State of Oregon
Department of Environmental Quality Memorandum

Date: Jan. 16, 2018

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Agenda Item N, Informational and Discussion Item: Director's Report
Jan. 18-19, 2018, EQC meeting

1. Update on Agency Recruiting and Reorganization

The top priority for the Director and Deputy for the past couple of months has been recruiting for key positions in DEQ's leadership. Once the agency's Leadership Team is fully re-constituted, it will contain fifteen people. Of those fifteen, eleven will be new to their positions within the past year and a half (counting the Director and the Deputy), and eight will have been hired in the past six months.

In the last several months, we have hired or appointed:

- Lydia Emer, as the new administrator for the Land Quality Division;
- Scott Brewen, as the new administrator for Central Services; and
- Annalisa Grunwald, as the new Legislative Advisor.

We are in the final stages of recruiting for:

- Air Quality administrator;
- Water Quality administrator;
- Policy manager;
- Communications manager; and
- Air Quality planning manager.

We are in the initial stages of recruiting for:

- Program Implementation manager; and
- Chief Information Officer.

The candidate pools for these positions have been very strong. We are interviewing candidates with significant national and/or state experience, as well as strong internal candidates, for several positions. With such a large number of new members of the agency's leadership, our attention will quickly transition to helping integrate the new managers into the department.

2. Secretary of State's Performance Audit of DEQ Air Permitting

Last spring, the Secretary of State's Audit Division approached DEQ about conducting a performance audit of a program in the agency. MWH had recently completed a review of DEQ's

federal water quality permitting, analyzing some of the causes of a significant backlog in permit renewals. Knowing that a backlog also existed in its air permitting programs, DEQ recommended, and the Audit Division agreed, that a review of those programs would be beneficial. For the next six months, the Audit Division worked closely with DEQ to analyze the extent of the backlog and to identify its causes.

The Audit Division released its audit report in early January, along with DEQ's responses to the recommendations in the report. DEQ agrees with all of the recommendations in the report, and has agreed to a series of specific steps to begin to rectify some of the causes of the backlog.

The permit backlog is most serious in the Northwest Region, but also exists to lesser degrees in the Western and Eastern Regions. The backlog means that permits are not being renewed as often as they are supposed to be – with the result that some permits do not require compliance with more recent standards. While, as a general matter, the backlog is not as extensive as in the water quality program, it is a serious concern for the agency and the public.

Three of the leading causes of the backlog are: (1) inadequate staffing and resources; (2) the diversion of staff to address community complaints and concerns; and (3) the lack of updated permit application forms, templates, and clear applicant guidance. While it may not be intuitive, recent concerns over facility-specific emissions have been a significant drain on air quality staff resources. The Cleaner Air Oregon program, if it provides a clear and predictable framework for addressing air toxics, should help with the second of these issues. DEQ has agreed to, and has begun, process improvement work to assure that it is making use of its available resources to the best degree possible.

3. Cleaner Air Oregon Update

DEQ and the Oregon Health Authority completed nine hearings around the state in November and December 2017, including one with the Environmental Justice Task Force, which was held in Salem. The hearings were attended by a variety of interests, including industry stakeholders, environmental health advocates, and elected officials. Hearings drawing the largest crowds were those in Portland, Coos Bay, Eugene, The Dalles, and Corvallis. We appreciated the support received from EQC members who attended some of these hearings.

DEQ extended the public comment period on the draft rules for an additional thirty days after receiving multiple requests for an extension. The new deadline for comments is January 22nd, and DEQ still intends to bring the rules for consideration to the EQC in July 2018.

Currently, the rule development team is beginning work on responding to comments already received. The shortened time to respond to comments will keep staff very busy in the coming months as they assess input, respond to questions from elected officials and make changes to the proposed rules.

DEQ is also preparing for the 2018 Legislative Session. Legislative approval is needed if DEQ is to receive fee funding (on top of existing General Fund appropriations) to implement the

proposed Cleaner Air Oregon program. The fee funding is proposed to include pass-through funding for OHA staffing as well.

