

**Minutes of the three hundred and sixty-ninth  
regular meeting  
of the Oregon Environmental Quality Commission  
Aug. 23-24, 2012**  
DEQ headquarters, room EQC-A  
811 SW 6<sup>th</sup> Avenue  
Portland, Oregon

**Thursday, August 23**

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

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

**A. Action item: Minutes from the June 21-22, 2012, EQC meeting**

Commissioners reviewed the draft minutes from the June 21-22, 2012, EQC meeting.

**Action:** Approve the June 21-22, 2012, EQC meeting minutes with one amendment

**Move:** Vice-chair O'Keeffe

**Second:** Commissioner Armstrong

*The commission unanimously approved the June 21-22, 2012, meeting minutes with one amendment.*

**B. Informational item: Proposed 401 Water Quality Certification fee increase**

Nina DeConcini, Northwest Region administrator, introduced this item and noted that DEQ plans to bring final a final proposal for revised program fees for commission action in October 2012. Steve Mrazik, Water Quality Division 401 program manager, provided information about the program and described the current fee structure that DEQ is proposing to change.

Mrazik presented information about the 2009 Oregon legislative direction to DEQ for this fee change, the advisory committee process used to discuss the proposed fees and develop a rulemaking plan.

The commissioners asked clarifying and informational questions about the program, and the proposed fee changes.

*This item was taken out of order*

**F. Action item: Request for authorization to solicit approval for a bond sale – Clean Water State Revolving Fund program**

Jim Roys, Financial Services manager, introduced this item and provided background information about DEQ's bond programs. Roys presented the request for authorization to solicit approval for a bond sale to support the Clean Water State Revolving Fund program and provide state matching funds for federal money. Clean Water State Revolving Fund

grants provide needed funding for local municipalities to maintain or upgrade wastewater facilities.

The commissioners asked clarifying and informational questions about the proposed bond sale request.

**Action:** Adopt the resolution in attachment A of the item to authorize DEQ to request and the state treasurer to sell \$10 million in bonds for the Clean Water State Revolving Fund matching funds during the 2011-2013 biennium.

**Move:** Commissioner Armstrong

**Second:** Vice-chair O’Keeffe

*The commission unanimously approved the action.*

### **C. Hearing before the commission: Proposed 401 Water Quality Certification fee increase**

At 9:45 a.m., Chair Blosser opened the public hearing regarding the fee increases for the Water Quality Division 401 Certification program. DEQ plans to bring proposed final rules and a proposal for changes to the program’s fees for commission action at the October 2012 EQC meeting.

Two people submitted request-to-speak forms for the hearing.

1. Dorothy Sperry, Port of Portland, presented comment in support of the proposed changes and thanked DEQ for having the Port participate in the advisory committee. She stressed the importance of efficient and timely permit processing, and stated that it is critical for DEQ to have the technical knowledge and resources to provide better and quicker certifications. She noted that the Port of Portland is willing to pay more, as it likely will, under the proposed fee rules for improved service.

The commissioners asked Sperry informational questions and the Port’s expectations for the program with fee changes and related increase in staffing support.

2. Sue Marshall, Willamette and Tualatin Riverkeepers, presented comment in support of the proposed fee increase for the Water Quality 401 Certification program. She submitted a written copy of her comments to the commission. She explained that while neither Riverkeeper organization was not part of the advisory committee, both supported increasing staffing to support beneficial environmental outcomes through the certification program.

Chair Blosser closed the hearing at 10 a.m. Director Pedersen explained that the comment period for this item closes Aug. 29, 2012, and DEQ can provide the commission with copies of written comments prior to October EQC when the commission decides whether or not to approve the rules, and promised Commissioner Uherbelau that she would receive this information as soon as responses to comments are prepared.

### **D. Informational item: Graywater program update**

Greg Aldrich, Water Quality Division administrator, introduced this item. Ron Doughten, Water Quality Division water reuse program coordinator, presented an update about the graywater program, which the commission approved in August 2011. Doughten described the three DEQ programs that involve the reuse or recycling of water, and described the development of the program since 2009. The commissioners asked questions about how

homeowners can use the program and discussed ways to expand the number of homeowners and others applying for permits and reusing graywater in Oregon.

*This item was taken out of order*

**J. Informational item: Outcome-based management at DEQ**

Director Pedersen gave the commission and update about the outcome-based management system DEQ has developed and is implementing. Pedersen described the system, why DEQ is doing this work and the benefits, to DEQ and Oregon's environment, of the system and process.

