

State of Oregon

Department of Environmental Quality

Memorandum

Date: March 27, 2015

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item H, Informational item: Update on Portland Harbor Superfund Cleanup and DEQ's Source Control Outreach Program
April 15-16, 2015, EQC meeting

Purpose of item The purpose of this report is to provide the commission an update on the status of EPA's river investigation and cleanup in Portland Harbor and share DEQ's newly developed multi-media presentation on upland cleanup of properties surrounding the Superfund site.

Background The Portland Harbor Superfund site is an industrialized reach of an urban waterway designated part of the federal Superfund priority list in 2000 due to unacceptable levels of PCBs, dioxins, pesticides and metals in sediment over approximately 10 miles.

A Memorandum of Understanding was signed in February 2001 to provide a framework for cooperation in the investigation and cleanup of the Portland Harbor Superfund Site that could optimize federal, state, tribal and trustee expertise and available resources. DEQ signed the agreement along with United States Environmental Protection Agency, Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, Nez Perce Tribe, National Oceanic and Atmospheric Administration, Oregon Department of Fish and Wildlife, and U.S. Department of the Interior. These parties are collectively referred to as the MOU Partners. EPA was designated as the lead agency for investigating and cleaning up contamination in the river sediment, using federal Superfund authorities. DEQ, using state cleanup authority, was designated as the lead agency for identifying and controlling upland sources of pollution adjacent to or near the river that may be contaminating river water or sediments.

To coordinate in-water cleanup and upland source control work, DEQ and EPA jointly developed a source control strategy that defines a process for identifying and controlling all potential sources of contamination threats to the river. The strategy was finalized in December 2005.

**In-river/upland
collaboration
improvements**

Director Pedersen raised concerns to EPA in late 2014 about delays in getting a cleanup decision, known as a Record of Decision, finalized by EPA for the in-water contamination. EPA has since increased staffing, including the addition of two new project managers, increased use of contract support and increased involvement by EPA headquarters. Although DEQ has no control over EPA's project schedule, DEQ is hopeful that EPA will wrap up the feasibility study and identify its conceptual remedy later this year. DEQ's focus will be to ensure that EPA's proposed remedy meets state cleanup standards and provides a feasible and cost-effective approach for addressing in-water contamination.

The agencies have recently discussed ideas for DEQ to complement its upland source control efforts through early planning, design and post-ROD cleanup activities at two key in-water areas in Portland Harbor. The selection criteria include significant environmental and public health concerns, overall cleanup sequencing, importance to the community, progress of source control and willingness of the performing parties to expedite cleanup work. Details on these areas, including willingness of the potential performing parties, are still under discussion. This work would be conducted in parallel and consistent with EPA's in-water cleanup plan. The state and EPA will be initiating discussions over the coming months with the MOU Partners, community groups and the potential performing parties. DEQ's goal is to have these high-priority areas ready for cleanup when EPA's final remedy is signed.

**In-water
timeline and next
steps**

There have been significant delays in completing the in-water remedial investigation and feasibility study, which has delayed EPA from issuing the Proposed Plan and Record of Decision. EPA is currently rewriting the draft feasibility study that the Lower Willamette Group submitted in 2011. EPA currently anticipates completing the revised feasibility study this summer, at which time it will identify the conceptual remedy for the in-water sediment contamination. EPA has committed to presenting their conceptual remedy to the National Remedy Review Board this coming November. DEQ and the other MOU Partners will have an opportunity to present their views on EPA's conceptual remedy to the National Remedy Review Board. EPA plans to issue their Proposed Plan in 2016 and this is the comprehensive document that provides the basis for the proposed cleanup remedy. The public will have an opportunity to review and comment on the Proposed Plan. As 2,327 comments were received on EPA's Proposed Plan for the Lower Duwamish Waterway site in Seattle, DEQ expects a similarly large response to the Proposed Plan for Portland Harbor.

Superfund law requires that EPA considers whether the state concurs with the proposed remedy. DEQ, working closely with the Governor's office, will

determine whether the proposed remedy is protective of public health and the environment, complies with state laws and regulations, and provides for a feasible and cost-effective approach for addressing in-water contamination. EPA is not required to select a remedy that has state concurrence.

EPA will issue a Record of Decision specifying the final remedy in consideration of input received by the public at large, state, tribes, other governmental bodies and the potentially-responsible parties. The ROD is currently scheduled for late 2017 or early 2018. EPA will then enter into consent decrees with performing parties to implement the ROD or will seek cash-out settlements. Performing parties will then initiate remedial design, which typically takes three or more years for complex sites. If EPA's schedule holds, in-water cleanup could begin by 2020 or 2021.

**DEQ's
Portland
Harbor
Upland Source
Control
Summary
Report**

Submitted to EPA and the MOU Partners in November 2014, the report documents DEQ's use of state cleanup authorities to evaluate sites for potential contaminant sources from direct discharges (including wastewater, stormwater, and overwater activities); groundwater; soil and bank erosion; and upstream inputs. High priority was assigned to sites with highly elevated contaminant concentrations, several contaminants with elevated concentrations, high-toxicity contaminants, or large areas of impact or multiple pathways. However, sites at all priority levels were evaluated concurrently, as resources allowed. The report evaluates lines of evidence at each site for each complete contaminant transport pathway's potential for recontamination of river sediment, as well as risk to river receptors. Lines of evidence considered include: contaminants found in sediment offshore of sites; contaminants found on sites and the behavior of these contaminants in and at the interfaces of the media present; sufficiency of source control work completed; the geography and climate; density, distribution and type of development present; regulatory programs in place; and adaptive management opportunities.

