

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

Dec. 15-16, 2011
DEQ headquarters, 10th floor, room EQC-A
811 SW 6th Avenue
Portland, Oregon

Thursday, Dec. 15, 2011

Present: Vice-chair Williamson, Commissioner O’Keeffe, Commissioner Dodson and Commissioner Uherbelau

Vice-chair Williamson, serving as chair, convened the meeting at 8:30 a.m.

A. Action item: Review and approval of the minutes from the Oct. 20-21, 2011, regular EQC meeting

The commission reviewed the meeting minutes from the Oct. 20-21, 2011, regular EQC meeting.

Action: Approve the Oct. 20-21, 2011, EQC meeting minutes as presented.

Moved: Commissioner Dodson

Second: Commissioner O’Keeffe

The commission unanimously approved the minutes as presented.

Commissioner Uherbelau asked for an update on wave energy projects discussed at the October meeting. Director Pedersen committed to update the commission at the February meeting.

This item was postponed

B. Informational item: Umatilla Chemical Demilitarization Program update

This item was taken out of order

I. Action item: Proposed orphan bond sale and reimbursement resolution

Jim Roys, DEQ financial services manager, explained the background and Beth Woodrow, DEQ Land Quality Division policy analyst, described the structure and content of funds to reimburse DEQ- related costs for the bond proposal and orphan site program.

The commission asked clarifying questions about the proposal, and the ability of the commission to stop the bond sale action later in case of severe financial downturns for the state and nation. Larry Knudsen, the commission’s legal counsel, noted that the commission may cancel or stop a bond sale, and Director Pedersen stated that DEQ will track the relevant economic considerations and bring any concerns to the commission.

Action: Adopt the resolution authorizing and requesting issuance of bonds and declaring intention to reimburse, attachment A of this item, with the typographical error in “authorizing” corrected.

Moved: Commissioner O’Keeffe

Second: Commissioner Dodson

The commission unanimously approved the resolution with the typographic correction as noted.

This item was taken out of order

L. Director’s dialogue

Note: This item was presented in two parts, but is presented here in one summary.

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

- Implementing human health water quality standards for toxic pollutants
- House Bill 3613, regarding agricultural nonpoint source runoff and pollution
- DEQ’s consumption-based inventory of Oregon’s greenhouse gas emissions
- Oregon’s paint product stewardship pilot program
- DEQ’s product stewardship program opportunities and recommendations for Oregon
- A Good Neighbor Agreement among ESCO, a steel foundry in northwest Portland, neighborhood groups and environmental advocacy and legal groups for reduced emissions and odors from the foundry
- DEQ’s new intake system for pollution complaints
- Process improvements to the state and federal coordination for the 404/401 and removal/fill certification and permits in Oregon
- An appeal, filed by Friends of the Columbia River Gorge, of the Columbia River Gorge Commission’s approval of the Gorge Air Quality Strategy submitted by DEQ and Washington’s Southwest Clean Air Agency.

Director Pedersen also provided verbal updates on items not noted in the item’s report. Those updates included information about:

- Oregon’s Integrated Water Resource Strategy development and the Department of Water Resource’s plan to bring information about the strategy to the commission in February and a request for formal support of the strategy at the April 2012 EQC meeting.
- The April 25-26, 2012, EQC meeting will be a joint meeting with the Oregon Board of Forestry, and an opportunity to meet in Newport and tour areas associated with the Mid-Coast implementation-ready TMDL. The Oregon Board of Agriculture may attend parts of the tour.
- Director Pedersen attended the Oregon Business Plan Summit in Portland on Monday, Dec. 12, 2011, and a major discussion point of the summit was regulatory certainty and streamlining. DEQ will continue to focus on achieving strong environmental outcomes while providing regulatory certainty and clear processes.
- The state has implemented a hiring freeze for all state agencies, and DEQ is waiting for more information from the governor’s office about details of the freeze and any exception process for extraordinary circumstances.
- Director Pedersen has restarted his tours of all DEQ offices and meetings with staff, businesses, community leaders and legislators in those communities. He noted that he will be in Coos Bay next week, and has many appointments with businesses and community members along the south coast.

