

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** Sept. 7, 2017  
**To:** Environmental Quality Commission  
**From:** Richard Whitman, Director *Sean H. Alden for*  
**Subject:** Agenda item F1, Action item: Request for authorization to seek bond sale Sept. 13-14, 2017, EQC meeting

**Purpose of item** The purpose of this agenda item is to seek approval from the Environmental Quality Commission for DEQ to sell up to \$10 million in Pollution Control Bonds to support the Orphan Site Program within the Cleanup Program.

**Background** Pollution control bonds are used to clean up contaminated sites where no responsible party can be found, or until a responsible party can be found. DEQ also uses these funds to monitor those sites to assure the clean-up had the desired effect. Without the support of state funds, these orphan sites would remain contaminated and continue to pose risks to human health and the environment.

Currently, the Orphan Site Program supports 74 sites across the state. The estimated amount to be incurred on known Orphan projects between July and November 2017 is \$600,000. This includes approximately \$20,000 at the North Ridge Estates Superfund site in Klamath Falls, \$100,000 for sediment investigations in the Upriver Reach of the Willamette River, \$230,000 for the Ken Foster Farm site in Sherwood, \$100,000 for operations and maintenance at several key sites where remedies have been installed, and approximately \$150,000 for DEQ staff oversight costs at these and other Orphan sites.

In 2017, the Oregon Legislature approved DEQ's policy package that proposed issuing Pollution Control Bonds and also authorized the bond sale in the bond bill. If approved by the commission, DEQ will seek two bond sales – one now and one later in the biennium – to maintain sustainable program funding.

Although formal commission approval is no longer required by law, DEQ staff have chosen to continue its past practice of requesting commission authorization. DEQ must also make a formal request to the State Treasurer to issue these bonds as previously approved by the Oregon Legislature. For this, and future, bond sales, the commission could choose alternative approaches as a result in the change in statute.

**DEQ  
recommendation  
and EQC  
motion**

DEQ requests that the commission

1. Authorize DEQ to sell up to \$10 million in Pollution Control Bonds.
2. Direct DEQ to inform the commission prior to any future bond sales

**Attachment**

- A. Resolution authorizing and requesting issuance of Pollution Control Bonds

Report prepared by Mark Brown  
*Financial Services Manager*

**Resolution authorizing and requesting  
Issuance of bonds and intention to reimburse**

**Section 1. Findings.** The Environmental Quality Commission of the State of Oregon finds:

A. ORS 286A.025 allows the Oregon State Treasurer to issue bonds for a state agency if the agency requests the State Treasurer to issue the bonds.

B. The Department of Environmental Quality (the "Department") has requested that the Environmental Quality Commission adopt this resolution authorizing the Department to request the State Treasurer to issue up to \$10 million of General Obligation Pollution Control Bonds during the 2017-19 biennium for orphan site cleanup.

C. Until these General Obligation Pollution Control Bonds are issued the Department expects to spend revenues available to the orphan site program to pay costs of orphan site cleanup, and to reimburse those expenditures with the proceeds of the General Obligation Pollution Control Bonds when those bonds are issued. The Internal Revenue Code of the United States requires that the Department declare its intent within 60 days after the expenditures are made, if the Department wishes to reimburse those expenditures with the proceeds of tax-exempt obligations.

**Section 2. Resolutions.** The Environmental Quality Commission of the State of Oregon hereby resolves:

A. The State Treasurer of the State of Oregon is hereby authorized and requested to issue State of Oregon General Obligation Pollution Control Bonds ("Pollution Control Bonds") in a principal amount of up to \$10 million or such lesser amounts that the State Treasurer determines, after consultation with the Director of the Department or the Director's designee, will be sufficient to provide funding for orphan site cleanup, and to pay costs associated with issuing the Pollution Control Bonds. The Pollution Control Bonds may be issued in one or more series at any time during the 2017-19 biennium, mature, bear interest, be subject to redemption, and otherwise be issued and sold upon the terms established by the State Treasurer after consultation with the Director of the Department or the Director's designee.

B. The Department shall comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") that are required for interest on tax-exempt Pollution Control Bonds to be excludable from gross income under the Code, and shall pay any rebates or penalties that may be due to the United States under Section 148 of the Code in connection with the Pollution Control Bonds. The Director of the Department or the Director's designee may, on behalf of the Department, enter into covenants for the benefit of the owners of Pollution Control Bonds to maintain the tax-exempt status of the Pollution Control Bonds.

**Section 3. Declaration of Intent to Reimburse.** The Department hereby declares its official intent pursuant to Section 1.150-2 of the Federal Income Tax Regulations to reimburse itself with the proceeds of the bonds described in Section 2.A. of this resolution for expenditures the Department makes for orphan site cleanup.

**Section 4. Other Action.** The Director of the Department or the Director's designee may, on behalf of the Department, execute any agreements or certificates, and take any other action the Director or the Director's designee determines is desirable to issue and sell the Pollution Control Bonds and to provide funding for orphan site cleanup as described in this resolution.