

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

Oct. 20-21, 2011

The Heceta Room, The Adobe Hotel, Yachats, Ore.

Thursday, Oct. 20, 2011

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

Chair Blosser convened the meeting at 9 a.m.

A. Action item: Aug. 25 meeting minutes

The commission reviewed the draft minutes from the Aug. 25, 2011, EQC meeting and corrected typographical errors.

Action: Approve the Aug. 25, 2011, EQC meeting minutes with the amendments as noted.

Motion: Commissioner Dodson

Second: Vice-chair Blosser

The commission unanimously approved the motion.

B. Informational item: Umatilla item

Joni Hammond, DEQ deputy director, and Steve Potts, Umatilla Chemical Demilitarization Program administrator, presented an update on the activities and milestones reached at the Umatilla facility. Potts noted that the last ton container of mustard agent will be incinerated Tuesday, Oct. 25, 2011, and that is the last chemical agent and the end of the facility’s destruction activities. Potts explained that, following the end of the destruction activities, the facility will need to dispose of all potentially-contaminated secondary wastes and go through a full closure process. DEQ plans to propose a recommendation to the commission at the December 2011 meeting to either destroy the materials on-site or ship them off-site for final destruction. DEQ toxicologist Bruce Hope described the risks and benefits of the two options.

The facility completed its destruction activities ahead of the 2012 deadline set by an international demilitarization treaty. The commissioners commended Potts, Hammond and all the past and present facility and DEQ staff for their work to eliminate the facility’s stockpile of chemical weapons and protect the health and safety of the facility workers, Hermiston residents and all Oregonians.

C. Informational and discussion item: Outcome-based management at DEQ

Director Pedersen presented this item, which focused on planning efforts by DEQ’s Executive Management Team. He explained that EMT has met weekly for the past year to discuss outcome-based management at DEQ and how this system can improve environmental outcomes for all Oregonians. Director Pedersen described the analysis and planning process that the team used to draft the agency’s core work plan and some of the efficiency opportunities that the team identified. He explained the connections between the outcome-based management and DEQ’s Strategic Directions update and next steps for the development of the management system.

The commissioners and Director Pedersen discussed the outcome-based management system and its components, and asked clarifying and informational questions. Director Pedersen, and some members of the Executive Management Team who were attending the meeting, responded to the questions and provided additional information.

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

Joanie Stevens-Schwenger, DEQ Office of Communications and Outreach manager, presented information about the commission’s responsibility to complete an annual self-evaluation as part of DEQ’s Key Performance Measures. She explained that DEQ will send the survey electronically, unless requested otherwise, at the beginning of November, and the results will be presented and discussed at the Dec. 15-16, 2011, EQC meeting.

E. Director’s dialogue

Director Pedersen presented updates about DEQ, state and federal activities for environmental protection. The updates, taken from the item’s report, included information about:

- EPA’s recent approval of the Oregon water quality standards for human health, which the commission approved in June 2011
- Other EPA actions and decisions that affect Oregon sites and communities
- DEQ’s agency-wide toxics strategy
- Oregon’s success, as illustrated through DEQ’s annual Materials Recovery Survey, in reaching a 50 percent recovery rate for the solid waste generated in-state
- A sampling event planned for 71 drinking water and monitoring wells in southern Deschutes County. DEQ’s lab will perform the samples, with funding by Deschutes County.
- A proposal for a New Jersey company to install 10 wave energy buoys off the Oregon coast near Reedsport, which could provide energy to power about 1,500 homes
- DEQ’s issuance of a pesticide general permit and industrial stormwater permit, both after much involvement from stakeholder and advisory groups

- Process improvements for the 401 Certification program as part of a multi-government Kaizen event in November
- Residents' concerns about potential forest pesticide contamination in their groundwater near Triangle Lake, in Lane County
- A draft Good Neighbor Agreement among ESCO, a steel foundry in northwest Portland, and its residential neighbors and interested environmental advocacy groups
- The final meeting of the Portland Air Toxics Solutions advisory committee, and planned next steps for DEQ following the committee's final report and recommendations, due later this year
- A proposed beneficial use designation for the City of Portland to dispose of dredged sediments on West Hayden Island
- An auction of Blue Heron Paper Company's former mill site along Willamette Falls
- Cleanup activities at the McCormick and Baxter Superfund site in Portland
- A proposed delay for the Superfund listing of the Astoria Marine Construction Company site
- A tour of the Hinkle Creek research watershed, which Commissioner O'Keefe, Director Pedersen and several DEQ staffers attended with staff of the Department of Forestry and Board of Forestry members.

