

Minutes of the 372nd regular meeting of the Oregon Environmental Quality Commission

March 20-21, 2013
DEQ's headquarters, 10th floor, room EQC-A
811 SW 6th Avenue
Portland, Oregon

Wednesday, March 20 – Regular meeting: 8:30 a.m. to 5 p.m.

Chair Blosser convened the meeting at 8:30 a.m.

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

A. Action item: Minutes from the Dec. 6-7, 2012, regular and Jan. 22, 2013, special EQC meetings

Commissioners reviewed the draft meeting minutes for two recent EQC meetings.

Action: Approve the Dec. 6-7, 2012, regular meeting and Jan. 22, 2013, special meeting minutes as presented.
Move: Commissioner Armstrong
Second: Vice-chair O'Keeffe

The commission unanimously approved the motion.

B. Informational item: Meeting with Department of State Lands Director Mary Abrams

Director Pedersen introduced Director Abrams, and provided background information about her professional experience. Director Abrams was appointed October 2012, and this is her first meeting with the commission as DSL director. Director Abrams described some areas of intersection between DEQ and DSL, and noted that coordination among agencies is a benefit to Oregonians. Director Abrams described the roles and responsibilities of the Department of State Lands and its work across the state. Commissioners asked clarifying and informational questions about DSL and opportunities for coordinated environmental protection in Oregon.

C. Informational item: Budget and legislative updates

Jim Roys, DEQ financial services manager, and Palmer Mason, DEQ government relations manager, provided updates about budget developments and legislative matters for the agency and state. Mason presented a list of high-priority bills that DEQ is tracking through the current legislative session. The commissioners asked clarifying and informational questions about the bills and general legislative process. Director Pedersen thanked Mason for his work and role representing DEQ to the Oregon Legislature. Roys presented an update about budget developments since the December 2012 commission meeting. The commissioners asked questions about the budget update and implications of budget concerns at the national level. Roys noted that DEQ will present to the Ways and Means Subcommittee April 1 through 4. Director Pedersen noted that he has received positive feedback about DEQ's budget from other agency directors, and thanked Roys for the work of his staff.

1. Action item: Certification of DEQ's 2013-15 Governor's Balanced Budget

Jim Roys, DEQ financial services manager, presented the agency's 2013-15 Governor's Balanced Budget for commission certification. Per state law, the EQC chair must certify all agency budget requests. Roys noted that Chair Blosser certified, on behalf of the commission, the Agency Request Budget in August 2012.

Action: Authorize Chair Blosser to sign and certify the DEQ 2013-15 Governor's Balanced Budget on behalf of the commission.

Move: Vice-chair O'Keeffe

Second: Commissioner Rider

The commission unanimously approved the motion.

D. Action item: Refunding of selected DEQ pollution control bonds

Jim Roys, DEQ financial services manager, presented a proposal that would authorize DEQ to hold a bond sale that would pay off higher-interest rate bonds and allow DEQ to purchase lower-interest rate bonds to support the Orphan Site Cleanup program. Roys explained the provisions of the proposed bond sale and its potential savings.

Action: Adopt the resolution seen in attachment A of this item authorizing DEQ and the State Treasurer to refund the 2003A Orphan Bond Series, provided that the refunding meets the savings target as set out in this agenda item, and provided the refunding occurs in the 2011-13 biennium.

Move: Commissioner Armstrong

Second: Commissioner Johnson

The commission unanimously approved the motion.

E. Informational item: Annual financial report

Jim Roys, DEQ's financial services manager, presented the agency's annual financial report for the commission's review and information. He noted that this is the fifth annual report, and is intended to assist the commission with its best practices requirements related to financial knowledge. Roys described the content of the report, and presented key financial information for the agency. The commissioners asked clarifying and informational questions about the financial information presented and about projected financial information for the 2013-15 DEQ operating budget.

