

Minutes of the three hundred and sixty-sixth regular meeting of the Oregon Environmental Quality Commission

Feb. 16-17, 2012
DEQ headquarters, 10th floor, room EQC-A
811 SW 6th Avenue
Portland, Oregon

Thursday, Feb. 16, 2012

Chair Blosser convened the meeting at 9:30 a.m.

Present: Chair Blosser, Vice-chair Williamson, Commissioner Dodson, Commissioner Uherbelau, Commissioner O’Keeffe, Commissioner-appointee Rider and Commissioner-appointee Armstrong.

- *The newly appointed commissioners begin service March 1, 2012, and attended the meeting as non-voting observers.*

A. Action item: Review and approval of the minutes from the Dec. 15-16, 2011, regular EQC meeting

The commission reviewed the December 2011 commission meeting minutes and noted several typographical errors.

Action: Approve the Dec. 15-16, 2011, EQC meeting minutes with amendments.

Move: Commissioner O’Keeffe

Second: Vice-chair Williamson

The commission unanimously approved the minutes with the corrections as noted.

B. Informational item: Umatilla Chemical Demilitarization Program update

Chair Blosser noted that item B was removed from the meeting agenda.

Item added: Introduction of two commissioner appointees

Director Pedersen noted that two new commissioners were appointed by Governor Kitzhaber and confirmed by the Senate, and are attending the meeting as observers. Commissioner-appointees Morgan Rider and Ed Armstrong introduced themselves, and provided information about their professional and personal backgrounds. Both commissioners-appointees begin service March 1, 2012.

H. Informational item: Director’s dialogue (part one of three)

Note: This item was taken in three parts

Director Pedersen explained that the first subject of today’s Director’s Dialogue is a short presentation about the environmental cleanup on the Zidell property along the Willamette River’s south waterfront. Keith Johnson, DEQ Northwest Region Cleanup Program manager,

presented an overview of the cleanup work on the property, and described the project's background.

Johnson introduced staff from Maul, Foster and Alongi, who presented a short video about the site. Paul Fishman, ecologist and project manager, discussed the site's history and the cleanup project. Fishman noted that the area is being restored with native plants this week, and the cleanup includes habitat for aquatic species. Fishman thanked DEQ for its innovative approach to a major environmental cleanup, and noted that the project's success is due to the public-private partnership and alignment of ecological and economic improvements.

C. Informational item: Update on Oregon's Integrated Water Resource Strategy

John Jackson, Water Resources Commission chair, and Brenda Bateman, Water Resources Department public information officer, presented this item with Karen Tarnow, DEQ water quality senior policy analyst and legislative coordinator. Director Pedersen presented opening comments about the strategy and DEQ's involvement with the process to develop the strategy.

Chair Jackson described the legislative direction in 2009 that led to the development of the strategy in partnership with DEQ, the Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Agriculture, tribal governments, stakeholders and the public. Chair Jackson presented the strategy process, and noted that the participating agencies and bodies are in phase four of five.

Karen Tarnow presented the recommended actions and highlights of the strategy as they relate to DEQ's work. Chair Jackson discussed the next steps for the project and draft review process. He noted that he will be bringing the final draft to EQC and Board of Forestry at the joint meeting in April for proposed endorsement by both commissions. The Water Resources Commission will consider the final strategy for adoption in August 2012, to ensure that any materials are in place for the 2013-15 biennium.

The commission asked clarifying and informational questions about the strategy process and content, and discussed elements of the strategy. Director Pedersen said that DEQ will draft a specific letter with background information for the April 2012 action item to potentially endorse the Integrated Water Resource Strategy. Bateman noted that the Legislature directed the Water Resources Department to return with updates, and this first strategy will be revised as circumstances change and data shows a need for updates.

D. Informational item: Budget and Legislative update

Palmer Mason, DEQ interim government relations manager, and Jim Roys, DEQ budget manager, presented an update on the 2012 legislative session and the state and agency budget development processes. Mason described the still-active bills in this session, and those that are unlikely to proceed.

Director Pedersen noted that Governor Kitzhaber released a counter-proposal today for a recent budget balancing proposal. He stated that DEQ will wait for clarity on next steps, and apply proposed cuts to its priority reductions list as directed by the Oregon Legislature.

