

# Notes of the 377<sup>th</sup> regular meeting of the Oregon Environmental Quality Commission

March 19-20, 2014  
Portland, Oregon  
DEQ headquarters, 10<sup>th</sup> floor, room EQC-A  
811 SW 6<sup>th</sup> Ave., Portland

*The notes reflect the order in which the commission heard the items. Some times were changed at the commission's discretion.*

## **Wednesday, March 19 – 8:30 a.m. to 5:30 p.m.**

Chair O'Keeffe convened the meeting at 8:30 a.m.

*Present:* Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden

### **A. Action item: Draft meeting minutes from December 2013 and January 2014**

The commission reviewed and took action on meeting minutes from the Dec. 11-12, 2013, regular and Jan. 24, 2014, special EQC meetings.

Commissioner Eden noted two typographical errors on the first page related to the 2014 meeting dates. Commissioner Rider noted that the commission asked for a one-year update related to Hermiston Foods concerns, as a reminder to staff and commissioners for December 2014.

Action: Approve both the Dec. 11-12, 2013, regular and Jan. 24, 2014, special meeting minutes with dates corrected as noted during the item discussion.

Move: Commissioner Johnson

Second: Commissioner Eden

*The commission approved the corrected minutes unanimously.*

### ***B. This item was deferred and removed from the agenda***

### **D. Informational item: Information technology and infrastructure at DEQ**

Kerri Nelson, Central Services administrator, and Greg Aldrich, Office of Policy and Analysis manager, presented an update about IT plans, infrastructure and planning at the state and agency level.

Nelson described state-level improvements and the work of the state's Chief Information Office. Aldrich described the history of data management oversight at DEQ, and the current technology governance groups and processes at the agency. Nelson and Aldrich discussed proposed next steps for information technology developments at the agency and specific support for the commissioners and their work.

The commissioners asked clarifying and informational questions about the information, and discussed their ideas for technology improvements at the agency. Larry Knudsen, EQC legal counsel, provided legal context for the use of electronic resources on personal devices and agency hardware.

Commissioner Rider asked about ways DEQ is planning to use technology to share its data with other agencies and people interested in environmental and monitoring data. Nelson and Aldrich described products and processes developed and planned for use by DEQ as part of overall technology improvements. Vice-chair Armstrong asked about the priorities shown in the technology plan and how DEQ intends to pursue the secondary priorities. Aldrich noted that many of the second-level priorities are being worked on at the same time as the higher-priority, and higher-profile and larger, improvements. Chair O’Keeffe noted that she had done a state-by-state comparison of certain data, and found it incredibly difficult to access that data from Oregon and noted the importance of open and transparent data for all state work. Commissioner Eden noted her disappointment in the fact that DEQ has not been able to invest in its IT infrastructure and encouraged DEQ to pursue seamless transfer of data among natural resources agencies as a major improvement for data collection and cost savings to the state. Director Pedersen noted that part of the agency reorganization will help coordinate and align systems across the agency, instead of program-specific technologies.

### **C. Informational item: DEQ’s brownfields and redevelopment work**

David Livengood, Operations Division interim administrator, and Cheyenne Chapman, legal policy analyst, presented an overview informational item about DEQ’s brownfields work, including its green remediation policies and economic development opportunities. Livengood introduced the other staff working in the program, Bruce Gilles, Annette Dietz and Gil Wistar.

Chapman described the Prospective Purchaser Agreement process, used to redevelop contaminated properties and limit legal liability for new owners, and presented several case study projects that used these agreements. The commissioners asked informational questions about the program and processes and discussed the program.

Commissioner Rider asked if the lack of reporting requirements for property contamination has been a legislative issue, and Director Pedersen noted that the issue has not been addressed in many years. Commissioner Rider encouraged DEQ to consider opening the discussion for statutory changes to require reporting of property contamination in all cases. She also asked for a brief update on process streamlining for the Cleanup Program. Bruce Gilles, Cleanup Program manager, responded that the process improvement is underway to map the processes and standardize the processes statewide. Commissioner Rider asked for an update on the process improvements and a general item on the green remediation policy at DEQ.