- Governor Kitzhaber has started a new direction for the Regional Solutions Teams. The teams consist of staff from five state agencies including DEQ and are located in university facilities in Oregon's geographic regions. Teams are now starting work on local economic development projects. Commissioner O'Keeffe is the convener of the South-Central Regional Center Advisory Committee, which recently held its first meeting.
- Vice-chair Williamson requested a short update on Hermiston Foods, and Director Pedersen noted that the company is aware of the product safety concerns from their neighboring farmers, and Hermiston Foods is aware of its responsibility for food safety. Vice-chair Williamson said that the major issue seems to be drift of land-applied wastewater, and that is largely an agricultural zoning issue.
- DEQ issued the first water quality trading certificate to Medford this week so it can trade credits for temperature by doing riparian restoration in lieu of building a chilling tower. EPA approved that certificate, and The Freshwater Trust, a third-party verification organization, issues the credits. The riparian restoration work will start this spring and provide about twice the amount of improvements at half the cost of building a traditional chilling tower. Ashland has applied for a similar permit, and DEQ is likely to approve the certification.

C. Informational item: Completion of the City of Portland Big Pipe project

Neil Mullane, recently retired DEQ Water Quality Division administrator, provided background and noted Portland's significant accomplishments of developing, implementing and successfully completing the Portland Combined Sewer Overflow Control Program.

Dean Marriott, City of Portland environmental manager, and Virgil Adderley, City of Portland Bureau of Environmental Services staff, introduced a video and presented a summary of the program and its accomplishments. Marriott thanked DEQ, Director Pedersen, Neil Mullane and the Water Quality Division staff for their work and efforts over the life of the 20-year project. Marriott provided an overview of the program, costs and system operations. Adderley discussed control requirements and operations, program milestones and deadlines met and projected outfall performance pending major storms or other incidents of high precipitation. Marriott noted the post-2011 control plans and overflow reduction objectives for the city.

The commission thanked the City of Portland for its work and continued development of stormwater and sanitary sewer controls. Director Pedersen offered his congratulations and noted that the city has met all deadlines. Adderley noted that the amended stipulated and final order requires one additional report to DEQ in December 2012 and that the order will sunset, if the city can demonstrate compliance, by the end of January 2013.

D. Action item: Proposed adoption of the Eugene-Springfield PM10 Maintenance Plan

Andy Ginsburg, DEQ Air Quality Division administrator, introduced the item and his co-presenter, Merlyn Hough, Lane Regional Air Protection Agency director. Hough presented background information about LRAPA, ongoing air quality concerns in Lane County and the agency's request to designate the Eugene-Springfield area as a maintenance, rather than nonattainment, area for coarse particulate matter.

Hough invited the commission to tour Eugene air quality monitoring stations, as did Director Pedersen for DEQ monitoring stations. Commissioner Uherbelau said she would be interested in visiting a Medford station this spring. The commissioners asked about the proposed designation adjustment and air quality in Lane County generally.

Action: Adopt the proposed rule amendments as presented in attachment A1 of this report; approve LRAPA's rules and maintenance plan in attachments A2 and A3, pursuant to ORS 468A.135(2); and direct DEQ to submit attachments A1, A2 and A3 to EPA as revisions to Oregon's Clean Air Act State Implementation Plan under OAR 340-200-0040.

Moved: Commissioner Dodson

Second: Commissioner O'Keeffe

The commission unanimously approved the motion.

This item was postponed

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

F. Informational and discussion item: Commission annual self-evaluation

Joanie Stevens-Schwenger, DEQ Office of Communications and Outreach manager, presented the information and analysis of the commission's annual self-assessment of performance to DEQ's Key Performance Measure 16, related to the commission's best management practices. She explained that this year's results are an improvement over the last year, and the total assessment was about 93 percent, up from 82 percent last year, toward a target of 100 percent.

Stevens-Schwenger noted several areas for improvement, as identified in the survey's results, and asked the commissioners for feedback on ways DEQ can improve its service and information to the commission.

