

Minutes of the Oregon Environmental Quality Commission special meeting

Nov. 18, 2010

Rogue Room at the Valley River Inn, Eugene

9:30 a.m. to 4 p.m.

This special meeting focused on information and discussion pertaining to DEQ's update of its Strategic Directions for 2012-2018.

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

Commission legal counsel: Larry Knudsen

Participating DEQ staff: Director Pedersen, Joni Hammond, Greg Aldrich, Andy Ginsburg, Leah Koss, Neil Mullane, Wendy Wiles, Joanie Stevens-Schwenger, Nina DeConcini, Keith Andersen, Linda Hayes-Gorman, Greg Pettit, Kerri Nelson, Stephanie Clark, Jeff Bachman, Christine Svetkovich, Tom Roick, Gregg Lande, Melissa Aerne, Keith Johnson and Zach Loboy

Guests: Eric Quaempts, Confederated Tribes of the Umatilla Indian Reservation Department of Natural Resources director

Chair Blosser convened the meeting at 9:32 a.m.

A. Overview of the Strategic Directions process

Director Pedersen opened the meeting with an overview of the agenda and noted that the purpose of this meeting was to discuss and ask the commission for input on the agency's work to update its strategic directions. Meeting participants shared their thoughts on the progress of the update process. They agreed that the updates will help DEQ align its key performance measures and activities to achieve the best environmental results possible. The commissioners stated their interest in the proposed updates and recommendations, and discussed their impressions of the update process so far.

B. Informational and discussion item: Confederated Tribes of the Umatilla Indian Reservation First Foods model

Eric Quaempts described his interest in governance and planning and the need for increased responsiveness on natural resource issues. Quaempts explained that the First Foods management model aligns environmental protection with community values. Quaempts discussed the CTUIR treaty of 1855, and the relationship between the tribe's history and its current approach to natural resource preservation. Quaempts discussed the structure and function of the CTUIR's Department of Natural Resources, and the unification of the department's divisions under a mission statement and First Foods model that places the vitality and sustainability of the first foods, water deer, cous, huckleberry and salmon as the focus of its environmental protection program. Quaempts presented an overview of the First Foods approach, and discussed the

landscape-based ecology of the model. He noted that the model has many places of overlap between state, federal and tribal government responsibilities and roles. Quaempts discussed the implementation of the First Foods model, its durability through environmental changes and applications of the model to frame the work of the CTUIR Department of Natural Resources. He discussed the importance of having a clear vision when performing environmental work and managing for ecological functions and processes instead of structure. He explained that if the CTUIR First Foods model is successful it will increase the quality of life for tribal members by creating sustainable natural and cultural resource management processes. He noted the connections between public and environmental health implicit in the First Foods approach and those connections in DEQ's Strategic Directions.

The group discussed followed. Commissioner Uherbelau noted that the most important element of the model is that of community and the commitment of agencies and the state to serve the Oregon community. Greg Aldrich noted that DEQ's own materials seem to exclude people in the environmental discussion and he appreciated the inclusion of people in the First Foods approach. Gregg Lande asked how the model incorporates air quality issues, and Quaempts explained that discussion is happening as the model incorporates those links more explicitly and visibly. The group discussed the development and maintenance of relationships that enable cooperative environmental protection work. Quaempts explained that Oregon needs a clear vision for energy development, and by operating without a vision right now is risky for continued environmental protection.

C. Presentation: DEQ's environmental accomplishments and trends over the last 30 years

Greg Pettit presented slides outlining DEQ's accomplishments and environmental trends in Oregon. Pettit explained that the general environmental trends show improving air, land and water quality in Oregon. The group discussed the importance of DEQ having data available to illustrate the improving environmental trends, and thanked Pettit for his presentation.

D. Discussion: Reflections on and discussions of the October 20-22, 2010, EQC meeting

Melissa Aerne presented a summary the Strategic Directions update process and provided a summary of the major themes that have emerged from the planning team, DEQ staff, stakeholders, other governments and members of the public as part of the update process. She noted that discussions have resulted in presentation of the same, or very similar, themes from the various stakeholders and partners involved in the process.