### **E. Informational item: Materials management one-year update**

Wendy Wiles, Environmental Solutions Division administrator, Loretta Pickerell, Materials Management Program manager, David Allaway, Materials Management policy analyst, and Abby Boudouris, Materials Management policy analyst, presented a year-one update on the Materials Management program, its successes and next steps toward the 2050 vision for materials management in Oregon. Pickerell provided context on the development of the

Materials Management Program and its approach to waste prevention, reduction, reuse and end-of-life management. Boudouris described the program's guiding document, *Materials Management in Oregon: 2050 Vision and Framework for Action*, the desired outcomes for the program and state in 2050 and processes for implementing the vision and framework.

Pickerell explained that DEQ has seven priority outcomes to achieve by June 2015 to build the program's baseline capacity and knowledge. She described program changes to align the staffing and work for DEQ. Boudouris discussed the Materials Management Workgroup, convened in October 2013 and continuing through September 2014 for seven working meetings. She also discussed funding issues for near-term implementation of the program.

David Allaway discussed goals and measures being considered by the workgroup for the 2050 Vision. He explained that DEQ is working on other near-term projects to limit the lifecycle impacts of materials use and disposal in Oregon. Pickerell added that additional near-term work for DEQ will be proposed changes to rule and statute over the next several years. She noted that the program will return for an update in one year.

The commissioners asked informational questions about the Materials Management program and opportunities for Oregonians to reduce their materials consumption and disposal.

#### **F. Commissioner reports**

Commissioners provided verbal updates on their activities and other items of interest to the commission.

Commissioner Rider described the funding cycle for the Oregon Watershed Enhancement Board and awards and grants for enhancement and protection projects.

Commissioner Johnson explained that she has been participating in an economic workgroup with Water Resources Department as follow-up to 2013 legislation, and that process is nearly complete with draft reports available. She added that she will tour the Hinkle Creek forest study area in April.

Commissioner Eden noted that she has been reading many editorials and letters in her local newspaper regarding permits issued for coal transport and export terminals at the Port of Morrow.

Vice-chair Armstrong noted that he recently attended a tour and update of the Trask Paired Watershed research study information. He explained that the Board of Forestry has requested more co-presentation opportunities, and he will be at the Committee for Family Forestlands meeting May 22 discussing the work among the departments and commissions. He encouraged the commission to continue exploring formal liaison positions with relevant state boards.

#### **M. Action item: Water Resources Commission liaison position**

Director Pedersen presented a proposal to create a formal liaison position between EQC and the Water Resources Commission. Vice-chair Armstrong noted that his work as the liaison to the Board of Forestry has been very successful and beneficial for both bodies and encouraged the

commission to pursue liaison positions. Commissioner Rider encouraged EQC to consider a liaison position with the Board of Agriculture.

Action: Create a formal liaison position for the Environmental Quality Commission with Water Resources Commission and appoint Commissioner Johnson to that liaison position.

Move: Commissioner Armstrong

Second: Commissioner Eden

*The commission approved the appointment of Commissioner Johnson as liaison to the Water Resources Commission.*

### **Lunch and executive session**

The commission recessed for lunch and an executive session from noon to 1 p.m. Staff from the Oregon Department of Justice presented updates about litigation, in-process and pending, during an executive session with the commission and some DEQ staff over a working lunch. This session was held pursuant to state meeting law.

### **G. Commissioner work session**

Commissioners held a self-facilitated afternoon work session to discuss commission goals, planning and other matters. During the work session, commissioners discussed specific focus questions, shown below, and discussed their interests that brought them to the commission.

1. What are some of your areas of interest and motivation to serve as a commissioner?
  - a. What are your personal goals in serving on EQC?
  - b. What topics are you most interested in learning about? Least?
2. What types of DEQ-provided staffing support would be most useful or helpful to you as a commissioner?
  - a. How can DEQ best support your work as a commissioner, both at and outside of meetings?
3. How can the commission be even better at its work?
  - a. Are the commission meetings meeting your needs and expectations for format, frequency, topics discussed and other functional or programming details?
  - b. What topics do you see as major emerging environmental issues for Oregon? How would you like to be involved with these issues (proactive or as-informed by DEQ)?
4. How can EQC best interact with the public, stakeholder and other boards or commissions?
5. How frequently should the commission hold these kinds of planning sessions?
6. Are there any specific topics of discussions the commission wants brought by DEQ staff, or others, in 2014 and 2015?