4. Water Quality Permit Program Improvement Project Update

DEQ has completed its permit issuance plan for 2018. The plan provides for NPDES permit renewals to be issued for 36 specific facilities, and anticipates that the agency will also issue four new individual permits for new facilities.

Focus on Delivering on the Plan: DEQ water quality permit managers have assigned eight staff to work entirely on NPDES permit writing. This team includes two lead workers, and follows the recommendations of the 2016 MWH report.

Reporting Structure: The staff working on the NPDES permit backlog will continue to report to their current managers for now, with Keith Anderson overseeing and guiding progress, and with regular check-ins with the Director. In the longer term, the new Water Quality Administrator will work water quality managers and DEQ's Leadership Team to determine the structural changes and resource needs. Water quality managers also are tracking the time spent on each permit, so that we will have a better basis for assessing longer-term resource needs to deliver permit renewals on time.

Permit Writer Support: Two senior staff are assigned to help these permit writers address barriers during permit development, ensuring that issues that arise during permit drafting are promptly resolved. Additionally, specialist staff have been identified to help permit writers work through complex water quality regulations and implementation tools.

Current Status: DEQ has issued one permit from the 2018 plan, has two permits on applicant review, and five permits are in the Quality Assurance part of the process, prior to applicant review.

Other Permitting Work: Other tasks relating to permitting, including compliance inspections, enforcement and writing other types of permits have been reassigned to the remaining regional staff. The priority for these staff is assuring that we get EPA commitments, including inspections, assigned and completed.

Other Subprojects: Data bridging is work to ensure that data needed to write permits are available to staff. A gap analysis tool has been developed for permit writing staff so that they may identify needs in advance, allowing other staff to fill the gaps before work on the permit begins. DEQ anticipates that this tool will also help prepare for the permit issuance planning effort for 2019 and beyond. The Permit Development Improvement Project future state planning is in progress, with a current focus on application intake and processing.

5. VW Settlement - Emissions Reductions and Next Steps

The Department of Environmental Quality submitted its request for certification as a beneficiary of the VW Environmental Mitigation Trust Fund in November of 2017. The fund's Trustee and the U.S. Department of Justice are reviewing certification requests from the fifty states, Puerto Rico and the District of Columbia, and are scheduled to announce the status of each claim on Jan. 30, 2018. We anticipate that Oregon will receive at least $72.9 million from the fund, to be spent on projects that offset current and past excess NOx emissions from improperly manufactured VW diesel passenger cars.

Governor Brown designated DEQ as the lead agency to oversee Oregon's participation in the settlement. The 2017 Oregon Legislature gave DEQ budget authority and direction to spend money initially only to upgrade or replace at least 450 diesel school buses. This is the estimate of older buses remaining in the fleet by the state's 2025 deadline for school bus pollution upgrades. Upgrading or replacing these buses would likely use about $18 million of Oregon's expected allocation from the VW fund.

Each beneficiary must develop and present a plan outlining the desired project areas for funding, estimated pollution reduction benefits, and what effort is made to address impacts to disproportionately impacted areas, like environmental justice communities. DEQ posted its proposed mitigation plan for public review and comment on December 18, 2017. DEQ held a public hearing on January 9th in Portland, with remote participation through a webinar. The comment period on the proposed plan will close January 16. Once the Trustee announces the first funding request, DEQ must submit a plan within 30 days per the terms of the court decree. The state's mitigation plan can be amended through subsequent filings to the Trustee and is intended to be a living document.

There is no specific commission action required at this time for the next steps; however, DEQ will provide the commission with a summary of comments once the comment period is closed. DEQ anticipates a future need for legislative approval as we move to funding projects beyond the initial scope of school bus upgrades and replacement. One additional area of anticipated investment is in charging infrastructure for electric vehicles, particularly in lower income areas that otherwise would be likely to lag behind the emerging market for such vehicles.