These themes included:

- Communication – internal and external
- Outreach and education
- Partnership/collaboration/leadership

- Risk – risk-based scientific assessments, tendency for DEQ to be risk-averse
- Sustainability
- Infrastructure – technology to do business, needs of small communities
- Organizational structure
- Funding
- Nonpoint/area sources
- Land use
- Water (with emphasis on groundwater)
- Climate change
- Toxics
- Environment/ecosystems approach to environmental regulations

The group discussed other themes and items that emerged throughout the process and the commissioners discussed the feedback they have heard in response to the updates.

E. Public forum

At noon, Chair Blosser polled the room for any members of the public present who wished to present comment. No members of the public presented comment during public forum.

Chair Blosser recessed the commission for an informal lunch at 12:30 p.m. He reconvened the meeting at 1:15 p.m.

F. Discussion: CTUIR reports

Eric Quaempts showed the semiannual report from CTUIR Department of Natural Resources that illustrates the department's work and relationship to community impacts and long-term goals. The group discussed the framework and possibility of using a similar report or model at DEQ. Director Pedersen explained that DEQ is working toward a measures report that is generated from updated key performance measures derived from the Strategic Directions.

G. Recommendations for DEQ's 2012-2018 Strategic Directions

Tom Roick and Keith Johnson presented information about the current Strategic Directions, themes heard from DEQ staff and stakeholders at recent EQC meetings asking for input on the agency's strategic priorities and a discussion draft of possible updates. Roick discussed what a strategic direction is, presented an overview of the current Strategic Directions document and discussed some ideas for the 2012-2018 update. Vice-chair Williamson noted that the current Strategic Directions came from a political environment in which DEQ did not have much trust from the public or project partners.

Chair Blosser shared that he thought DEQ should imbue all of its actions with sustainability, rather than establishing sustainability as a separate and distinct direction. He suggested that DEQ incorporate humans or people into the language of its mission statement.

Johnson presented the planning team's discussion draft for the 2012-2018 Strategic Directions update, and presented several discussion questions for the group's consideration, and the group provided feedback on the information presented.

H. Discussion: DEQ's proposed updates for the 2012-2018 Strategic Directions

The group discussed the ideas and asked for clarification on some terms used in the presentation. Commissioners Uherbelau, O'Keeffe and Dodson expressed concerns over the implications of wording and phrases. They urged DEQ to consider the real and perceived connotations of words like sustainability, nonpoint sources and healthy when addressing the diverse urban and rural communities in Oregon. The group agreed that DEQ should retain its focus on engaging Oregonians in solving environmental problems and implementing solutions. Commissioner Blosser noted that this was a good discussion, that he has never been through a painless strategic planning process, and that he had confidence that the final products will be helpful to DEQ and Oregonians.

I. Review and discussion: DEQ's mission statement

Greg Aldrich presented DEQ's mission statement and asked the group for its reaction to a proposed rewording of the mission. The group discussed the current wording of DEQ's mission statement and suggested that the phase-two planning team addresses the language during its drafting of revised Strategic Directions.

Vice-chair Williamson left the meeting at 4 p.m.

J. Discussion: Closure and next steps

The group discussed options for revising DEQ's 2012-2018 Strategic Directions. The commissioners and meeting participants provided feedback on the meeting and update process, and Director Pedersen thanked the commission for input into the Strategic Directions process and explained the next steps. He explained that the planning team would take the commission's feedback, in addition to all other feedback generated through the fall and winter, and provide that information to a second team that will begin meeting in 2011 for the revision and implementation of the group's Strategic Directions recommendations. Director Pedersen thanked the planning team for preparing the information and discussion around the Strategic Directions update for 2012-2018.

Chair Blosser adjourned the meeting at 4:17 p.m.

The next regular commission meeting is December 9 and 10 in Portland.

**Notes from the three hundred and sixty-sixth regular meeting of the Oregon
Environmental Quality Commission**

December 9 and 10, 2010

DEQ headquarters: 811 SW 6th Avenue, Portland, 10th floor, room EQC-A

Thursday, December 9

Chair Blosser convened the meeting at 8:06 a.m.