At the request of EPA, the report categorizes potential contaminant transport pathways at 168 sites as either: Excluded (no source or incomplete pathway); sources identified and removed and when; sources identified and controlled, how and when; or sources that are yet uncontrolled, but with a plan and schedule for control to be implemented. Facilities where upland source control has not been implemented at the time of the EPA in-water record of decision may be included in the decision or EPA may require further action at these sites to be protective of the river. Information on all sites evaluated is presented in nine geographic subregions of the study area. Tables contain summaries of all sites and potential pathways prioritized, categorized and evaluated for the potential for sediment recontamination. Georegion maps provide additional detail on pathway control measures and recontamination

potential. Text for each georegion section describes: an overview of the geographic region area; contaminants found elevated in offshore sediment areas of potential concern; in-water early action areas; direct discharges from area outfalls; additional details on sites with high and medium priority pathway designations; and DEQ's qualitative conclusions about the potential for recontamination of the in-water remedy for each geographic region.

In accordance with DEQ's role under the 2001 MOU and further direction by EPA Region 10, the report details how DEQ has met goal one and is on track to meet goal two of the source control process established by the Joint Source Control Strategy. Those goals are:

1. To complete determinations of the need for source control measures at all upland sites within the study area; and,
2. To have needed measures in place prior to implementation of CERCLA in-water remedies, in order to prevent likely future adverse effects on water or sediment quality.

DEQ comprehensively applied the source control framework of the strategy to identify, characterize and sufficiently control all potential sources of contaminants in the expanded Portland Harbor study area. DEQ identified approximately 395 commercial and industrial properties within the study area uplands and screened 168 sites, or approximately 43 percent of the existing properties, for further evaluation. DEQ completed source control evaluations and implemented or will implement controls at approximately 119 of the sites evaluated, or approximately 30 percent of the properties within the Portland Harbor study area uplands. In addition, DEQ completed in-water and upland evaluations and cleanup at 12 sediment areas and seven upland sites in the six-mile "Downtown Reach" of the Willamette River immediately upstream of Portland Harbor.

Viewed on a harbor-wide basis, the georegion-level conclusions strongly support a low potential for recontamination of remediated sediment and represent acceptable risk to Willamette River receptors, provided that all planned source control measures and bank remediation to be integrated with the in-water remedy are completed and demonstrated to be effective. DEQ has plans in place to complete implementation of remaining source control measures and to track this progress and effectiveness. While recontamination is not anticipated, the likeliest pathway would be stormwater. If a recontamination potential threat from stormwater emerges, DEQ will conduct additional evaluation and require additional source control efforts. DEQ may also consider expanding the 1200Z industrial stormwater general permit within the Portland Harbor geographic area, to capture currently unpermitted sites. DEQ also intends to continue to collaborate with EPA on development and

implementation of a long term monitoring and adaptive management plan.

Regardless of where in-water remedial actions are implemented in Portland Harbor and what final cleanup levels are used to assess recontamination and risk to river receptors, source control efforts in the uplands surrounding and upstream of the study area will be completed sufficiently to prevent sediment recontamination and unacceptable risk from upland-related discharges.

**DEQ's Source
Control
Outreach
Program**

There is a prevalent perception that the Portland Harbor cleanup has made little to no progress. This comes, in part, from attention focused on the EPA-led in-water remedy, some tensions among the potentially-responsible parties, and the date of completion being delayed.

DEQ would like to fill in this incomplete picture by sharing the success of completing source control efforts at 168 upland sites, some of which began in the 1980s. The goal is for river users, the general public and the property owners and operators in the Portland Harbor area to better understand the scope and quality of work completed in the uplands to facilitate the river cleanup and protect it.

The large scale, long duration and complicated state and federal process nexus of the project make it difficult to communicate to all the potentially interested people. Project work is completed on a site-by-site basis and has not yet been presented as a harbor-wide summary. EPA's Proposed Plan for Remedial Action is anticipated in spring 2016 and explaining DEQ's upland work will better inform the public for its comment opportunity on EPA's plan.

DEQ's goal was to produce a visually rich, multi-media educational presentation embedded with historical photos and case-study videos and information sessions that demonstrate past compared with present conditions at sites. The presentation gives an overview of Portland Harbor Superfund and Source Control, filled in with simplified technical information and interviews with site owner/operators and DEQ Cleanup Program project managers.

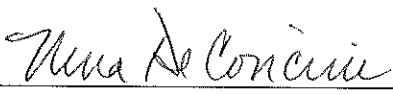
The multimedia presentation will be available on DEQ's website and staff intend to bring it live to interested groups at venues throughout the city beginning in May. DEQ has collected a list of about 30 groups so far and staff have begun scheduling presentations. DEQ is also partnering with EPA to deliver the presentation via outdoor interactive kiosks to better reach river users. The subsistence fishers and environmental justice communities are most at risk from exposures both upland and in river, but have the fewest resources and abilities to attend informational meetings, access presentations and information on computers or come across information on traditional media


platforms. Kiosks will be set up to play sections of presentations selected by the users who happen upon them this summer at the interface with the river as they go down to the water's edge to fish, boat, swim, play or otherwise access the river.

**EQC
involvement
and next steps**

The April EQC meeting offers the first public viewing of the nearly final multi-media presentation. DEQ intends to solicit feedback on the presentation from the commissioners to help shape and finalize the presentation.

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