Lunch and executive session

Chair Blosser recessed the commission for lunch and an executive session from approximately noon to 1:30 p.m. The session was held pursuant to ORS 192.660(2) (h).

E. Informational item: Wave energy in Oregon

Greg Aldrich, DEQ interim Water Quality Division administrator, and Marilyn Fonseca, DEQ water quality specialist, presented information about wave energy projects in Oregon, and a wave energy park planned in Reedsport. Fonseca explained the general interest in wave energy in Oregon, and described the specific wave energy park being developed off the coast of Oregon near Reedsport. She explained that DEQ has issued the 401 water quality certification for the Reedsport project, and DEQ will be responsible for issuing these types of certifications for wave energy projects within Oregon's territorial sea – the three miles off Oregon's coast that is subject to state law. Fonseca described the development process for the project, and the items of the project that are subject to DEQ's 401 water quality certification authorities. Fonseca reviewed the comments received during the public comment period, and noted that DEQ's role is limited until there are changes to the project designs and scale in the future. Fonseca noted that Oregon State University has been involved with studies related to wave energy projects and may require a 401 water quality certification from DEQ for its projects.

F. Action item: Proposed permanent rules for small and mid-size boilers

Andy Ginsburg, Air Quality Division administrator, introduced the item and Carrie Ann Capp, DEQ Air Quality Division natural resource specialist, presented the proposed rules. Capp provided background information about the Heat Smart program, and the proposed rules for small- and mid-sized boilers. She described the content of the proposed rules and their effects, if adopted. Capp described the proposed next steps and implementation plans, pending final approval by the commission. The commission asked clarifying and informational questions about the proposed rules.

Action: Adopt the proposed revisions to Oregon Administrative Rules, Chapter 340, divisions 200, 210, 228 and 262 as presented in attachment A of this staff report, amend the Oregon Clean Air Act State Implementation Plan to reflect these revisions and authorize DEQ to submit these revisions to the U.S. Environmental Protection Agency for approval as revisions to Oregon's plan.

Move: Commissioner Dodson

Second: Vice-chair Williamson

The commission unanimously approved the motion and rule revisions.

G. Informational and discussion item: DAS streamlining

Michael Jordan, DAS director and the state's chief operating officer, presented an item about Governor Kitzhaber's 10-year Plan for Oregon project. Director Jordan described the guiding principles for the 10-year plan, and explained how the principles will be applied to state agencies to improve efficiencies and streamline government processes and services. He presented the

background of the plan's development, the status of the work groups developing the plan, Governor Kitzhaber's plan to work with and involve the Oregon Legislature in the final plan and the need for engagement of Oregonians outside of the formal agency and legislative processes.

Director Jordan described the outcome-based principles guiding a 10-year budgeting cycle, with two-year and 10-year revenue projections. The commission discussed the plan, the outcome-based budgeting process and the challenges of crafting a healthy and sustainable future for Oregon.

H. Informational item: Director's dialogue (part two of three)

Director Pedersen presented an update on DEQ activities and projects, and other state and national items of interest. The material from the staff report included information about:

- The 2011 Annual Report on Columbia River Total Dissolved Gas and Spill for Fish Passage, from the U.S. Army Corps of Engineers to DEQ
- The implementation of DEQ's Water Quality standards for toxic pollutants
- A new general pesticides permit, and its implications for DEQ, the Department of Agriculture and the Department of Forestry
- Air quality concerns, and improvements, in Klamath Falls
- Mercury emissions reductions at the Ash Grove cement plant in Durkee
- DEQ's new hotline and helpdesk model for Oregonians to report environmental complaints
- The Good Neighbor Agreement and Title V permit renewal for the ESCO steel foundry in northwest Portland
 - The commission encouraged DEQ to capture this success through publishing a study about the process, and involve the stakeholders in the development of the material and placement or publishing.
- The status of the former Blue Heron Paper Company's mill site in Oregon City and West Linn, along the Willamette River
- The status of Portland Harbor, a federal Superfund site, and a recent study about the costs and benefits of the cleanup at that site
- California's decisions to update its vehicle emissions programs, with changes to the low- and zero-emission vehicle rules
 - Andy Ginsburg, DEQ Air Quality Division administrator, provided additional information on this item

At the commission's suggestion, Director Pedersen agreed to complete the director's dialogue on Friday, Feb. 17, 2012.