The commissioners asked clarifying and informational questions about the outcome-based management system and its use at DEQ. Director Pedersen discussed the elements of the system, and how the system will be implemented across the agency. The commissioners provided feedback on ways to improve the system and make it meaningful for the commission and DEQ staff.

*This item was taken out of order*

**K. Informational item: Commissioner reports**

Commissioners presented updates on their activities of interest and relevancy to DEQ and the commission. Commissioner Rider explained that the OWEB board is progressing with its review project funding and how the board can create a more sustainable funding model.

**Lunch and executive session**

Commissioners and DEQ staff met with Oregon Department of Justice staff over a working lunch in an executive session from approximately 11:45 a.m. to 1:30 p.m. The session was held pursuant to ORS 192.660(2)(h).

**E. Informational item: DEQ's Central Safety Committee**

Director Pedersen and Karen Williams, ASCFME 3336 Union president, co-presented this informational and recognition item. Williams explained that DEQ's Central Safety Committee is comprised of DEQ employees who go above and beyond their daily work assignments to help ensure that DEQ provides a safe and healthy work environment. Williams and Pedersen presented plaques of recognition to Central Safety Committee members in attendance.

**G. Informational item: Budget and legislative updates**

Jim Roys, Financial Services manager, presented an update about DEQ's budget development status, the 2013-15 Agency Request Budget and legislative items of interest. Palmer Mason, Government Relations manager, described the proposed draft legislative conflicts for the next Oregon Legislative Session. Director Pedersen provided additional information about the coordination of monitoring strategies among Oregon's natural resource agencies. The commissioners discussed the state and agency budgets, DEQ's draft legislative concepts and policy option packages and other legislative items of interest.

**H. Action item: DEQ's 2013-15 Agency Request Budget**

Jim Roys presented the agency's 2013-15 Agency Request Budget for commission approval. Under state law, the commission chair must certify the Agency Request Budget by Aug. 31, 2012, for DEQ to submit the materials to the Oregon Legislative Fiscal Office for consideration. Roys presented the DEQ recommendation for commission action.

**Action:** Approve the 2013-15 DEQ Agency Request Budget, and authorize Chair Blosser to sign and certify the document on behalf of the commission.

**Move:** Commissioner Uherbelau

**Second:** Commissioner Armstrong

*The commission unanimously approved the 2013-15 DEQ Agency Request Budget, and authorized Chair Blosser to sign and certify the document on behalf of the commission.*

## **I. Informational item: Portland Air Toxics Solutions project next steps**

Nina DeConcini, Northwest Region Division administrator, introduced this item as a follow-up to a June presentation. DeConcini explained that the initial concept was to bring a recommendation for formal adoption of a toxics reduction plan; however, it became apparent through the PATS project process that DEQ would not be able to bring that formal, final plan for commission action, and DEQ is not requesting any formal commission action but rather the commission's acknowledgement and support for DEQ's proposed approach to implementing the PATS recommendations.

Sarah Armitage, Air Quality Division air toxics specialist, presented the PATS interactive modeling maps on DEQ's website and illustrated how Oregonians can use these maps to see the air toxics modeling data in their Portland-area neighborhoods. DeConcini described project process, and Armitage presented a summary of the comments DEQ received for the PATS report and recommendations. Armitage discussed DEQ's response or plans to respond to the comments and concerns.

The commissioners asked questions about the agency's modeling and monitoring data used in the project, the PATS report and recommendations and DEQ's next steps. DeConcini explained that DEQ intends to bring updates to the commission when there are developments from DEQ, government partners and private project partners. DeConcini and Armitage discussed the difference in methodology used by California, Washington and Oregon for their evaluations to set the diesel benchmarks.

## **L. Recognition item: Commissioner Uherbelau's EQC service**

DEQ staff and the commission recognized Commissioner Uherbelau for her service to EQC and Oregon environment. Director Pedersen noted that there will be an additional recognition event at the commissioner's actual last meeting, likely December 2012, based on her term extension at the request of Governor Kitzhaber's office.

*This item was taken out of order*

## **P. Informational item: Director's dialogue**

Director Pedersen presented written and verbal updates on agency, state and federal program activities of interest and relevancy to DEQ and the commission.

