



State of Oregon Department of Environmental Quality

# Minutes of the 393<sup>rd</sup> regular meeting of the Oregon Environmental Quality Commission

*Tuesday: DEQ headquarters (and various project sites in Portland)*

- 700 NE Multnomah Street, Portland

*Wednesday and Thursday: DoubleTree Executive Meeting Center*

- 1000 NE Multnomah Street, Portland

## **Tuesday, July 11, 2017: 11:30 a.m. to 5 p.m.**

The commission met for a working lunch and executive session from approximately 11:30 a.m. to 1 p.m. This session was held under the authority of ORS 192.660(2)(h).

### **A. Tour**

From approximately 1 to 5 p.m., the commissioners visited project sites in the Cully neighborhood of Northeast Portland. No commission business was conducted on the tour.

## **Wednesday, July 12, 2017: 9 a.m. to 4:30 p.m.**

*Chair Armstrong convened the meeting at approximately 9 a.m.*

- **Present:** Chair Armstrong, Commissioner Baraso, Commissioner George, Commissioner Kile and Commissioner Mosby

### **B. Opening and welcome: New commissioners**

Director Whitman opened the meeting and noted the tour of the Cully neighborhood in northeast Portland the commissioners attended on Tuesday. He asked the three newest commissioners to introduce themselves, in addition to the information included with the meeting materials.

Wade Mosby, Molly Kile and Kathleen George introduced themselves, their backgrounds and their interests in serving on the commission. Chair Armstrong thanked the commission for their service.

### **C. Action item: Meeting minutes**

Commissioners reviewed the proposed meeting minutes from Jan. 18-19, 2017, regular EQC meeting.

**Action:** Approve the Jan. 18-19, 2017, EQC regular meeting minutes as presented

**Move:** Commissioner Mosby

**Second:** Commissioner Kile

*The commission unanimously approved the action*

**D. Action item: Delegation of specified administrative functions**

Deputy Director Leah Feldon presented this request. She explained that the commission may delegate specified functions to the DEQ director, for the purpose of correcting typographical and other administrative errors in DEQ's rules without engaging a formal rulemaking process. Director Whitman noted that he would inform the commission if he ever made changes under this delegation, as previous directors have done.

**Action:** Delegate to Richard Whitman, DEQ director, the authority to adopt rules of the nature described in ORS 183.335(7) and authorize the EQC chair to sign the delegation form, provided as Attachment A to the memorandum for this item, on behalf of the commission.

**Move:** Commissioner Mosby

**Second:** Commissioner Baraso

*The commission unanimously approved the action*

**E. Action item: Designation of deputy director**

Director Whitman explained that, under Oregon law, the DEQ director may appoint a deputy director, with the approval of the commission. In order for the director to delegate full executive functions to a deputy, this appointment and approval is needed. Director Whitman described his work with Deputy Director Feldon, provided a brief overview of her professional background and recommend that the commission approve his appointment of Leah Feldon as DEQ's Deputy Director. Deputy Director Feldon also provided remarks about her current role and interest to continue as DEQ's Deputy Director.

**Action:** Approve, by vote, the appointment of Leah Feldon to serve as Deputy Director of DEQ and authorize Chair Armstrong to execute by signature and date an order making that appointment and stating the commission's approval.

**Move:** Commissioner Kile

**Second:** Commissioner Baraso

*The commission unanimously approved the action*

Following the commission's vote, Chair Armstrong noted his support and thanks for Deputy Director Feldon's work for Oregon's environment.

**F. Action item: Updates to hazardous waste rules**

At the start of this item, Commissioner Kile noted a potential conflict of interest related to her work at an academic lab in Corvallis. Due to this potential conflict, she recused herself from the vote on this item.

David Livengood, Hazardous Waste and Tanks manager, introduced the item. He noted that Rich Duvall, senior policy advisor, is joining the presentation by phone. Laurey Cook, Hazardous Waste inspector, described the content of the proposed rules. Cook also described the public outreach and comment process DEQ used to solicit input on the proposed rules. She described the effects of each proposed rule revision and provided DEQ's recommendation for the amended and new rules language, to maintain alignment between Oregon and federal hazardous waste regulations.

**Action:** Adopt the proposed rules in Attachment A for this item as part of Chapter 340 of the Oregon Administrative Rules, and approve incorporating these rules into the Oregon Resource Conservation and Recovery Act implementation plan to be effective when DEQ files the rules with the Oregon Secretary of State.

**Move:** Commissioner Mosby

**Second:** Commissioner George

*The commission approved the action, with four in support*

- *Commissioner Kile did not participate in the vote for this item*

#### **G. Action item: Updates to air quality rules**

Jerry Ebersole, Air Quality Operations manager, presented updates to specific Air Quality Program rules in alignment with new and amended federal laws. He noted that the proposal is to adopt the rules by reference, with no changes from the federal laws. Ebersole described the content of the proposed rules, the outreach associated with the proposed rules and answered clarifying and informational questions from the commission.