This item was taken out of order

I. Informational item: Recognition for DEQ's 2012 Gold Star Certificate in accounting

Kerri Nelson, DEQ Management Services Division administrator, presented this item. Nelson described the work of the division, and noted that the management services group does much of the behind-the-scenes work for the agency. Nelson explained that, for the 18th year in a row, DEQ received the Oregon Chief Financial Officer's Gold State Certificate for its accounting excellence. A number of staff from the accounting and financial services group attended this item. The commissioners offered their congratulations for the award, and Nelson introduced the staff, whom the commission recognized for their success.

This item was taken out of order

L. Action item: EQC and Board of Forestry coordination and liaison position

Director Pedersen and Commissioner Armstrong presented a proposal to create a formal liaison position between the commission and the Oregon Board of Forestry. Gary Springer, a member of the Board of Forestry, attended and co-presented this item. Commissioner Armstrong described the proposed liaison position between EQC and Board of Forestry. Director Pedersen noted that DEQ and the Department of Forestry support the proposed position and scope of work. Board of Forestry member Springer explained that he is attending the EQC meeting today in his official, appointed capacity as liaison from Board of Forestry to EQC. The commissioners discussed the proposed liaison position and opportunities for other liaison positions with other state agencies and boards.

Action: Approve the creation of liaison position between EQC and the Board of Forestry as seen in attachment A of this item, and appoint Ed Armstrong to serve as that liaison from EQC.

Move: Vice-chair O'Keeffe

Second: Commissioner Johnson

The commission unanimously approved the motion.

Lunch and executive session

Chair Blosser recessed the commission from noon to 1:30 p.m. Commissioners and DEQ Director Pedersen met for a working lunch and executive session from approximately noon to 1:30 p.m. The commissioners discussed the results of the annual review for Director Pedersen. The session was held pursuant to ORS 192.660(2) (i).

G. Informational item: Best practice and environmental opportunities for Oregon's nurseries

Jeff Stone, Oregon Association of Nurseries, presented an overview of the item and provided background for the Climate Friendly Nurseries Project. Allison Hensey, Oregon Environmental Council, explained that OEC and OAN launched the Climate Friendly Nurseries pilot project in 2009, which provided best management practices and technical assistance to Oregon nurseries working to improve their environmental practices. Hensey noted that nearly all the nurseries that started the project completed it, despite significant economic challenges for the nursery industry, and demonstrated their commitment to sustainability.

Hensey presented some of the results of the three-year project. These improvements included an average 20 percent reduction of greenhouse gas emissions for the thirteen participating nurseries, significant behavioral and cultural changes for the participating nurseries and revised best management practices for nurseries to reduce costs and emissions with limited upfront financial investment

Hensey and Stone described the project, its results and lessons learned for all partners. The group discussed opportunities for future investments and opportunities for improvement based on this pilot project.

H. Action item: Review of Director Pedersen's transactions

Kerri Nelson, DEQ Management Services Division administrator, presented Director Pedersen's annual transactions for review and approval, per state and agency accounting policy and law.

Action: Review and accept the DEQ director's approved transactions seen in attachment C of this item.

Move: Commissioner Rider

Second: Vice-chair O'Keeffe

The commission unanimously approved the motion.

J. Informational item: Recognition for DEQ's contributions to the Oregon Charitable Fund Drive

Kerri Nelson, DEQ Management Services Division administrator, presented an overview of DEQ's participation in the Oregon Charitable Fund Drive. Nelson invited Brett West, Department of Administrative Services, and Deb Furry, Charitable Fund Drive campaign manager, to present an award to DEQ for its 2012 contributions, of approximately \$50,000, and the agency's history of giving.

K. Informational item: Mid-Columbia water quality sampling project

Greg Pettit, DEQ Laboratory and Environmental Assessment Division administrator, and Aaron Borisenko, Lab Water Quality manager, introduced this item and provided an overview of DEQ's sampling, monitoring and analytical work. The group viewed a recently-aired segment from Oregon Public Broadcasting's *Oregon Field Guide* television program that featured the lab's water quality sampling and analysis of the mid-Columbia

River. Pettit and Borisenko provided additional clarifying information, and discussed the outcomes and next steps of the project. Pettit noted that the pollution trends seen in the mid-Columbia water quality sampling reflect the general trends across the state. The group complimented the lab staff for their work on this project and Director Pedersen noted that the lab employees are experts whose technical skills have allowed DEQ to collect, analyze and present detailed environmental data to Oregonians.