Lunch and executive session

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

G. Informational item: Conservation Effectiveness Partnership

Gene Foster, DEQ Water Quality Division manager, introduced the item and his co-presenters: Ryan Michie, DEQ Water Quality Division staff, and Tom Makowski, USDA National Resource Conservation Service. Foster explained the goals of the Oregon Conservation Effectiveness Partnership, and DEQ's role in the partnership. Makowski explained the partnership's focus on leveraging strategic investments for the best environmental returns, targeting collaboration with DEQ and the Oregon Watershed Enhancement Board.

Foster described conservation investments made in Oregon through this partnership, and Michie discussed the restoration and enhancement pilot projects on the Wilson River in the Tillamook Bay and Wychus Creek along the Upper Deschutes. Michie noted that the project was possible because of interagency data-sharing memorandums of understanding. The data would have been otherwise unavailable due to state and federal restrictions on sharing agricultural conservation information.

Michie presented data and summary conclusions from the two pilot projects. Michie described some next steps for the partnership, including communication with the public. Makowski described the future of the partnership and Oregon's strategic investments for conservation, rather than dispersed and disorganized efforts that duplicate agency services or authorities.

H. Informational item: Budget and Legislative update

Jim Roys, DEQ financial services manager, Greg Aldrich, former DEQ government relations manager and current interim Water Quality Division administrator, and Palmer Mason, DEQ current interim government relations manager, presented this item.

Roys presented budget information and an update on DEQ's current and projected financial outlook. He noted that DEQ has submitted a list of proposed budget reductions, as requested by the Legislative Fiscal Office. The Legislature will take action on all agency reduction options during the February 2012 session.

Aldrich described DEQ's reduction options document, and explained the process for DEQ to present and discuss budget options with the Legislature. Palmer Mason summarized several known bills or legislation under consideration for the 2012 Legislative Session, and the connections to DEQ for each proposed bill. Mason noted that DEQ expects to see drafts of bills in January, and will provide the commission with additional information about the effects of those bills in early 2012. Aldrich described the budget development process proposed for 2013-2015 biennium, and Governor Kitzhaber's change to the process in which agencies submit budget information for a 10-year state plan operated under seven policy outcome areas. The governor has stated his intent to set spending caps for each of the seven policy outcome areas, at a rate reduced from current spending levels for general and lottery funds.

This item was taken out of order

M. Informational and discussion item: DEQ's annual rulemaking plan

Joanie Stevens-Schwenger, Office of Communications and Outreach manager, introduced this item and provided background for the annual rulemaking plan development and the commission's involvement in the agency's rulemaking activities. Andy Ginsburg, DEQ Air Quality Division administrator, described the four proposed rules for the air quality program in 2012. Greg Aldrich, interim Water Quality Division administrator, described the one proposed rule for the water quality program in 2012. The commissioners asked questions about the proposed rules, and indicated, via individual worksheets, desired levels of involvement for the five rules added to the 2012 DEQ Rulemaking Plan.

Vice-chair Williamson recessed the commission at 4:25 p.m., until Friday, Dec. 16, 2011, at 8:30 a.m. Some DEQ staff and commissioners attended an informal social dinner on Thursday, December 15, 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, Dec. 16, 2011

Present: Vice-chair Williamson, Commissioner O'Keeffe, Commissioner Dodson and Commissioner Uherbelau

Vice-chair Williamson reconvened the meeting at 8:30 a.m.

J. Informational item: DEQ's toxics strategy and Oregon's opportunities for leadership in sustainable chemicals development

Wendy Wiles, Land Quality Division administrator, introduced this item and her co-presenters, Kevin Masterson, DEQ toxics specialist, and Jennifer Allen, Portland State University professor. Wiles explained DEQ's process to identify meaningful and attainable toxics prevention and reduction actions for Oregon, and noted that the materials presented today are draft and will be reviewed through public and agency input in 2012. Wiles discussed strategic opportunities for partnership in reducing toxic chemicals in Oregon, and noted that coordinated pesticide collection events, done in cooperation with the Oregon Department of Agriculture, are an example of success for DEQ and the state.

