

State of Oregon
Department of Environmental Quality

Memorandum

Date: Sept. 23, 2019

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Agenda Item I (informational), Director's Report
Sept. 26-27, 2019, EQC meeting

1. Central Services Division

1.1. All Managers Annual Meeting. DEQ will hold its annual all-managers meeting on October 29 and 30 in Portland. While the agenda for the meeting is not yet final, the meeting will address change management in the agency, including implementation of the Environmental Data Management System (EDMS), as well as topics including diversity, equity and inclusion.

1.2. EDMS. enfoTech spent last week at DEQ headquarters, meeting with program managers and staff to continue developing how DEQ's work processes will integrate with the company's software. The expanded EDMS Steering Committee is taking on an enhanced level of engagement in the project, including a subgroup that is focusing on both internal and external communications. As the first wave of EDMS moves forward, DEQ will soon begin rolling out how we will engage with external partners, including both regulated entities and communities that will be affected by EDMS.

2. Land Quality Division

2.1. EPA Approves Oregon Underground Storage Tank Program. On Sept. 24, 2019, U.S. Environmental Protection Agency reauthorization of Oregon's Underground Storage Tank Program will be complete. The EQC approved DEQ rule changes last year to conform to new federal requirements. EPA published public notice of the Oregon approval application and received no comments, allowing the reauthorization to become final.

Oregon tank owners and permittees benefit from state program approval by having a single set of requirements enforced in the state. This completes a four-year team effort of legislation, rule revision and submission of Oregon's application. As approved by the EQC previously, Oregon tank operators must meet expanded equipment inspection and testing requirements beginning Oct. 1, 2020.

3. Water Quality Division

3.1. 2018 Draft Integrated Report. Every two years, DEQ is required under the Clean Water Act to assess Oregon's surface water quality and report to the U.S. EPA and the public on the condition of Oregon's waters. This report is called the Integrated Report. The last Integrated Report that was submitted to EPA by DEQ was the 2012 Integrated Report, which was finalized and approved by EPA in 2018. DEQ prepares the Integrated Report that describes the overall condition of Oregon's waters, and identifies waters that do not meet water quality standards where a Total Maximum Daily Load needs to be developed.

DEQ is planning to release its draft 2018/2020 surface water quality assessment results at the end of September for public comment. Because the Clean Water Act requires states to develop a report every two years, and DEQ's improvement efforts have spanned two cycles, DEQ is referring to this effort as the "2018/2020 Integrated Report". The 2018/2020 Integrated Report is based on a significantly improved methodology, and it creates a framework and foundation for future assessment. This is the first time that DEQ has conducted a statewide data call since the 2004/2006 Integrated Report. The water quality assessment meets the requirements for DEQ's submittal of Integrated Reports. The report will be released with a user-friendly web-based map tool and a new online database so that the public can easily search the results and download the data.

DEQ is offering an expanded public comment period of 60 days due to the significance of revisions and new interface for viewing information contained in the Integrated Report. DEQ will also be hosting informational sessions across the state to discuss the assessment results and new tools with the public.

3.2. Oregon Department of Forestry, Klamath-Siskiyou Riparian Rule Assessment. DEQ participated with ODF staff and the Oregon Board of Forestry in discussions concerning whether existing water quality protection rules for riparian areas in forest operations are adequate to assure compliance with Oregon water quality standards. DEQ and ODF are working together in recognition of their respective responsibilities to assure that riparian conditions in non-federal forests will meet targets in basins where water quality standards are not currently met, which includes water temperature in parts of the Rogue basin. The agencies are developing a detailed work plan for this effort, which will be presented to both the Board of Forestry and the EQC. The work is also expected to include an updated MOA between the agencies, paralleling the MOA that exists between DEQ and the Oregon Department of Agriculture.

3.3. Klamath Basin Temperature TMDL. DEQ issued the Klamath Basin Temperature TMDL last week – and has transmitted the plan to EPA for its review and approval this month. The final TMDL incorporated a number of changes in response to comments from irrigation districts and tribes. The TMDL is designed to assure that conditions in the Klamath and Lost Rivers, below Link River dam, meet both Oregon and California water quality standards.

3.4. Willamette Basin Mercury TMDL. The comment period for the draft Willamette basin mercury TMDL closed in early September. DEQ staff are reviewing comments and working on changes to the draft, as well as the response to comments. The TMDL will be issued by the department in November, and sent to EPA for approval.

