Whitman introduced this item and provided background information on the agency's recommendation. He noted that some pending federal changes could lead to inadvertent reductions of protection, at the federal level, for Crater Lake. Commissioners provided their comments regarding the proposal.

Action: Direct DEQ to include Crater Lake in the Outstanding Resource Waters designation rulemaking process for Waldo Lake and its associated wetlands, and adopt appropriate policies to protect Crater Lake under that designation.

Move: Commissioner Kile

Second: Vice-chair Baraso

The commission approved the action with four in support and one opposed (Addington)

Working lunch and executive session

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch. This session was held pursuant to ORS 192.660(2)(h).

G. Public forum

At 1:45 p.m., Chair George reconvened the commission and opened a public comment period for any general topics. Three people presented comment in-person, and four people presented comment by toll-free call-in line.

Comments from the first six people, all residents of the Pine Valley watershed, were all related to planned herbicide applications related to timber harvest on forest lands in and near the Pine Valley watershed and Halfway, Oregon. Each person presenting comment noted their name for the record prior to their comments. The group requested that the commission consider additional controls to protect drinking water resources and requested meetings with the commission and DEQ related to these issues.

Lisa Arkin, Beyond Toxics, commented on forestland application of herbicides and pesticides from helicopters on state forest lands and near drinking water sources. She noted that she submitted an emailed copy of her comments and supporting materials to the commission.

Chair George closed the comment period at 2:15 p.m.

H. Action item: Landfill emission guidelines and adoption of updated federal regulations

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided some background information on the emissions standards for landfills. Jaclyn Palermo, Air Quality Operations manager, described the process DEQ uses to update NESHAP and NSPS regulations in alignment with the federal rules. Dan DeFehr, Air Quality Operations staff, presented the rule proposals and described the content of the proposed revisions and updates. He also summarized the comments received by DEQ as part of the rule development process. Commissioners asked clarifying and informational questions throughout the presentation.

Action:

1. Adopt the proposed rule changes as seen in Attachment A of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules; and

Item A: Draft minutes from July 18-19, 2019, EQC meeting
Sept. 26-27, 2019, EQC meeting

2. Approve incorporating the amended OAR 340-236-0010 into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and
3. Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval; and
4. Direct DEQ to submit the Oregon Amended State Plan to Implement the Emission Guidelines for Municipal Solid Waste Landfills to the U.S. Environmental Protection Agency for approval

Move: Commissioner Kile

Second: Commissioner Mosby

The commission approved the action with four in support

- *Chair George was not present for this vote.*

This item was taken out of order

K. Informational item: Oregon's Environmental Protection Act

Annalisa Bhatia, Senior Legislative analyst, described the obligations of the agency and commission related to the new Environmental Protection Act codified in the 2019 Legislative Session. Director Whitman provided additional information about the agency requirements, and discussed a table included as an attachment to the report for this item. The items on that table were gathered as examples of standards that might be subject to the new notification and action obligations, once effective in late September 2019.

Director Whitman noted that DEQ will bring updates to the September 2019 meeting, and it will be a regular agenda item on all commission agendas starting in November 2019.

I. Informational item: 2019 Legislative Session and Budget updates

Nancy Bennett, Annalisa Bhatia, Abby Boudouris and Matt Davis presented a summary of the outcomes from the 2019 Oregon Legislative Session.

Bennett, Policy and External Affairs manager, discussed key budget actions for each DEQ division, highlighting the successes, unfinished business or items expected in future Legislative Sessions. Bhatia, Senior Legislative Analyst, summarized legislation passed during Session that would directly, or indirectly, affect DEQ. Davis, Air Quality policy analyst, described the expected outcomes from to House Bill 2007, related to emissions from diesel sources. Davis also described several bills pertaining to electric vehicles, and the related work for DEQ and the commission. Boudouris, Land Quality policy analyst, discussed the key policy highlights for the Land Quality Division. She noted that DEQ did not receive Emergency Response positions, which remain a key priority for the agency. Bhatia summarized the Water Quality Division policy actions in Session. She noted some key topics going forward, and issues DEQ expects to see in the 2020 and 2021 Legislative Sessions.

Director Whitman provided additional comments related to other legislation that may affect DEQ in future sessions. Commissioners asked clarifying and informational questions throughout the item.