Chair O'Keeffe recessed the commission at approximately 5 p.m. until 8:30 a.m. on Thursday, March 20. On Wednesday evening, commissioners and some DEQ staff

attended an informal and self-pay dinner in downtown Portland. No commission business was held at this dinner.

#### **Thursday, March 20 – 8:30 a.m. to 3 p.m.**

Chair O'Keeffe reconvened the meeting at 8:30 a.m.

*Present:* Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden

#### **H. Public forum**

The commission opened public forum at 8:30 a.m. Thirteen people signed in to present comment in Portland, and no one signed in to present comment via conference call at the Bend, Medford and Pendleton DEQ offices.

1. Annie Christensen, Columbia County resident, asked for the commission's involvement with the Port Westward property in Clatskanie and noted that accurate factual information is difficult to find. She asked the commission to extend the permit to Clatskanie and across the Columbia River.
2. Regna Merritt, Oregon Physicians for Social Responsibility, expressed concern about Ambre Energy's project and thanked DEQ for requiring a 401 Water Quality Certification but that it does not go far enough. She noted that the project will have significant health and safety impacts due to diesel emissions and coal dust, and also significant water quality and drinking water effects. Merritt submitted materials for the commission record.
3. Ryan Rittenhouse, Friends of the Columbia Gorge, asked the commission to do whatever it can to stop the Ambre Energy project, or if it does proceed it does so with the most stringent environmental controls possible.
4. Darrell Whipple, Rainier-area resident, expressed concern about the coal export project planned for Port Westward, and the potential damage to salmon fishing and habitat in that area. He thanked the commission for requiring a 401 Water Quality Certification at the Port of Morrow and encouraged the commission to look closely at the requirements DEQ could require for Ambre Energy.

Commissioner Johnson asked Director Pedersen to describe the permitting process for the project. Director Pedersen described the permitting process for the 401 Water Quality Certification that is required for Ambre Energy's project. Larry Knudsen, EQC legal counsel, provided clarity on the specific legal mechanism for the certification process.

5. Bill Gaffi, Clean Water Services, discussed potable reuse of treated wastewater and using that water as a demonstration project to brew a batch of beer that could be brought to industry meetings and conferences to build support for the idea. Gaffi submitted a document for the commission record.
6. Ken Williamson, Clean Water Services, described the technologies that are used to create potable water from wastewater effluent.

7. Bob Baumgartner, Clean Water Services, described the regulatory requirements for Clean Water Services to do the demonstration project. He asked the commission to consider granting authorization for the demonstration pilot project.

Director Pedersen provided the specific regulatory citations related to any pilot or demonstration project and noted that the public process would take some time and DEQ is open to discussing these processes with Oregon Health Authority and Clean Water Services.

8-10. Jim James, Scott Hayes and Scott Hanson, Oregon Small Woodlands Association, presented comment about cold water criteria as part of the water quality standards for forested lands. James, Hayes and Hanson asked the commission to evaluate the current cold water criteria and evaluate any changes against new available science and make any changes based on data. Each presenter submitted a copy of his testimony for the commission record.

11-13. Rick Barnes, Chris Jarmer and Rex Storm presented comment about forestland water quality. Barnes, Committee for Family Forestlands, Jarmer, Oregon Forest Industry Council, and Storm, Associated Oregon Loggers, asked the commission to review science and data for any standards changes and work with the Board of Forestry. They noted that small family forestlands will be disproportionately harmed if the cold water criteria standards are not changed since they are too restrictive. Barnes and Storm submitted materials in support of their testimony.

Vice-chair Armstrong asked for a comprehensive overview of the three watershed studies related to forestlands as supporting information for the water quality discussions happening at the commission level. Director Pedersen stated that DEQ can provide that information.

## **I. Director's report**

Director Pedersen provided written and verbal updates on items of interest to the commission. The written report included information about:

- DEQ's fiscal year 2013 Gold Star Certificate from the state's Chief Financial Officer for excellence in accounting practices
- Governor Kitzhaber's direction to DEQ to pursue phase two of the Clean Fuels program
- Oregon's 2012 Integrated Water Quality Report
- The annual report from the U.S. Army Corps of Engineers for the 2013 fish migration season and related total dissolved gas waiver for four dams on the lower Columbia River.