M. Informational item: Portland Harbor update

Jim Anderson, DEQ project manager, and Alex Liverman, DEQ stormwater coordinator, presented an update on the cleanup of Portland Harbor, a federal Superfund site. Anderson provided background on Portland Harbor as a working harbor and a current cleanup site, and described the proposed timeline and milestones for cleanup activities. Liverman discussed DEQ's work to identify, assess and control the sources of upland contamination in Portland Harbor. She described the ways upland, or land-based, contamination affects Portland Harbor, and how DEQ coordinates with EPA and other federal and state agencies to make environmental improvements and clean up Portland Harbor.

This item was taken out of order

F. Action item: Proposed rule adoption for federal National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards

Andy Ginsburg, DEQ Air Quality Division administrator, introduced the item and provided background on DEQ's air quality program. Jerry Ebersole, air quality toxics specialist, presented the proposed rule adoption. He noted that the proposed rules reflect recent updates to federal air quality regulations related to the National Emissions Standards for Hazardous Air Pollutants and the New Source Performance Standards. The commission asked clarifying and informational questions about the proposed rule changes.

Action: Adopt the proposed permanent rules in attachment A of this item's report as part of chapter 340 of the Oregon Administrative Rules. Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040.

Move: Vice-chair O'Keeffe
Second: Commissioner Rider

The commission unanimously approved the motion.

N. Informational item: Commissioner reports

Commissioners presented verbal updates on their activities and projects of interest and relevancy to the commission.

Commissioner Armstrong stated that he attended a Board of Forestry meeting and that meeting agenda highlighted voluntary work of forest land owners, and that is a parallel to the volume of work done behind-the-scenes at and related to DEQ. He noted that he attended an awards event that the Board of Forestry presents to recognize partners in the forest industry, and encouraged the commission to consider a similar kind of event or activity.

Commissioner Rider presented a report from OWEB about its long-term conservation investments. She noted that OWEB recently awarded its annual grants across the state. The group discussed opportunities for watershed-based environmental improvement, in the short- and long-term.

Commissioner Johnson noted that she attended the AgPAC informational session this past week.

Chair Blosser explained that he has been working with DEQ and the Governor's office to evaluate potential new commission members, as his term expires in June.

Vice-chair O'Keeffe explained that she is the official convener of the Regional Solutions Team for south-central Oregon, and DEQ's staff representative, Kelly Potter, is an excellent representative of the agency.

Chair Blosser recessed the meeting at approximately 5 p.m. until 8:30 a.m. on Thursday, March 21, 2013.

Some commissioners and DEQ staff attended an informal, optional and self-pay dinner in downtown Portland on Wednesday evening. No commission business was held during dinner. Public meeting law requires notice of this dinner.

Thursday, March 21 – Regular meeting: 8:30 to 10:30 a.m.

Chair Blosser reconvened the meeting at 8:30 a.m.

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

O. Public forum

Chair Blosser opened public forum at 8:30 a.m. People wishing to present comment could do so at the Portland meeting or by phone from the Bend or Medford DEQ offices. Four people completed request-to-speak forms at the Portland meeting. No people presented comment by phone.