Jennifer Allen, Portland State University professor, introduced her presentation on Oregon's opportunities for leadership in sustainable chemicals development and management. She noted that most policies for chemical management are spread across a number of federal and state agencies and regulations react to and avoid negative chemicals rather than promote the use of more sustainable alternatives. Allen discussed the challenges to research and development of safer chemical alternatives. She explained that Oregon has an opportunity to be a leader in the development and management of safer chemicals, and presented a set of proposed actions.

- Develop shared priorities and goals across state agencies
- Create mechanisms to align resources among priority areas and development of safer alternatives
- Develop and disseminate information about priority chemicals of concern
- Expand interdisciplinary education and workforce development opportunities

Allen and the commission discussed opportunities for effective, individual-level actions to increase the use and management of green chemicals in Oregon and nationally.

Kevin Masterson, DEQ toxics specialist, presented additional information about DEQ's draft toxic reduction and prevention strategy. He described actions included in the draft strategy, DEQ's short-term implementation priorities and DEQ's intra- and inter-agency alignment and coordination for toxics prevention and reduction. Masterson explained that DEQ recognizes the opportunity for businesses to leverage their market forces to increase availability of and demand for safer chemicals or green alternatives, resulting in lower prices for the alternatives.

Wendy Wiles presented the next steps for DEQ including public and stakeholder input in early 2012 before returning to the commission with a final list of recommended actions, implementation information and measures to assess success and identify future opportunities. The commissioners suggested opportunities and strategies for public outreach, and opportunities for agency innovations in light of constrained resources.

K. Public forum

At 9:55 a.m., Vice-chair Williamson opened public forum. Phone lines for public were also open at the Eugene, Medford, Hermiston and Bend DEQ offices. He asked those who wanted to

comment on item J, the toxics presentation, to address the commission prior to taking general issues. Four people submitted forms to comment on item J, DEQ's toxics prevention and strategy. In addition to these four, seven submitted forms to comment in Portland and four submitted forms to comment in Hermiston. No one requested to comment at the Eugene, Medford or Bend DEQ offices.

Comments about item J

1. Mary Lou Soscia, U.S. EPA Region Ten, presented comments in support of DEQ's draft toxics prevention and reduction strategy.
2. Kathryn VanNatta, Northwest Pulp and Paper Association, presented comments about the draft strategy. Van Natta noted that the Northwest Pulp and Paper Association has been involved with the draft strategy's development and plans to stay very involved with DEQ to find solutions to toxics prevention and reduction efforts that fulfill the permit and business needs of the association's members.
3. Lisa Heigh, Metro, presented comments in support of DEQ's draft toxics prevention and reduction strategy, and particular support for the focus list of priority chemicals.
4. Gail Shibley, Oregon Health Authority Office of Environmental Public Health, presented comments in support for DEQ's draft toxics prevention and reduction strategy. She offered recognition and thanks to the DEQ staff working on the strategy. She left a document for the commission's consideration.

General comments

1. Ilsa Perse, Waste Not of Yamhill County, presented comment related to a proposed vertical expansion of the Riverbend Landfill in McMinnville. Perse explained her group's opposition to the planned construction, and expressed her concerns about the landfill's management, the additional garbage that will be added to the site and continuing pest, odor and contamination issues. She submitted a copy of her comments to the commission.
2. Sid Friedman, Friends of Yamhill County, presented comment in opposition to the proposed vertical expansion of the Riverbend Landfill in McMinnville.
3. Tim Stiebler, Yamhill Soil and Water Conservation District, presented comment in opposition to the proposed vertical expansion of the Riverbend Landfill in McMinnville. He submitted a letter to the commission with detailed comments on the proposal.
4. Susan Meredith, Waste Not of Yamhill County and neighbor of Riverbend Landfill, presented comment in opposition to the proposed vertical expansion of the Riverbend Landfill in McMinnville. She noted that the management company has not investigated alternatives to disposal, and that the landfill affects livability and tourism in McMinnville.

5. Arnie Hollander, Waste Not of Yamhill County, presented comment in opposition to the proposed vertical expansion of the Riverbend Landfill in McMinnville. He submitted a packet of

information with photographs related to the proposed wall and landfill site. He asked DEQ to investigate the group's concerns prior to any action to approve the expansion.