**Action:** Adopt the proposed rules in Attachment A for this item as part of Chapter 340 of the Oregon Administrative Rules.

**Move:** Commissioner Kile

**Second:** Commissioner Baraso

*The commission unanimously approved the action*

#### **H. Action item: Updates to Regional Haze plan and related housekeeping rules for air quality**

David Collier, Air Quality Planning manager, introduced the item and provided background information about the program and today's request. Rachel Sakata, Air Quality planner, described the content of the proposed updates, including the 2017 Regional Haze progress report and proposed adoption of Air Quality Program rules intended to correct past errors in a suite of housekeeping amendments. Sakata described the engagement process and comments received by DEQ for these proposals.

The commissioners asked clarifying and informational questions throughout the presentation, and discussed their interest in this topic regarding recent and longer-term trends. Chair Armstrong noted the connections among DEQ, Department of Forestry and their respective boards for wildfire and other potential causes of haze-causing pollution in Oregon.

**Action:** Adopt the proposed rules as seen in pages 19 through 23 of the report for this item as part of chapter 340 of the Oregon Administrative Rules; approve incorporating the Regional Haze Plan Progress Report update and separate rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

**Move:** Commissioner George

**Second:** Commissioner Mosby

*The commission unanimously approved the action*

#### **I. Informational item: Cleaner Air Oregon updates**

Deputy Director Leah Feldon introduced this item and provided some background information regarding the Cleaner Air Oregon program. Deputy Director Feldon also provided a summary of the funding for the program. She described both the original 2016 Legislative Session allocation for ongoing program funding and a request in the 2017 Legislative Session for additional one-time funding that was not granted. Deputy Director Feldon also provided an overview of the process for policy development used by DEQ and the Oregon Health Authority since 2016.

Keith Johnson, special advisor for the Cleaner Air Oregon program, described updates to the timeline and process for engagement related to Cleaner Air Oregon. He presented information about the draft framework elements of the program, including the scope of the program and expected implementation. Commissioners and staff discussed informational and clarifying questions about the Cleaner Air Oregon program and other DEQ programs for protecting Oregon's air quality.

**Lunch:** *The commission recessed from approximately noon to 1 p.m. for lunch*

#### **J. Public forum**

At approximately 1 p.m., the commission opened a public comment opportunity. People who wished to present comment were able to do so by telephone conference line or in-person at the meeting. Chair Armstrong asked all commenters to state their name for the record at the start of their comments.

Twelve people submitted forms to comment in-person at the meeting. One person presented comment by phone.

1. Katharine Salzmann, Eastside Portland Air Coalition, presented comments regarding air quality concerns.
2. Susan Hansen, Molalla resident, presented comments regarding DEQ enforcement in the Bear Creek area of Molalla. She provided a copy of her comments to the commission.
3. Daniel Serres, Columbia Riverkeeper, presented comments regarding gas-fired power plants in Multnomah County.
4. Melanie Plaut, 350PDX, presented comments regarding gas-fired power plants and echoed the concerns presented by Serres. She provided a copy of her comments to the commission.
5. Dale Feik, Hillsboro Air and Water, presented comments regarding the commission's role and various concerns about air and water quality across the state.
6. Ilsa Perse, Stop the Dump Coalition, presented comments regarding Riverbend Landfill. She provided a packet of information to the commission on the matter.
7. Mary Lou Putman, connected by phone, presented comments regarding emissions from oil re-refining companies near Hayden Island in Portland.
8. Susan Meredith, Stop the Dump Coalition, presented comments regarding Riverbend Landfill. She provided a copy of her comments to the commission.
9. Margaret Cross, Stop the Dump Coalition, presented comments regarding Riverbend Landfill. She expressed concern about the processes used for engagement on Riverbend Landfill community meetings and issues.
10. Ramsey McPhillips, McMinnville resident and immediate neighbor to Riverbend Landfill, presented comments about his experience with Riverbend Landfill and requested that DEQ ask the applicant for additional planning information about earthquake responses and leachate management.

*Chair Armstrong recognized former EQC commissioner Morgan Rider and thanked her for her service.*

11. Morgan Rider, citizen and former EQC member, presented comments thanking the current commissioners and noted her advice for the commission as it moves forward. She noted her concerns with the issues associated with Riverbend Landfill and asked the commission to do the best they can for the people of Oregon today and into the future.
12. Leonard Rydell presented comments regarding Riverbend Landfill. He stated that he was the original engineer for the landfill. He provided copies of past presentations and supporting information for the commission.
13. Shana Mita Canote, South Portland Air Quality, presented comments in opposition to proposed expansion of processing at APES, an oil re-refiner in north Portland.