3.5. Willamette Basin Multi-discharger Variance for Mercury. In conjunction with the mercury TMDL (which is being adopted by the department, as an order), DEQ is proposing that the EQC consider adopting a multi-discharger variance for mercury, by rule. On September 16, DEQ began accepting public comment on a proposed multiple discharger variance for mercury in the Willamette Basin. The comment period will close Nov. 4, 2019. DEQ initiated work on this variance because there is no feasible technology that wastewater dischargers can use to meet effluent limits based on the human health criterion for mercury. As previously discussed with the commission, current and historic deposition of atmospheric mercury from global sources into Willamette Basin waters and mobilization of mercury-containing sediments into Willamette Basin waters currently prevents attainment of the water quality standard.

Under the draft variance, qualified wastewater dischargers will receive a permit limit based on the level of mercury in their effluent. The variance will also require dischargers to implement a mercury minimization plan that will reduce mercury loads to basin waters over the term of the variance. These plans are consistent with the plans required by the proposed mercury TMDL for the Willamette Basin. DEQ is moving forward with the variance so that the agency can continue to issue permits in case TMDL implementation is delayed. DEQ is proposing a 20-year term for the variance as a reasonable timeframe to implement reduction actions and measure progress toward the water quality standard. Federal regulations require DEQ to re-evaluate the variance requirements every five years, including a review of the effectiveness of wastewater treatment technology in removing mercury, and an analysis of mercury reductions achieved through pollutant minimization actions. Permit limits also will be evaluated at each permit renewal during the variance and DEQ will establish more stringent limits as effluent levels decrease. DEQ expects to propose a final rule to the commission in January 2020.

3.6. Pine Creek Forest Operations and Drinking Water Concerns. At the July 2019 EQC meeting, multiple residents of the Halfway and Pine Valley, Oregon, area presented comment to the commission regarding concerns about pesticide applications in forested areas.

Following the meeting, DEQ staff connected with staff from the Department of Agriculture and other partners involved with the Pesticide Analytical and Response Center to meet and discuss the issues raised regarding pesticide applications by forest land managers near Halfway. Through these discussions, and meetings between the residents and land managers, a number of commitments were made to address the residents' concerns

- No aerial broadcast spraying will be conducted. Rather, following harvest backpack spot spraying only will be used in limited areas where necessary to re-establish forest cover (Forest Practices Program);

- Neither Roundup (glyphosate) nor Polaris SP will be used. Rather, a mixture of Velpar (hexazinone) and Groundclear (Imazapyr) will be substituted.
- Ongoing, regular communications with land managers will continue.

4. Air Quality Division

4.1. Withdrawal of Approval for California Light Duty Vehicle Standards. On September 19, 2019 EPA and the National Highway Traffic Safety Administration (NHTSA) adopted two final actions that will withdraw federal approval for light duty (cars and light trucks) vehicle emissions standards (the actions take effect in 60 days). The California standards applied to new vehicles sold through 2025 in California and 12 other states, including Oregon. The California standards include both a requirement that a certain percentage of sales by each auto manufacturer be zero-emission vehicles, and requirements concerning the overall average efficiency of new vehicles sold. If the standards had remained in effect, about eight percent of new vehicles sold in 2025 would be zero-emission, and the overall efficiency would be almost fifty percent higher than it would otherwise be in 2025 (54.5 miles per gallon instead of 37).

In Oregon, both greenhouse gas emissions, and vehicle emissions that contribute to ozone, are rising. Over time, the federal action likely will push areas of Oregon into non-attainment for ozone under the federal Clean Air Act – exacerbating public health impacts including asthma in children and adults, as well as emphysema, and chronic bronchitis.

In Oregon, vehicle-related greenhouse gas emissions make up a very large and growing share (forty percent) of the total. The available tools to reduce these emissions are to reduce the amount of driving and to make vehicles cleaner. Allowing our new cars to be dirtier will put more pressure on efforts to reduce vehicle miles, such as congestion pricing, and require substantial investments in transit and other modes of travel.

5. DEQ Eastern Region

5.1. Easterday Farms Dairy Near Boardman. In February, Easterday Farms (operators of dairy facilities in Washington) purchased the Lost Valley Farm Dairy, which closed in 2018 after the Oregon Department of Agriculture cited it for over 200 wastewater violations and moved to revoke its permit. ODA is the primary regulator of Confined Animal Feeding Operations, or CAFOs, in Oregon. However, DEQ reviews and jointly issues these permits to ensure they meet water quality protection requirements.