6. Portland Harbor

The Portland Harbor Superfund site spans a ten-mile stretch of the Lower Willamette River from River Mile 1.9 above the confluence with the Columbia River to River Mile 11.8 at the Broadway Bridge in downtown Portland. EPA issued its Record of Decision in January 2017, requiring a cleanup that EPA estimates will take 13 years to construct once in-water work begins. Since the river was listed as a superfund site in December 2000, DEQ has been working as the lead agency for investigating and controlling upriver and upland sources of contamination to prevent recontamination following the in-water cleanup. DEQ also serves as a support agency to EPA, providing technical input and ensuring that EPA's cleanup complies with Oregon's environmental laws and regulations.

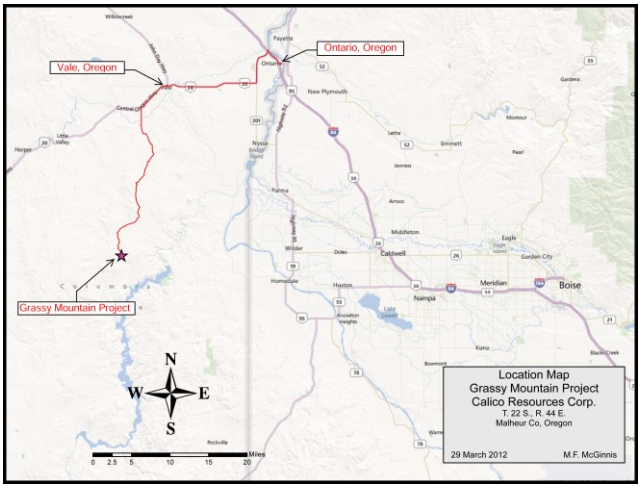
DEQ has overseen the completion of cleanup actions on seventy percent (110 out of 173) of identified sites in the uplands adjacent to the Harbor, and is actively working on 54 other sites. In the Downtown Reach (the five-mile segment of the river upstream of Portland Harbor) DEQ has overseen cleanup actions at five sites with contaminated sediment (Station L, Ross Island Lagoon, Zidell, River Mile 13.1 and River Mile 13.5), and another site is in remedial design (the former Portland Gas Manufacturing site near the Steel Bridge). DEQ is overseeing sampling in the Downtown Reach being performed by the City of Portland, ODOT and Union Pacific Railroad.

DEQ recently used Orphan Site funding (state bond funds) and EPA grant funding to collect sediment samples in an area further upriver. This ten-mile segment above the Downtown Reach is known as the Upriver Reach. This work was completed as part of the joint EPA and DEQ Willamette Watershed Toxics Reduction Partnership focused on discovering previously unknown sources of contamination to the Harbor.

In June 2017, DEQ identified its top priorities for implementing key elements of EPA's cleanup plan in the Portland Harbor. These are to initiate baseline sampling to update current site conditions, to refine the active cleanup area boundaries, and to begin remedial design at a minimum of three of five priority "sediment management areas" where contamination poses the greatest human health risks. DEQ also supports swift resolution of the allocation process so that potentially responsible parties promptly step forward to participate in the cleanup.

Currently, remedial design has been initiated at one of the priority sediment management areas, namely those areas known as Gasco/Siltronic, and remedial design is expected to begin at the River Mile 11 East priority area in January 2018. In addition, EPA has begun discussions to initiate remedial design at two additional sediment management areas: Terminal 4 and Willamette Cove. Finally, EPA recently signed an administrative order on consent with several parties to begin collecting harbor-wide baseline data for the cleanup. A report on work accomplished during 2017 is available here: https://www.epa.gov/newsreleases/epa-and-oregon-deq-move-portland-harbor-superfund-cleanup-forward

7. Regional Highlights



7.1. Eastern Region

Grassy Mountain Gold Mine Project: The Grassy Mountain Gold Mine claim is located 22 miles southwest of Vale, in Malheur County. It is wholly-owned by Paramount Gold Nevada Corp.; however, the project is often referred to as being led by Calico Resources USA Corp. as Calico was the previous owner of the claim. A number of entities have begun permitting work for the Grassy Mountain site since Oregon's Chemical Mining Rules were adopted in 1991.