Lunch and government-to-government meeting with the Confederated Tribes of the Siletz
Chair Blosser recessed the meeting from approximately noon to 1:30 p.m. The commissioners and DEQ staff met with representatives from the Confederated Tribes of the Siletz for a government-to-government meeting over lunch.

F. Action item: Contested case hearing, Bandon Pacific

Larry Knudsen, the commission's legal counsel, polled the commissioners for any ex parte contact or conflicts of interest for this item. None were reported, and he presented background information for the item and the commission's contested case process.

Suzanne LaCampagne presented arguments for Bandon Pacific, and Jeff Bachman, DEQ environmental law specialist, and Gary Vrooman, Oregon Department of Justice attorney, presented arguments for DEQ. Both parties provided clarifying and rebuttal information. The commissioners asked clarifying and informational questions of the presenters prior to closing the testimony and arguments for the contested cases.

Action: Issue a final order adopting the administrative law judge's ruling in its entirety

Motion: Commissioner Dodson

Second: Commissioner O'Keefe

The commission approved the motion with four in favor and one abstaining.

In favor: Chair Blosser, Vice-chair Williamson, Commissioner Dodson and Commissioner O’Keeffe

Opposed: None

Abstaining: Commissioner Uherbelau

G. Action item: Senate Bill 737 permanent rules

Neil Mullane, Water Quality Division administrator, and Jennifer Wigal, Water Quality Division Standards Program manager, described the proposed permanent changes to the Senate Bill 737 rules, and the anticipated outcomes of the proposed rule changes. Wigal provided information about the program, its current provisions and the reasons for the proposed permanent rule revisions. The commissioners asked clarifying and informational questions about the proposed permanent rules, to which Wigal and Mullane responded.

Action: Permanently revise rule 340-045-0100, Initiation Level Rule to suspend municipalities’ requirement to develop Persistent Pollutant Reduction Plans for cholesterol and coprostanol, and to clarify when a municipality is no longer subject to the monitoring and reduction plan requirement, as presented in attachment A of this item’s staff report.

Motion: Vice-chair Williamson

Second: Commissioner O’Keeffe

The commission unanimously approved the motion.

H. Informational and discussion item: DEQ director’s annual review

Joanie Stevens-Schwenger, Office of Communications and Outreach manager, explained that the commission is responsible for the director’s annual review. She noted that the review process will be conducted primarily through electronic surveys, to be launched in November, and the commission will have the opportunity to discuss the director’s performance review in an executive session at the December 2011 regular meeting. Commissioner O’Keeffe volunteered to lead the review process for the commission.

I. Information item: Panel discussion – coastal environmental issues

The presenters of this item were a panel of state, local and municipal government representatives from coastal communities, and included: Rep. Jean Cowan, Port of Newport representative Don Mann, Captain Rick Williams from SAIC and Oregon Coastal Zone Management Association director Onno Husing

Director Pedersen introduced the item as an opportunity to inform the commission about Oregon’s coastal communities’ issues, and provide the commission an opportunity for dialogue with community and organizational representatives. Onno Husing presented opening remarks and the panelists discussed environmental concerns along the Oregon Coast.

Don Mann described the building and development of the NOAA facility at the Port of Newport, and the lessons learned during and from that project. Representative Jean Cowan described her involvement with environmental projects along the coast, and the importance of balance when creating economic development and environmental improvements. Husing described the changing demographics and make-up of coastal residents, and the coast's move toward entrepreneurial efforts and non-traditional economic development opportunities. Captain Rick Williams discussed past wave energy projects planned in Oregon, and current wave energy development opportunities for the coast and the state.

The commissioners discussed opportunities for the Oregon coast, and its current environmental concerns and issues. The panelists responded to questions from the commissioners, and offered their ideas for coastal Oregon's land use and environmental future.

Chair Blosser recessed the meeting at 5:05 p.m.