Items from the written report included information about:

- The Northwest Environmental Advocates' pesticide petition to EQC
- The National Marine Fisheries Service Biological Opinion on DEQ's 2004 Aquatic Life Toxics Criteria
- A new EPA policy that adopts an Oregon approach to integrated planning for Clean Water Act obligations

- DEQ's proposed Clean Air plan for the management of fine particulate matter in Klamath Falls
- Klamath Basin water quality management plan developments
- Regional pesticide collection activities in northeastern Oregon
- Neighborhood outreach and air toxics concerns related to a proposed permit renewal for a truck painting facility in north Portland
- Site evaluations and purchases of the former Blue Heron Paper Company mill site and lagoons in Oregon City and West Linn
- The pending deferral of Astoria Marine Construction Company from the federal Superfund list to DEQ's oversight
- A new facilities plan for the City of Halfway's wastewater management
- A proposal to change the dates, structure and format of the 2013 commission meetings.
  - The commission approved the recommendation to change the 2013 EQC meeting schedule, and noted that the change could present some issue to potential commissioners without flexible work schedules.

In addition to the written materials, Director Pedersen presented verbal updates with information about:

- The funding, management and removal of debris on Oregon's beaches from the 2011 tsunami that hit Japan. Director Pedersen explained that DEQ is part of a coalition of state agencies dealing with the debris, and DEQ's responsibility is primarily for hazardous waste on Oregon's beaches.
- Director Pedersen will meet with other state agency directors and commissioners in Washington D.C. in September to discuss Clean Air Act updates.
- A lumber operation, Malheur Lumber, will be closing its operation in John Day this year. The closure will be significant and difficult for John Day.

*Chair Blosser recessed the commission at approximately 5 p.m. until 8:30 a.m. on Friday, Aug. 24, 2012.*

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

## **Friday, August 24**

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

**Present:** Chair Blosser, Commissioner Armstrong, Commissioner Rider and Commissioner Uherbelau

### **M. Public forum**

At 8:30 a.m., Chair Blosser opened public forum. People were given the opportunity to present comment in-person or remotely by teleconference call at the Bend, Medford or Eugene DEQ offices. The Pendleton office was scheduled to connect by teleconference, but had connectivity issues and was not able to connect to the call.

One person requested to speak in Portland.

1. Jackie Lang, Waste Management staff, presented an update about the activities at Riverbend Landfill. She invited the commissioners to attend the next community meeting about the landfill, which is next Tuesday evening in McMinnville.

The commissioners asked clarifying and informational questions about the update. Commissioner Armstrong noted that he intends to participate in the landfill community meeting, and is interested in meeting with the Waste Management staff to learn more about the landfill's operations.

## **N. Informational item: Oregon's Clean Fuels Program**

Director Pedersen provided introductory remarks for the item and explained that the 2009 Oregon Legislature authorized the commission to adopt a low carbon fuel standard, now known as the Oregon Clean Fuels Program. In April 2012, Governor Kitzhaber asked DEQ to begin the rulemaking process. Joanie Stevens-Schwenger, Office of Communications and Outreach manager, presented background information about the program's development. Cory-Ann Wind, Air Quality Division planning staff, presented information about DEQ's development of the proposed Clean Fuels Program.

Wind explained the two-phase process DEQ intends to propose with the final Clean Fuels Program rules, which DEQ plans to bring for commission action at the December 2012 meeting. The commissioners asked clarifying and informational questions about the program and its implications for Oregon.

## **O. Hearing before the commission: Oregon's Clean Fuels Program**

At approximately 10 a.m., Chair Blosser opened a hearing on the proposed Oregon Clean Fuels Program. People wishing to present comment could attend in-person, or by phone at the Bend, Eugene, Medford and Pendleton DEQ offices. The Pendleton office could not connect to the meeting.

Fifteen people in Portland and one person in Medford presented comments.

1. Daniel Shafer, Beaver Biodiesel, presented comment in support of the proposed Clean Fuels Program. Shafer explained that biofuels made in Oregon are beneficial to Oregon.

2. Gavin Carpenter, SeQuential Biofuels, presented comment in support of the proposed Clean Fuels Program. He explained that the Clean Fuel Program is beneficial to Oregon, and that SeQuential Biofuels does plan to expand its production with new fuel stocks.

3. Darren Engle, Blue Star Gas, presented comment by phone in Medford and read a statement on behalf of the company's president. The statement supported Oregon Clean Fuels Program and encouraged the inclusion of propane as an opt-in fuel for the proposed program.

4. Paul Romain, Oregon Petroleum Association, presented comment in opposition to the Oregon Clean Fuels Program. Romain presented his concerns for the program, and encouraged the commission to not approve the program.