The dairy still has a CAFO permit, but that permit has been modified to prohibit the facility from having any animals and it requires the owner to manage remaining waste. In July of this year, Easterday Farms Dairy applied to ODA for a new CAFO permit, which would allow the dairy to reopen. DEQ is working with ODA to gather preliminary information and assess permit requirements. The agencies are developing an extensive community outreach plan to reach

neighboring residents, including environmental justice communities. DEQ will continue to keep the commission updated on developments as this project moves forward.

5.2. Diesel Spill from Train Derailment near Trout Creek (Madras). In mid-August, DEQ and EPA responded to a 4,000-gallon diesel spill caused by a freight train derailment along the BNSF railway outside Madras. Due to hillside stability and safety concerns, emergency responders removed some but not all of the contamination during the initial emergency response. DEQ is overseeing ongoing investigation and cleanup work to ensure remaining contamination does not reach nearby Trout Creek, which is a tributary of the Deschutes River, or pose a risk to people, fish or wildlife.

5.3. North Ridge Estates Superfund Site (near Klamath Falls) - Work Begins at Operational Unit 2. The North Ridge Estates Superfund Site in Klamath Falls consists of two separate units: the 125-acre residential development built on the former Marine Recuperation Barracks and the 46-acre former Kingsley Firing Range, Operable Unit 2. EPA divided the Superfund site into two operable units to prevent delays in remedial action for the residential development. In addition to being a Superfund site, the former firing range is also a Former Utilized Defense Site. This brought additional complexity to performing any actions on Operable Unit 2.

EPA completed the asbestos cleanup in the residential development in 2018. This summer, DEQ and EPA, in conjunction with the U.S. Army Corps of Engineers, began investigation into contamination at the former firing range. The Corps is responsible for the munitions and explosives of concern investigation and removal. DEQ and EPA are responsible for asbestos investigation and removal. Environmental contractors began removing asbestos containing materials in August. The asbestos investigation and removal will require intermittent site work for several years. This work has drawn local media attention and safety concerns about buried munitions from the former facility. EPA and DEQ have provided additional information to concerned residents about the location of the former firing range, which appears to be separate from residences in the development. ([See map of firing range site in relation to residential development site here.](#))

5.4 Preventing Fuel Leaks and Maintaining Fuel Availability in Grant County. The only retail gas station in Dayville, Grant County, did not renew its DEQ underground storage tank operating certificate this year (to operate, gas stations with underground tanks must meet requirements for ongoing maintenance and monitoring to prevent leaks). DEQ learned the property has been sold and the gas station is not currently operating. The business interruption leaves the city of Dayville, population 148, and a 60-mile stretch of Highway 26 between Mitchell and Mt. Vernon without retail fuel. As part of a nearly \$4 million investment in Eastern Oregon, the state provided a \$75,000 grant to this facility in 1996 to upgrade its tank system and maintain fuel availability for the community. With the assistance of local government officials and regional DEQ staff, DEQ's Underground Storage Tank team is working with the new owners to return this facility to safe operation and environmental compliance.

6. Northwest Region

6.1 Zenith Energy Air Quality Permit. DEQ is currently drafting the Title V permit for Zenith Energy, and has requested additional information from the operators to complete this work. The information is due by mid-October. The public notice and hearing for the draft permit renewal are not yet scheduled.

6.2. Fishhawk Lake Draining. DEQ, along with other state and federal agencies, is investigating water quality violations and fisheries impacts (including endangered species) resulting from the draining of Fishhawk Lake without required approvals and controls. Fishhawk Lake is a residential community in Clatsop County. The homeowners' association drained the lake in order to repair the underdrain in the earthen dam that creates the lake. The association did not apply for permits for work performed, despite having met with the agencies earlier in the year.

DEQ, in consultation with other agencies, issued a Pre-Enforcement Notice and provided guidance for completing the underdrain repair and refilling the lake. DEQ will continue regular coordination between state and federal agencies while it pursues enforcement and provides direction to the community until repairs are complete and the lake is restored.

6.3. NW Metals Scrapyard Fire Response. On August 29, 2019 an Administrative Law Judge ruled on the NW Metals enforcement case. Included among the corrective actions required, NW Metals must implement the workplan required by the original Removal Action Order including fire debris removal and soil sampling and prepare a plan for stormwater management. NW Metals was the site of a major fire and multiple violations of environmental law in March 2018, and is located in the Cully neighborhood of northeast Portland.