Commissioners and some staff members met for an informal, social and optional dinner in Yachats on Thursday evening. No commission business was conducted at the dinner. State meeting law requires this notice.

Friday, Oct. 21, 2011

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

Chair Blosser convened the meeting at 9 a.m.

J. Informational item: Hermiston Foods update

Linda Hayes Gorman, Eastern Region administrator, provided an update via phone on activities at the Hermiston Foods facility to reduce odors from the processing plant. Hayes-Gorman explained that on Sept. 30, DEQ inspected the facility and found no permit violations. DEQ has continued weekly observations of the company's land-application site. She noted that, despite additional control efforts from the company, odors continue to be an issue for residents and over 50 odor complaints were logged in September and October. She explained that the Oregon Department of Agriculture sent a letter to a farming neighbor who has expressed concern about contamination of his crops, grown under the ODA Good Agricultural Practices program, and the commission asked questions about the authorities of ODA and DEQ to respond to any contamination. Hayes-Gorman explained that the letter is a high-level summary with mitigation suggestions for farmers in the program, and that the farmer has been directed toward ODA for his further questions about this specific issue.

Hayes-Gorman discussed an odor study that is underway to explore the odor concerns and recommend solutions. ODA and Oregon State University are partnering in the study, which started this fall and will continue through next spring.

K. Public forum

At 9:20 a.m., the commission opened public forum. Two members of the public provided comment via phone from the Pendleton DEQ office. No people attended to provide comment in-person at Yachats, or via phone at the Portland headquarters, Medford and Eugene DEQ offices.

1. Neela Wallace, Hermiston Foods neighbor, provided comment and concern for the odor from the land-applied process water from Hermiston Foods.
2. Dave Wallace, Hermiston Foods neighbor, provided comment and expressed his concern for food safety due to wind drift off the land-applied process water from Hermiston Foods.

Director Pedersen asked Linda Hayes-Gorman to reply to the comments received, and Hayes-Gorman asked the neighbors to call DEQ directly if they observe overspray, wind drift or odor issues from the Hermiston Foods property. The commissioners discussed the comments received, and their concerns for food safety and quality of life related to odors and the land-applied process water from the facility.

Chair Blosser closed the public forum at 9:35 a.m.

L. Informational item: Clean Water Services mass allocation request

Greg Geist, Northwest Region water quality manager, introduced the item and gave background information about mass load allocations and the review and analysis of Clean Water Services' request to increase mass load allocations at some of its treatment plants covered by the integrated watershed-based water quality permit. He noted that the commission must approve or deny any increase request, following DEQ's analysis of the request and subsequent recommendation. Bob Baumgartner, Clean Water Services, presented information about Clean Water Services, its processes, permit objectives and desired outcomes in the long- and short-term. He discussed the request for mass load increases at its Rock Creek and Durham advanced water treatment facilities due to population growth and sustainable long-range operations planning. Baumgartner explained that Clean Water Services has requested the mass load allocation from DEQ, and will return to the December EQC meeting for the commission's action on that request.

Geist presented the necessary findings that DEQ would be required to make in order to bring a recommendation on the request to the December commission meeting. He noted the next steps for the analysis, and the commissioners asked clarifying and informational questions about the request.

Prior to the commissioner reports, the commission viewed a short video, taken at the Umatilla depot, of materials being loaded into the furnace for destruction as the facility begins its last week of destruction operations.

M. Commissioner reports

Commissioners presented verbal updates on their activities, projects or other items of interest.

Commissioner O’Keeffe explained that she attended a recent scoping meeting regarding the Oregon Department of Agriculture related to the economic effects of policy decisions made by state agencies. She noted that the group is in beginning stages, but did find that neutral economic analysis is necessary for many state agency actions and policy decisions.

Vice-chair Williamson explained that he serves on an Oregon Department of Transportation greenhouse gas taskforce, and he will continue his service on that taskforce as the co-chair through the next year.

Chair Blosser recessed the commission for lunch and executive session at 11:15 a.m.

Lunch and executive session

Following the adjournment of the public part of the meeting, the commission met for executive session over lunch. This executive session was held pursuant to ORS 192.660(2) (f) and (h).

Chair Blosser adjourned the meeting at 11:35 a.m., following the executive session.