Chair Armstrong closed the public comment period at approximately 2:15 p.m.

#### **K. Informational item: Commissioner roles**

Chair Armstrong introduced this item and discussed the formal obligation for an EQC representative to the Oregon Watershed Enhancement Board and the liaison roles with other boards and commissions. Director Whitman provided additional context for the discussion and provided information on the other agencies and boards with which EQC and DEQ engage on a frequent basis. He noted that his priorities for liaison role are OWEB, as a statutory requirement, the Board of Agriculture, the Board of Forestry, Water Resources Commission and Land Conservation and Development Commission. Chair Armstrong recommended that the commission discuss the roles today and make final decisions for the liaison work at the next commission meeting in September. Director Whitman noted that past commissioners have also worked closely with staff on particular items of interest, and those opportunities still remain, especially for engagement with the Cleaner Air Oregon program and Water Quality Program improvements. Commissioners discussed their potential roles, on EQC and as liaisons to other state boards and commissions.

#### **L. Informational item: Outreach and engagement models**

Chair Armstrong introduced this item, and noted that the presentation today aligns very well with commission and agency planning processes. Meta Loftsgaarden, Oregon Watershed Enhancement Board Director, presented on the strategic planning and outreach process OWEB is using to measure its mission.

Director Loftsgaarden discussed an overview of OWEB, including its non-regulatory role for watersheds across the state. She described the strategic planning process the agency is undergoing, and the way OWEB measures its progress against its mission and the impact of its work. Commissioners discussed the information and also what service on the OWEB board entails.

#### **M. Informational item: Director's report**

Director Whitman presented written and verbal updates on items of interest to the commission. Commissioners asked clarifying and informational questions about many of the items, and DEQ staff attending the meeting provided additional clarifications as requested.

*Chair Armstrong recessed the commission at approximately 5 p.m. until 9:30 a.m. on Thursday, July 13, 2017. Some commissioners and DEQ staff attended an optional, self-pay dinner on Wednesday evening in Portland. No commission business was conducted at the dinner.*

**Thursday, July 13, 2017: 9:30 a.m. to 5 p.m.**

Chair Armstrong reconvened the meeting at approximately 9:30 a.m.

**Present:** Chair Armstrong, Commissioner Baraso, Commissioner George,  
Commissioner Kile and Commissioner Mosby

***Item N was postponed***

**O. Informational item: Agency Toxics Reduction Strategy updates**

Kevin Masterson, Toxics Reduction coordinator, and Lisa Cox, Toxics Reduction analyst, presented an update to the agency's 2012 Toxics Reduction Strategy, including proposed engagement and next steps for commission involvement. Masterson provided background on the 2012 strategy and accomplishments that DEQ and project partners have seen since the strategy was implemented. Cox described the work to update the strategy, including an inventory of actions DEQ is taking for toxics reduction and assessment across all programs. She outlined potential next steps for engagement on the 2017 update, and the timeline for the final strategy in early 2018.

Commissioners asked questions about the strategy, collections of pesticides and prescription drugs, the types of data DEQ expects to collect for program enhancements and the metrics used by DEQ to assess program effectiveness in communities across the state.

*This item was taken out of order*

**Q. Informational item: Water Quality Permitting Program updates**

Keith Andersen, special advisor for Water Quality Permit Program improvements, discussed updates on the progress of the Water Quality Permitting Program improvement project. He discussed the work of the project team and lessons learned so far. Director Whitman provided some clarifying statements regarding how litigation and settlement agreements may shape the direction and activities of the program.

Commissioners expressed support for the continued review and improvement of the Water Quality Permitting Program and ensuring that the efforts of this project do not duplicate other modernization or streamlining efforts at DEQ and with other partner agencies.

**P. Action item: Outstanding Resource Water designation for North Fork Smith River**

Jennifer Wigal, Water Quality Program manager, introduced the item. Aron Borok, Water Quality Standards specialist, presented an overview of the presentation for commission consideration to designate the North Fork Smith River as Oregon's first Outstanding Resource Water.

Borok described the DEQ policies in place related to the proposed designation, the process required for the review and the engagement activities and outreach DEQ used to solicit input as it developed the final

recommendation for designation. The commissioners asked informational questions about comments DEQ received and other elements of the outreach process. Director Whitman provided some clarifying comments about the current rules and policies related to the proposed designation. Commissioners expressed their concerns about excluding the state-owned parcel of land from the designation, and discussed options to include that parcel in their action.

**Action:** Amend OAR 340-041-0004 and 340-041-0305 as shown in the draft rules proposed for this item, but not adopting the proposed exclusion of a parcel of state-owned land along Cedar Creek, a tributary to the North Fork Smith River, to:

- Designate the North Fork Smith River and its tributaries and associated wetlands as Outstanding Resource Waters.
- Establish policies to protect the high quality of these waters.