J. Action item: DEQ 2019-21 Budget certification

Nancy Bennet, Policy and External Affairs Manager, presented a request for certification of DEQ's 2019-21 Legislatively Adopted Budget. She noted that the certification is a required next step for the agency's budget process.

Action: Authorize Chair Kathleen George to sign the 2019-21 Legislatively Adopted Budget certification form on behalf of the commission.

Move: Commissioner Mosby

Second: Vice-chair Baraso

The commission unanimously approved the action

L. Evening session: Community planning for long-term water needs

Jennifer Wigal, Water Quality Division Deputy Administrator, introduced this item. Roxann Nayar, DEQ's Integrated Water Resource Specialist, presented on DEQ's role in the place-based planning processes and background on Oregon's Integrated Water Resource Strategy.

Steve Parrett, Water Resources Department Planning Coordinator, described the status of the four place-based planning processes and discussed various programs of the Water Resources Department.

Commissioners asked informational and clarifying questions about place-based planning and the general approach to water protections, both regulatory and non-regulatory. Director Whitman provided additional contextual information, and discussed ways that he and other state agency directors are working to build a more cohesive statewide coalition around water.

Recess

The commission recessed at approximately 5:30 p.m. until 9 a.m. on Friday, July 19, 2019.

Commissioners and DEQ staff attended an evening social dinner on Thursday, July 18, 2019. No commission business was conducted at the dinner.

Friday, July 19, 2019: 8:30 a.m. to 12:30 p.m.

Chair George reconvened the meeting at 8:30 a.m.

- Present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

M. Tour: 6 Ranch

DEQ and project partners toured 6 Ranch, a diversified ranch in Enterprise that has implemented various environmental protections as part of its operations. The tour took place off-site from approximately 8:30 until 10:50 a.m.

N. Informational item: Tour debrief and discussion

Commissioners and DEQ staff reconvened at the meeting venue to discuss the morning's tour and any next steps for DEQ or EQC.

Eric Nigg, Eastern Region Water Quality Manager, and Jennifer Wigal, Water Quality Deputy Administrator, provided responses to commissioner questions and discussed DEQ's work in the area. Director Whitman discussed the ways that DEQ, as an agency, can communicate more effectively with other agencies, local landowners and other project partners to accomplish the shared goals and positive environmental outcomes important to all interested parties.

O. Informational item: EQC annual self-evaluation survey

Stephanie Caldera, commission assistant, presented the results of the commission's annual self-evaluation survey results for review and discussion. Commissioners provided feedback on the survey results and opportunities for improvement moving forward. Director Whitman provided additional information about ways the commission can modify its engagement processes and ways to connect with the public and other entities.

P. Informational item: Director's report

Director Whitman presented written and verbal updates on agency activities and other state and federal items of interest for the commissioners.

Q. Informational item: Commissioner reports

The commissioners provided verbal updates on their recent activities of interest to the commission.

- Commissioner Mosby noted that he recently had to get his vehicle tested at a Portland area VIP station and noted his appreciation for the staff's excellent work and service
 - Vice-chair Baraso noted that he has used the DEQToo service, and that service worked well and was very convenient
- Commissioner Kile described an upcoming water conference at OSU, which is free to the public

- Commissioner Kile noted her recent attendance as the EQC liaison on OWEB, with a meeting in Klamath Falls earlier this week.
 - Two rulemakings: Monitoring (serving ex officio on that), water lease and transfer grants/water acquisition
 - Strategic Initiative Areas did not get Legislative funding, but OWEB is committing funds to support/keep them working
- Commissioner Addington noted recent meetings with City of Klamath Falls Public Works leadership regarding the Klamath Basin Temperature TMDL and noted his thanks to Director Whitman for assisting with a panel of Natural Resource agencies to speak with participants in his agricultural leadership group
- Chair George attended a celebration of a new steelhead hatchery on the Umpqua River, at Steamboat Creek

Adjourn

Chair George adjourned the public meeting at approximately 12:35 p.m.

Working lunch

The commission and DEQ executive staff met over a working lunch for a government-to-government meeting with representatives of the Confederated Tribes of the Umatilla Indian Reservation. No commission business was discussed at the lunch, which lasted from approximately 12:45 to 2 p.m.

Next meeting: Sept. 26-27, 2019: Madras

- *Partly a joint meeting with the Oregon Board of Agriculture*