Paramount's plan is to construct an underground gold mine to extract the high grade core of gold from Grassy Mountain. The processing is proposed to take place above ground, inside of buildings. Oregon's Chemical Mining Rules apply in this case because cyanide is proposed for processing the gold. The tailings of the processing work will be placed in dedicated tailing impoundments that will be capped upon completion. The project is being designed to avoid any discharge to surface or ground waters.

Oregon's chemical mining program is designed to integrate federal, state and local approval processes and harmonize regulatory requirements. Paramount signed a Memorandum of Understanding with the State of Oregon and the federal Bureau of Land Management to ensure coordination of permitting activities. BLM is involved because Paramount intends to construct the mining and processing facilities on both private and public (BLM-managed) land. The MOU specifically governs the preparation of a National Environmental Policy Act (NEPA) analysis for the Grassy Mountain Gold Project. BLM determined that an Environmental Impact Statement is required. The MOU also spells out roles and responsibilities among all parties involved in the project. DOGAMI is the lead state agency, with involvement from DEQ, Fish and Wildlife, Land Conservation and Development, Department of Agriculture and the Water Resources Department.

DEQ expects to receive permit applications for the project under its air, land and water programs. To guide the project, DEQ recently hired a limited duration employee, Larry Knudsen. Knudsen comes with extensive knowledge of the chemical mining rules and is a former Oregon Department of Justice attorney assigned to both DEQ and DOGAMI. He also served as counsel to multiple iterations of the EQC for roughly the past 25 years. DEQ intends to bring updates and informational items about the project to the commission over the next several years. The commission does not have specific action to take for the project; however, the commission may become involved in policy discussions and decisions, including public engagement for the project.

7.2. Northwest Region

DEQ Receives Award for Troutdale Reynolds Industrial Park Redevelopment: DEQ and other partners recently received EPA Region 10's Howard Orlean Excellence in Site Reuse award for their work to redevelop the Reynolds Metals Company Superfund site in Troutdale. Region 10 created the award in 2014 to recognize those who have gone above and beyond in redeveloping Superfund sites. DEQ has demonstrated this through forward thinking, sustained dedication and vital partnership work that have made this project possible. The site is a former manufacturing location for Reynolds aluminum products, and is being redeveloped into warehouse space and other non-manufacturing industrial uses as part of a larger reinvestment, redevelopment and jobs plan for Troutdale.

7.3. Western Region

Cleanup of Properties in Sweet Home: During October 2017, elevated levels of formaldehyde were detected in monitoring wells near a residential area of Sweet Home near the site of a former mill. The formaldehyde concentrations are orders of magnitude above DEQ's tap water risk-

based screening concentration. Some residents in the area use well water, while others are on city water. In early November, DEQ and Linn County Health officials conducted outreach and went door to door to obtain permission from nearby private wells owners to sample their drinking water wells for formaldehyde. Based on location and well depth, 18 wells were targeted for initial sampling from a neighborhood of about 50 homes. Twelve owners gave their permission and the wells were sampled November 15. Nine out of the 12 wells sampled contained formaldehyde at concentrations above the residential risk-based concentration.

An EPA Brownfield Program grant funded the site assessment and initial sampling work. DEQ reached out to Weyerhaeuser as the former mill owner and responsible party. Weyerhaeuser signed a voluntary cleanup agreement and began investigations to determine the extent of contamination. DEQ is currently working on a consent order and scope of work.