**Move:** Commissioner George

**Second:** Commissioner Baraso

*The commission unanimously approved the action*

Following the commission's action, Gordon Lyford, the petitioner for this matter, presented comments supporting the commission's decision and thanked the commission and DEQ staff. Director Whitman offered his thanks and comments related to the designation. Mary Ann Nash, Oregon Farm Bureau, noted some concerns previously raised by the Oregon Farm Bureau, which was an advisory committee member, and encouraged the commission to ensure the screening criteria and other parameters associated with the designation are completed soon by DEQ.

## **R. Informational item: Updates to Oregon's Integrated Water Resource Strategy**

Brenda Bateman, Technical Services Division administrator for the Oregon Water Resources Department, introduced this item and thanked DEQ staff and the commission for their support and partnership to develop the strategy. Alyssa Mucken, Integrated Water Resource Strategy Program Coordinator for the Oregon Water Resources Department, presented an overview of the Integrated Water Resource Strategy, including the history of the strategy and the ways the strategy has developed since its initial Legislative creation in 2009.

Mucken described the successes of the strategy since 2012, and the current process for the mandated five-year update. She outlined the proposed changes in the 2017 strategy update, and noted that the Water Resources Board will consider the updates later this year following additional engagement and public comment opportunities this summer and fall. Commissioners and staff discussed the content presented, and commissioners asked clarifying and informational questions about the process and general successes seen for Oregon's water.



Director Whitman noted his interest in DEQ's engagement with the strategy, specific to harmful algal blooms, and water quality and quantity issues associated with low stream flow during droughts. He noted his thanks for the strong coordination among partners.

***Lunch:*** *The commission recessed from approximately 12:30 to 1:30 p.m. for lunch*

**S. Informational item: DEQ's information technology infrastructure**

Sohng Shin, DEQ Information Services manager, and Darrell Landrum, Oregon Chief Information Office staff, co-presented about DEQ's Information Resources Management Plan, general IT updates and the results of a recent security audit for IT at DEQ.

Landrum described a number of elements associated with IT, generally, and described the current state of IT at DEQ. He outlined recommendations for DEQ in order to improve its IT planning and implementation for the agency. Commissioners asked questions about the role of the state CIO's office, and Director Whitman provided additional information about DEQ's engagement with that office.

Shin provided an overview of a recent external cyber security audit for DEQ, as part of a statewide mandate for stronger cyber security requirements for state agencies. He explained that two DEQ servers were identified as compromised, though no agency data was removed or otherwise damaged by an external party. Shin explained that DEQ has scheduled an internet security assessment to start in late summer 2017, which will review the security status of over 100 servers and all internal policies and procedures for data management and governance. The commissioners discussed the information and noted their interest in IT development and security.

**T. Informational item: Budget and Legislative updates**

Greg Aldrich, Office of Policy and Analysis manager, introduced this item. His co-presenters introduced themselves: Susan Braun, budget office, Abby Boudouris, Land Quality policy analyst, Karen Tarnow, Water Quality policy analyst, and Matt Davis, Air Quality policy analyst. Aldrich described the process for the presentation, and projected next steps over the fall related to budget review and implementation.

Aldrich walked the commission through the legislative development timeline, and described the ways DEQ can engage with the commissioners throughout that development process. Braun described the initial steps DEQ takes to develop its budget, including balancing all portions of the budget to understand the ongoing level of funding needed for core work.

Aldrich, Boudouris, Tarnow and Davis described the bills relevant to DEQ and the commission that were considered in the 2017 Legislative Session, and the ways those approved bills may be implemented by the agency. Commissioners discussed the bills and next steps for DEQ. Director Whitman noted his appreciation for the Legislative team, and thanked Greg Aldrich for his service to DEQ and for

coordinating the team. He also stated an interest in keeping the commissioners engaged through weekly check-in meetings during the 2018 Legislative Session.

#### **U. Informational item: Commissioner reports and agenda planning**

Greg Aldrich, Office of Policy and Analysis manager, and Director Whitman presented dates and tentative locations for future commission meetings. Commissioners discussed their preference for dates, and interest in having joint meetings with other relevant boards and commissions in 2018.

Following the discussion on meeting planning, commissioners provided verbal updates on their recent activities or interests and reflections on the meeting. Chair Armstrong stated that he is resigning from the commission, effective at the end of this meeting, for personal reasons. He thanked the commissioners and staff for their work. Director Whitman, Deputy Director Feldon and the commissioners provided their thanks to Chair Armstrong for his work, leadership and commitment to all Oregonians.

*The commission adjourned at approximately 4:30 p.m.*