6.4. Harbor of Hope Houseless Navigation Center Opening. In September 2018, DEQ approved a cleanup workplan for property owned by Prosper Portland to be used as a location for a temporary facility to provide services to houseless people. Winkler Development Corporation filed a complaint challenging DEQ's approval for the remedial action plan at the Northwest Portland site. The Marion County Court granted DEQ's motion to dismiss the complaint earlier this year. Subsequently, Winkler Development has filed a second complaint and DEQ is seeking dismissal of this complaint as well.

Construction of the proposed facility is complete and Harbor of Hope hosted a grand opening in late August. DEQ awaits submission of a construction completion report, and will review the report to ensure that construction met the requirements specified in the previously approved workplan.

6.5. Precision Castparts Large Parts Campus Update. The Cleanup Program held a public meeting earlier this month to present the findings of several years of work on stormwater,

Johnson Creek sediments, groundwater and US EPA-led soil clean-ups at the Precision Castparts Large Parts Campus in southeast Portland. Completion of this work represents a significant milestone for the site, which is nearly ready to enter a feasibility study to select final remedial options across the site.

6.6. Bradford Island Cleanup. The US Army Corp of Engineers budget for Fiscal Year 19-20 included no funding for ongoing work at this Columbia River site, which is highly contaminated with PCBs. Recently, the Corps has terminated the existing voluntary cleanup agreement with DEQ. DEQ and other governmental and tribal entities are considering next steps for this site, which has been under investigation and limited cleanup actions for many years.

6.7. Linnton Mill Restoration Project Construction. Construction of the Linnton Mill Restoration Project is expected to be complete in September 2019. Over 300,000 cubic yards of soil will be excavated and moved to create an off-shore island and flow-through channel with associated in-water, riparian and forested upland habitats. Concurrent with construction in the upland, approximately 1,100 treated and untreated timber pilings were removed from the river adjacent to the site. Earthwork will be completed in September 2019 followed by hydro-seeding this fall and tree planting this winter. A pedestrian walkway and viewpoint will allow for limited public access. DEQ's Cleanup Program is providing project oversight with support from EPA.

The Portland Harbor Natural Resource Trustee Council signed the Linnton Mill Habitat Development Plan in April 2019, which recognizes the project as having habitat benefit "credits" that can be sold to parties with obligations to mitigate resource damages related to the Portland Harbor Superfund site. Potentially responsible parties within the Portland Harbor Superfund Site may purchase these credits to resolve their liability for resource damages resulting from historic releases of hazardous substances.

6.8. Johnson Creek Landfill Investigation. Johnson Creek Landfill is a closed construction debris landfill located at SE 77th and Johnson Creek Boulevard in Milwaukie. DEQ, in coordination with the landfill property owner, is investigating to determine if methane gas is traveling underground from the landfill property toward a residential neighborhood located directly east of the landfill. Initial testing has not detected methane in soils or confined spaces within the residential neighborhood. This investigation is in its early stages and more monitoring is planned. DEQ went door to door to provide informational handouts to residents concerning the testing. Depending on the results of this investigation the owner, Emmert International, may need to take corrective action to prevent methane migration off site.

6.9. H.G. Lavelle Landfill Fire. On the evening of August 26th, a fire started in dry grass on the site of the former H.G. Lavelle Landfill in Northeast Portland near 82nd Avenue. The site is a closed construction debris landfill that DEQ regulates under a solid waste disposal site closure permit. Portions of the landfill are brownfield-project developments, including the Dharma Rain Zen Center and the Portland Beauty School. The fire did not damage those facilities, though a nearby townhome, a commercial building and a number of parked cars were destroyed and

several other buildings were damaged. DEQ sampled suspect fire debris for asbestos, but found none.

The landfill has a landfill gas control system and a network of gas monitoring probes to prevent off-site migration of methane gas. DEQ contacted the landfill owner to evaluate fire damage to this equipment and to coordinate response actions. The owner reported minor damage to the landfill gas control system and completed repairs to this system within two days after the fire. DEQ is following up with the site owner to improve fire prevention measures on the landfill property.

7. Western Region

7.1. Jordan Cove LNG Export Terminal/Pacific Connector Natural Gas Pipeline. DEQ staff have continued to meet with the applicant for regulatory approvals for this project, particularly for certification that the construction and operation of the project will not violate Oregon water quality standards. Following DEQ's denial of that certification in May, the company has continued to state that it will reapply for certification, and the purpose of the meeting has been to reach a clear understanding of what data, information and analyses are needed for DEQ to evaluate the request in a timely fashion. The company currently indicates that it expects to reapply before the end of 2019. In the meantime, other state reviews by the Department of State Lands (removal/fill permitting), the Department of Land Conservation and Development (coastal zone consistency) have been extended.