In addition to the materials presented in the written report, Director Pedersen provided verbal updates about:

- Travel to DEQ offices around the state to discuss the agency reorganization and other information.
- Director Pedersen's work as president of ECOS, and planned testimony in support of EPA's budget at a Washington, D.C., hearing.
- The outcomes of an informational meeting earlier this week for the Title V air permit process for the Jordan Cove project near Coos Bay.
- An April 3 meeting in Clatskanie for an air permit for a proposed oil transloading facility in that community
- The recent passing of a long-term lobbyist in Salem, Dave Barrows.

**K. Informational item: Budget and legislative update**

Greg Aldrich, Office of Policy and Analysis manager, introduced the item and his co-presenters, Palmer Mason, legislative manager, and Jim Roys, Financial Services manager. Mason described the outcomes of the 2014 Oregon legislative Session, especially the items of interest for DEQ. Roys described the status of the agency budget development, and will come back to the June commission meeting for an annual financial summary with a final operating budget. Aldrich discussed the state's economy and budget outlook and the budget development process for DEQ for 2015-17 funding cycle. Aldrich described the themes underlying DEQ's draft policy option packages for 2015-17, and discussed the timeline for the development process.

**N. Action item: Clean Diesel rule revisions**

Uri Papish, Air Quality Program interim manager, and Kevin Downing, air quality planner, presented proposed rule revisions for the Clean Diesel program. Downing explained that the proposed rules would make permanent some revisions the commission approved as temporary rule changes in October 2013, and align the Oregon Clean Diesel program with federal requirements.

Action: Adopt the proposed rules in Attachment A as part of chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

*The commission approved the rules unanimously.*

**O. Action item: Update for Oregon SIP to include LRAPA air quality rules**

Uri Papish, Air Quality Program interim manager, introduced the item. Merlyn Hough, Lane Regional Air Protection Agency director, will presented the proposed rules. Director Hough explained that the proposed rules would update Oregon's State Implementation Plan to include rules approved by LRAPA's board and effective since 2010.

Action: Move the recommendation as shown by staff in their presentation to the commission:

1) Find that the LRAPA rules are no less strict than any rule or standard of the Commission;

(2) Approve the LRAPA rules under ORS 468A.135(2);

(3) Adopt the proposed amendment to OAR 340-200-0040 in Attachment A to incorporate the proposed rules into the Oregon Clean Air Act State Implementation Plan; and

(4) Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Move: Commissioner Johnson

Second: Commissioner Rider

*The commission approved the motion unanimously.*

### **Lunch and executive session**

The commission recessed for lunch from approximately noon to 1:30 p.m. The commission met with Director Pedersen for his 2013 annual review over the executive session.

### **L. Informational and recognition item: 2013 Charitable Fund Drive award**

Mandy Olund, human resources analyst and DEQ's Charitable Fund Drive coordinator for 2013, introduced this item and Bret West, fund drive chair, and Deb Furry, fund drive coordinator.

West explained that DEQ raised over \$42,000 in the 2013 campaign, the most of any state agency, with participation well above the state average. Director Pedersen noted that the success in 2013 was also in part to the great agency coordination by Mandy Olund and the generosity of DEQ's staff.

### **J. Informational item: Forestlands water quality update**

Gene Foster, Watershed Management Program manager, and Peter Daughterty, Department of Forestry Private Forest Division Chief, co-presented this item on the joint roles and responsibilities of the departments and boards for managing water quality on forested land in Oregon. The presentation was previously co-presented to the Board of Forestry in early March.

Foster and Daughterty described the regulatory authorities of the respective agencies and boards, and the relationship among these parties. They presented data about water quality data and studies in forestlands, and the ongoing work to meet water quality standards on private, state and federal forestlands.

Chair O'Keeffe adjourned the public meeting at 3 p.m.

### **2014 EQC meetings – revised dates and locations**

June 18-19: The Dalles

August 27-28: Medford

November 5-6: Portland

Jan. 7-8, 2015: Portland