Chair Blosser recessed the commission at approximately 5 p.m., until 8:30 a.m. on Friday, February 17. Some DEQ staff and commissioners attended an informal social dinner on Thursday, February 16, following the meeting. This dinner was self-pay, optional and not part of the formal meeting agenda. State meeting law requires notice of this dinner.

Friday, Feb. 17, 2012

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

Present: Chair Blosser, Vice-chair Williamson, Commissioner Dodson, Commissioner Uherbelau, Commissioner O’Keeffe, Commissioner-appointee Rider and Commissioner-appointee Armstrong.

- *The newly appointed commissioners begin service March 1, 2012, and attended the meeting as non-voting observers.*

I. Public forum

At 8:30 a.m., the commission opened public forum. People were able to present comment in-person at the Portland meeting, or by telephone at the Eugene, Medford, Bend and Hermiston DEQ offices.

Eugene - 165 East 7th Avenue, Suite 100

Medford - 221 Stewart Avenue, Suite 201

Hermiston - 256 East Hurlburt, Suite 117

Bend - 475 NE Bellevue, Suite 110

No people attended to present comment in Bend, Medford or Eugene. Three people submitted request-to-speak forms in Portland. One person submitted a request-to-speak form in Hermiston.

1. **Ilsa Perse**, Yamhill County resident, submitted a copy of her remarks for the commission’s record. She explained that she came to update the commission on residents’ concerns about Riverbend Landfill. She expressed her thanks to DEQ staff who have been helpful and receptive to the residents’ concerns. Perse asked DEQ and the state to start enacting simple solutions for materials management, and to keep all waste washed ashore from the Japanese tsunami out of Yamhill County landfills.

2. **Ramsey McPhillips**, McMinnville resident and farmer, showed a DVD called “Waste Management is Destroying the Family Farm” about Riverbend Landfill. He submitted a copy of the DVD for entry into the commission’s record.

The commission asked clarifying and informational questions about materials management in Oregon. Director Pedersen and Lissa Druback, DEQ Solid and Hazardous Waste Program manager, provided additional information for this item.

3. **Lorri Epstein**, Columbia Riverkeeper, submitted a copy of her remarks for the commission’s record. She thanked the commission for its approval of the 2011 fish consumption rate of 175 grams per day and the water quality human health standards. Epstein urged the commission and DEQ to continue supporting the volunteer water quality monitoring program, and noted that Columbia Riverkeeper is very active in this program and has identified sources of pollution in the Hood River community without major regulatory intervention. She explained that Columbia Riverkeeper believes DEQ could better use the volunteer-collected data from the program, particularly for DEQ’s Integrated Report for water quality and 303(d) list.

The commission asked clarifying and informational questions about Epstein’s comments. Director Pedersen and Greg Aldrich, interim Water Quality Division administrator, provided additional information for this item.

4. **Neela Wallace**, a neighbor of Hermiston Foods, explained that the neighbors are experiencing odor issues from the Hermiston Foods site. She asked several questions about the site and requested that DEQ follow-up with her regarding specific questions and odor concerns.

J. Informational item: Multi-agency climate change project presentation

Andy Ginsburg, DEQ Air Quality Division administrator, introduced this item and his co-presenters: Diana Enright, Oregon Department of Energy, Jerri Bohard, Department of Transportation, Bob Cortright, Department of Land Conservation and Development, and Richard Whitman, Governor’s Office. Ginsburg explained that the presentation is a collaborative work product from the agencies, and has been shared with the boards and commissioners of each represented agency this fall and winter.

Diana Enright presented background information on Oregon’s state agency climate change directives since 1990 and described the coordinated work of state agencies to develop and implement energy efficiency standards.

Ginsburg presented information about Oregon’s permit requirements and standards for large industrial sources, and the elements of those programs that help mitigate climate change and the emission of greenhouse gases. He also described the design and intent of Oregon’s low-emissions vehicles program and proposed low carbon fuel standards in development.

Jerri Bohard described the Oregon Sustainable Transportation Initiative and statewide transportation planning. Bohard explained that the plan is final, and the public education and outreach phase will begin to raise awareness of sustainable transportation and planning.