5. Lance Woodbury, Carson Oil Company, presented comment in opposition to the Oregon Clean Fuels Program. He stated that the proposed program's requirement to document fuel types will be an educational and technological barrier for fuel distributors, and may cause

them to incur additional staffing, IT and equipment costs. He stated that the economic analyses DEQ presented are incomplete.

6. Ken Poole, Oregon Petroleum Association, explained that he lives in Ontario, which is a very rural area that is frequently overlooked by Oregonians. Poole presented comment in opposition to the proposed Oregon Clean Fuels Program, and provided specific opposition to the biodiesel elements of the proposed program due to the transport issues for eastern Oregon.

7. Ron Tyree, Oregon Petroleum Association and Tyree Oil, presented comment in opposition to the proposed Oregon Clean Fuels Program. He noted that his company supports alternative fuels, but he does not support the program or a low carbon fuel standard. He stated that all program options will increase the price of fuel in Oregon.

8. Joseph Esmonde, International Brotherhood of Electrical Workers local 48, presented comments in opposition of the proposed Oregon Clean Fuels Program, and stated that the economic impacts shown in the proposed program will negatively affect working Oregonians.

9. Ann Gravatt, Climate Solutions, presented comments in support of the proposed Oregon Clean Fuels Program and DEQ's phase-one rules for the program. She noted that the costs associated with the program should include the costs associated with environmental and health impacts of business-as-usual fuel rules.

10. Mark Kendall, Oregon Environmental Council, presented comments in support of the proposed Oregon Clean Fuels Program, and urged the commission to adopt phases one and two of the proposed rules and program. He submitted a copy of his testimony to the commission.

11. Megan Jones, Environment Oregon, presented comments in support of the proposed Oregon Clean Fuels Program. She encouraged the commission to adopt the program rules as presented and noted Environment Oregon's involvement in the advisory committee that developed the proposed program rules. She submitted a copy of her testimony to the commission.

12. Frank Holmes, Western States Petroleum Association, presented comment in opposition to the proposed program rules and asked the commission to deny the rules. He stated that his association supports emissions reduction, but that the program rules would cause economic disruptions and would not benefit Oregonians.

13. Jim Edelson, resident, presented comment in support of the Oregon Clean Fuels Program. He encouraged the commission to adopt the proposed program rules, and stated that the program is beneficial to Oregon due to the locally-derived fuels that are important to the program.

14. Hans Van Der Meer, EV4Oregon, presented comment in support of the Oregon Clean Fuels Program. He stated that the proposed rules would keep Oregon as a leader for non-petroleum-related vehicles and fueling.

15. Mary Solecki, Environmental Entrepreneurs, presented comment in support of the proposed Oregon Clean Fuels Program. She noted that the advanced biofuels industry can capitalize on clean fuel market opportunities to provide fuels for Oregon and the nation.

16. Harrison Pettit, Powerstock, presented comment in support of the proposed Oregon Clean Fuels Program. He noted that he was a member of the advisory committee that developed the proposed program rules. He explained that his company provides biomass-based fuel stock to the biofuel industry, and stated that rural Oregon has opportunities for major economic benefit under the proposed program.

The commissioners asked clarifying and informational questions about the comments presented. Chair Blosser closed the hearing at approximately 11:30 a.m. Director Pedersen noted that the comment period closes at 5 p.m. on Aug. 31, 2012, and DEQ must receive all comments by that date and time.

*This item did not have an agenda letter*

**Recognition item: National award from the U.S. Institute for Environmental Conflict Resolution**

Director Pedersen and the commission recognized a national award given to DEQ, EPA and the Confederated Tribes of the Umatilla Indian Reservation by the U.S. Institute for Environmental Conflict Resolution. The groups were given this award in May 2012 to recognize their collaborative and innovative work on the 2011 toxics rulemaking and fish consumption rate process.

Director Pedersen recognized DEQ's Water Quality Division staff, Mary Lou Socia, EPA, and Kat Brigham, Confederated Tribes of the Umatilla Indian Reservation. Brigham and Socia presented comments and thanked the commissioners for their work.

*Chair Blosser adjourned the meeting at noon.*

**2012 EQC meetings**

Oct. 25-26, 2012 – Bend  
Dec. 6-7, 2012 – Portland

**2013 EQC meetings**

March 20-21, 2013: Portland  
June 19-20, 2013: Location TBD  
Aug. 21-22, 2013: Location TBD  
Oct. 16-17, 2013: Location TBD  
Dec. 11-12, 2013: Portland