6. Ramsey McPhillips, Waste Not of Yamhill County and direct neighbor to the landfill, presented comment in opposition to the proposed vertical expansion of the Riverbend Landfill in McMinnville. He explained that he and two other neighbors have filed an appeal to the construction of the earthen wall planned for the site. He noted that the planned berm and expansion will add to the nuisance conditions at the landfill and asked DEQ to carefully and thoroughly examine the issues associated with the berm. He noted Oregon's hierarchy of waste management, and that the landfill is requesting additional disposal, which is the least-desirable and lowest part of the hierarchy.

7. Roy Stephens, Hermiston Foods, presented comment about the company's efforts to control odors and confine process water at its new site and in response to complaints from neighbors. He explained the actions taken in 2010 and 2011, and those planned in 2012, to improve its irrigation operations and controls.

8. Bill Burich, NORPC Foods, presented comment about Hermiston Foods, a subsidiary of NORPAC Foods. He explained that the company has improved its management of the irrigation operations and control of odors and process water confinement and use.

9. Neela Wallace, a neighbor of Hermiston Foods, asked several questions of the commission and explained the concerns of neighbors.

10. Don Walchli, a neighbor of Hermiston Foods, asked the commission to stop the facility's permit until DEQ can prove what is in the process water and that the water is safe for food crops and will not negatively affect the neighbors.

11. DeeAnn Amstad, a neighbor of Hermiston Foods, presented comment about land-application of the process water from Hermiston Foods and explained that neighbors' health property values have been negatively affected by odors from the company's actions.

Vice-chair Williamson closed the public forum at 10:50 a.m.

The commission asked questions about the status of the permitting process for Riverbend Landfill, and Bob Schwartz, DEQ permit writer, responded that DEQ is meeting with the company in January 2012 to discuss a permit modification.. He noted that the company has requested, and received, a land-use zoning decision from Yamhill County for proposed expansion of its landfill.

The commission also asked about the permit status and requirements for Hermiston Foods. Director Pedersen responded that food safety concerns are Department of Agriculture's

responsibility, and DEQ has connected with ODA about responding to neighbors' concerns about the company's agricultural processes and impacts.

N. Informational item: Commissioner reports

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

Commissioner O'Keeffe noted that she represents the commission on DEQ's Internal Audit Committee, and explained that DEQ has results from its small purchase order transaction audit. DEQ had no fraud or misuse of the cards, and that the updated payment system and process saved the agency over \$3000 in the first quarter. She said that the committee will update its charter in 2012, and that the auditors will be developing a revised risk assessment in alignment with DEQ's core work.

Commissioner Uherbelau asked DEQ to consider promoting the concern of wearing outdoor shoes indoors and tracking lead and other environmental toxins into their homes.

Vice-chair Williamson explained that lottery revenues mostly fund the Oregon Watershed Enhancement Board and those revenues are greatly reduced. That could reduce OWEB's ability to fund various watershed council projects across Oregon. He noted that the shift to Pacific Coast Salmon Recovery Funds has additional limits on its use, and that change will have negative affects for OWEB and many programs, including some at DEQ. He stressed the importance of having a commissioner very engaged with OWEB after his departure from EQC.

Vice-chair Williamson explained that he also serves on an ODOT committee to investigate ways to reduce greenhouse gas emissions in Oregon, and that committee has identified a need for 75 percent reductions of 2002's emissions by 2050. That group has developed a set of recommendations, a project plan and two scenarios for accomplishing the reductions. He noted that the committee would bring the scenario information and plan to the February 2012 EQC meeting.

Vice-chair Williamson adjourned the regular meeting at 11:15 a.m., prior to lunch and executive session.

Lunch and executive session

The commission held an executive session and lunch from approximately 12:30 to 1:30 p.m. The was held pursuant to ORS 192.660(2)(i)

2012 EQC meeting dates

February 16-17: Portland

April 25-26 (a joint meeting with the Oregon Board of Forestry): Newport

June 21-22: TBD

August 16-17: TBD

October 18-19: TBD

December 13-14: Portland