1. Chris Jarmer, Oregon Forest Industries Council, presented comment about the Statewide TMDL Advisory Committee. He explained that the committee process has been characterized as confrontational, and that may not be accurate. He asked the commission to direct DEQ to stop calling people "polluters" and to present success stories with partners, instead of regulators versus violators. He asked the commission to provide leadership to DEQ to present positive and collaborative solutions for water quality improvements.
2. Michael Borough, Tillamook resident, presented comment about his interactions with DEQ staff. He discussed issues with an enforcement action DEQ took against him in 2009 related to stormwater. He provided the commissioners with photos and other documents related to his enforcement case. He asked the commission to review the material he presented and Chair Blosser asked DEQ to present a follow-up briefing about this topic at the next commission meeting.
3. Ramsey McPhillips, McMinnville resident, presented comment about Riverbend Landfill. He presented a document for the commissioners related to a past decision by the commission. He asked the commission to ask DEQ to change the earthquake requirements for the permit to 9.0, not 8.5, magnitude. Director Pedersen noted that the draft permit on this issue is currently out for public comment until April 5, and there is no final decision on this item at this time. Lissa Druback, DEQ Eastern Region Solid Waste Program manager, provided clarifying statements at the request of McPhillips and the commission. McPhillips invited the commissioners to attend a March 28 permit hearing in Yamhill County.
4. Paul Burns, Waste Management, presented comment about Riverbend Landfill. He described projects that the landfill has undertaken in the past year to improve the landfill's efficiency, operations and odor concerns. He invited the commissioners to a public meeting April 10 in McMinnville and April 11 in Newberg.

Chair Blosser closed public forum at 9:30 a.m.

2. Action item: Proposed temporary rules for the 401 Certification program

Nina DeConcini, DEQ Northwest Region Division administrator, and Greg Aldrich, DEQ Water Quality Division administrator, presented temporary rule corrections for the 401 dredge and fill water quality certification program. Aldrich explained that the October 2012 EQC-approved rules left ambiguity for the effective date of the existing fee table, and the proposed temporary rules removes that ambiguity and keeps the 2004-approved fee tables in effect until July 30, 2013. He noted that the approved permanent rules take effect July 31, 2013. Larry Knudsen, the commission's legal counsel, provided additional procedural information at the request of Chair Blosser.

Action: Amend the proposed temporary rules in attachment A of this item's report as part of chapter 340 of the Oregon Administrative Rules to be effective upon filing with the Secretary of State through July 30, 2013.

Move: Vice-chair O'Keeffe

Second: Commissioner Johnson

The commission unanimously approved the motion.

P. Informational item: Director's dialogue

Director Pedersen presented written and verbal updates on DEQ activities and projects of interest to the commission. Director Pedersen asked Greg Aldrich, DEQ Water Quality Division administrator, to present an update about the development of the mid-coast implementation-ready TMDL. Aldrich explained that DEQ has slowed down its process to make a commitment to more collaborative and communicative relationship for all involved parties.

Director Pedersen's written report included updates about:

- Residents of West Salem concerned about high rates of osteosarcoma, a bone cancer, in their neighborhoods. EPA and the Oregon Health Authority are the primary agencies for response, and DEQ will support that work as needed.
- EPA's formal notice that Oregon, among several other states, has failed to file infrastructure State Implementation Plans for some air quality rules. DEQ and EPA have an approved timeline for completing these submittals in 2013 and 2014.
- Concerns, mostly related to odors, about proposed and operating food waste composting facilities in several communities across Oregon.
- Recent successes and milestones achieved at Northridge Estates, a federal Superfund site in Klamath Falls.
- Achievements in the coordinated permitting process for Grassy Mountain, a proposed gold mine near Vale that is working through Oregon's chemical mining rules. DEQ is participating in the coordinated process, and DOGAMI is the lead agency for mining in Oregon.

Director Pedersen added three verbal items:

- The monthly director's report, new in 2013, will continue.
- The commissioners received verbal invitations to several events during this meeting, and are encouraged to attend these meetings at their discretion.
- A number of long-term DEQ staff have retired over the past six months or preparing to do so within the next two years.

At Chair Blosser's request, Joni Hammond, DEQ deputy director, provided a verbal update about the closure and dismantling of the Umatilla chemical munitions depot.

Chair Blosser adjourned the regular meeting at approximately 10:30 a.m.

Executive session

Commissioners and some DEQ staff met with Oregon Department of Justice staff for an executive session from approximately 10:30 a.m. to noon. The session was held pursuant to ORS 192.660(2) (h).

2013 EQC meetings

June 19-20, 2013: Location TBD

Aug. 21-22, 2013: Location TBD

Oct. 16-17, 2013: Location TBD

Dec. 11-12, 2013: Portland