On December 7 DEQ resampled private wells to confirm the presence of formaldehyde. DEQ staff also knocked on the doors in the neighborhood and offered free sampling to homes with private wells that had not yet been sampled. Nineteen wells, which served 25 homes, were sampled. Weyerhaeuser's contractor, GSI, and DEQ each sampled five of the wells that day in a process known as split sampling which helps validate and provide quality assurance for the samples. On December 8 DEQ mailed letters to homes that were not sampled and where no one was home. The letters offered free sampling and included an updated fact sheet on the project. Results confirmed that formaldehyde was present in 18 out of the 19 wells sampled at levels above DEQ's residential tap water risk-based concentration. Residents whose wells contained formaldehyde levels above the tap water risk-based concentration were called the week of December 18 and offered bottled water. Thirteen residents accepted the offer.

DEQ and GSI samples also showed arsenic above DEQ's maximum contaminant level in four of the five split samples. High levels of arsenic in the groundwater naturally occur in this area and DEQ does not believe it is coming from the former mill site. Most of the residents in the area are aware of the potential for high arsenic in the well water. DEQ shared the data with the Oregon Health Authority, which had concerns about one home with high levels of arsenic. That home will be receiving bottled water. The other homes with arsenic are also homes that have been offered bottle water based on the formaldehyde results.

DEQ will send out the results of the sampling to the residents whose wells were sampled and following up with an updated fact sheet to the entire neighborhood. DEQ is working with OHA and Linn County on the letter and fact sheet. Weyerhaeuser continues to evaluate alternative water supply options for the affected area.

Jordan Cove LNG Project: The Jordan Cove LNG Project has submitted permit applications for some portions of the proposed liquefied natural gas export facility project in North Bend.

- Air Quality permits: Air Quality staff are reviewing the air emission-modeling results for Jordan Cove's LNG facility Air Contaminant Discharge Permit application. Additionally, DEQ is anticipating it will soon receive air emission-modeling results for the Malin compressor Air Contaminant Discharge Permit application.

- 401 Water Quality Certification: DEQ received a partial application for this removal/fill certification on October 23. The U.S. Army Corps of Engineers and DEQ expect to receive a complete application in late January. Once the Corps determines the application is complete, the Corps and DEQ will begin a joint 60-day public comment period.
- Landfill closure: The proposed plan for the LNG re-liquefaction site include the closure of an existing landfill at the site. DEQ staff are developing comments on the operations plan, and the conceptual closure and post-closure plans that were submitted in December. These plans are required as part of the facility's operations plan. DEQ will allow Jordan Cove to remove some of the waste in landfill Cell No. 3 under an approved operations plan. The complete removal of landfill Cell No. 3 and closure of landfill Cell No. 2 will need to happen under a closure permit, which is a separate application process.

Idanha - Tanker Spill Update: DEQ, EPA, ODOT and several other agencies responded to a tanker truck crash on Oregon 22 near milepost 64 that occurred late on December 15. The tanker crash resulted in a fatality and the complete loss of the approximately 11,600 gallons of gasoline that the tanker was carrying. An unknown amount of fuel went into the North Santiam River.

The communities of Gates, Lyons, Mill City, Stayton and Salem draw drinking water from the North Santiam, and closed their intakes following the crash. Three rounds of water samples were collected from the four drinking water intakes and all samples were non-detect for all contaminants. The four intakes all re-opened by December 19 and Oregon 22 reopened late on December 21.

Excavation and backfilling activities are complete for the winter. Crews will continue drilling to determine the extent and magnitude of the spill and to install a groundwater extraction remediation system. The remediation system will operate throughout the winter and spring. The U.S. Fish and Wildlife Service and Oregon Department of Fish and Wildlife continue to assess impact to salmon redds in the spill area. The river continues to be boomed adjacent to the spill site to prevent re-contamination. There may be a need to excavate the road this coming summer to remove potentially contaminated soils and other material.

Photo of the crash site showing work crews stabilizing the bank and area.