Bob Cortright described land use activities and efforts that help reduce greenhouse gas emissions. He explained that Metro has started its scenario planning activities to explore options for reducing greenhouse gas emissions in the Portland metropolitan area. He described the reduction targets for Portland to meet by 2035 as it progresses toward a 2050 vision for the Portland metropolitan area.

Richard Whitman thanked Vice-chair Williamson and Commissioner Dodson for their extended service on the commission this year, and recognized the collaborative work of the panel presenters and their respective agencies and boards or commissions. He described Governor Kitzhaber’s 10-year energy plan for Oregon, and explained the elements of the plan. He noted that the plan, designed to be an action plan, includes over 200 actions for energy over the next 10 years. Whitman described major areas of the plan, and discussed the state and federal standards that support the 10-year plan and allow better coordination and agency alignment.

The commission discussed opportunities for coordination, including public education and outreach, through this project and Oregon's 10-year plan for energy.

Informational item: Oregon's 10-year plan for natural resource agencies

Note: This item was added to the meeting agenda the week of February 13, and is not assigned an agenda letter. There is no staff report for this item.

Richard Whitman, Governor Kitzhaber's Natural Resources Advisor, presented information about the state's 10-year plan and associated budgeting process for natural resource agencies. He explained that agencies will meet in April to discuss the enterprise approach to agency funding, and work with the program funding teams to develop the strongest budgets for outcomes to support state priorities. Director Pedersen described his involvement with the enterprise leadership team, and noted that the team is making progress to find solutions that are for the good of the state and move beyond the traditional agency-based approaches.

Whitman discussed Governor Kitzhaber's priorities for the state, and the way those priorities will be applied in 2012. He discussed an outline of the natural resources work the governor's office intends to support through the 10-year plan. The commission discussed the outcome-based budgeting process, the outline of the 10-year plan and asked clarifying and informational questions.

Action item: Nomination and vote for a new vice-chair

Note: This item was added to the meeting agenda the week of February 13, and it is not assigned an agenda letter. During the meeting, it was referred to as item L. There is no staff report for this item.

Vice-chair Williamson's term of service will end March 1, 2012. DEQ recommends that the commission take action to nominate and vote for a new vice-chair before the adjournment of the February 2012 commission meeting.

Action: Nominate Jane O'Keeffe to serve as the new vice-chair for the commission

Move: Vice-chair Williamson

Second: Commissioner Dodson

The commission unanimously approved Jane O'Keeffe as the new vice-chair of the commission.

H. Informational item: Director's dialogue (part three of three)

Director Pedersen continued his update on DEQ activities and projects, and other state and national items of interest. He presented the final items from the staff report:

- EPA's 2010 Toxic Releases Inventory data and report
- The Astoria Maine Construction Company, a cleanup site in Astoria

Director Pedersen also discussed topics not presented in the staff report including:

- The Snake River 401 hydro relicensing process: DEQ has until July 1, 2012, to issue a 401 certification for the facility. This site spans the Idaho-Oregon border, and agencies in both states are working on this project.

- Meetings among the Oregon Department of Agriculture, environmental stakeholders and agricultural and forestry industry representatives to discuss the implementation of Senate Bill 1010 and DEQ's implementation-ready TMDL for the mid-coast region. These meetings have been successful and will lead to the development of a policy committee culled from the same groups.
- The April 2012 EQC meeting will be a joint meeting with the Board of Forestry. DEQ and Forestry are working on the agenda for the Newport meeting. There will be opportunities for joint informational items and a tour with EQC, BOF, Oregon Department of Agriculture and the Board of Agriculture and invited guests.
- Director Pedersen's involvement with the Environmental Council of States.

K. Informational item: Commissioners' reports

Vice-chair Williamson requested that the commission appoint a new EQC representative to OWEB. The commission agreed that Morgan Rider will serve as the new representative, and DEQ will contact OWEB for additional training or orientation materials.

Chair Blosser adjourned the commission meeting at 11:45 a.m.

2012 EQC meeting dates

April 25-27: A joint meeting with the Oregon Board of Forestry - Newport
June 21-22 – Portland
August 23-24 – Portland
October 25-26 – Bend
December 13-14 - Portland