Members present: Chair Bill Blosser, Vice-chair Ken Williamson, Commissioner Jane O’Keeffe, Commissioner Donalda Dodson and Commissioner Judy Uherbelau

A. Action item: Review and approval of the minutes from the October 20-22, 2010, regular meeting

The commission reviewed the draft minutes from the October 20-22, 2010, meeting and made amendments for a typographical error on page seven and rewording of a confusing paragraph on page 11.

Motion: Adopt with corrections as noted. The last paragraph on page 11 is not approved at this time, and will be submitted for approval after corrections at the February 2011 commission meeting.

Move: Commissioner Uherbelau

Second: Commissioner Dodson

The motion passed unanimously

B. Informational item: Umatilla update

Presenters: Joni Hammond, deputy director, and Steve Potts, chemical demilitarization program administrator

Joni Hammond introduced the item and Steve Potts presented an update on the activities at the Umatilla Chemical Agent Disposal Facility and chemical demilitarization depot. Potts explained that the facility is about halfway through the destruction and disposal process, and should complete the process by December 2011, with some shutdown activities after that date.

C. Informational item: Water quality human health criteria standards development

Presenters: Neil Mullane, Water Quality Division administrator, Gene Foster, watershed program manager, and Jennifer Wigal, standards program manager

Neil Mullane introduced the item and gave an overview of the presentation. Jennifer Wigal and Gene Foster presented the proposed rulemaking package, discussed the proposed rule elements, noted that revisions did not include new requirements for forested and agricultural lands and that the rule language is consistent with existing statutes. Director Pedersen noted that DEQ’s proposed water quality standards would be more stringent than the current standards, and DEQ is working with the Oregon Departments of Agriculture and Forestry on the revised standards.

The commission discussed potential barriers for EPA approval. Director Pedersen noted that the rule development has been a joint effort among Oregon DEQ, EPA and the Confederated Tribes of the Umatilla Indian Reservation. The commission asked Janine Jennings, EPA Region 10, to comment and she explained that the Region 10 and national EPA offices have worked closely with DEQ to review all draft rule language so far. She noted that EPA is comfortable with the proposed rule package with the exception of one element that DEQ has acknowledged and is working to address. She stated that EPA believes the rule package is approvable and defensible.

Wigal explained the public engagement process DEQ and noted that the materials before the commission are only part of the rulemaking package. Wigal explained the planned public outreach process and discussed next steps for the rule package prior to proposed commission action in June 2011.

The commission expressed concern for DEQ's ability to achieve water quality standards in Oregon using the proposed criteria and implementation tools. Mullane explained that this rule package has been the subject of a lot of debate, among staff and stakeholders, and that he expects the debate to continue throughout the development of the rule package. He noted that DEQ is open to working with people and incorporating those concerns into a package that can protect and improve Oregon's water quality. Mullane explained that this rule package is one part of an agency-wide toxics prevention and reduction strategy.

D. Action item: Oil spill prevention and emergency response fees

Presenters: Wendy Wiles, Land Quality Division administrator, and Mike Zollitsch, cleanup and emergency response program staff

Wendy Wiles introduced the item and Mike Zollitsch presented the proposed fee and rule revisions. Zollitsch explained that the proposed rule would align DEQ's rules with statute, so that subsequent updates or changes to the statute are automatically reflected in DEQ's rules. The commission asked clarifying questions, and Zollitsch and Wiles provided responses.

Motion: Adopt proposed rules presented in attachment A of this item's staff report.

Move: Commissioner O'Keeffe

Second: Vice-chair Williamson

The motion passed unanimously

This item was taken out of order.

T. Informational item: Budget and legislative updates

Presenter: Greg Aldrich, government relations manager

Greg Aldrich presented an update on the legislative agenda and status of the DEQ budget process for the current and next biennium. Aldrich explained that DEQ has eight legislative concepts eligible for pre-session filing by the governor, and all pre-session filings will be entered Dec. 15. DEQ does not know which, if any, of the concepts Governor Kulongoski will choose to file. Aldrich described other legislator, agency and organization legislative concepts that may affect

DEQ in the next biennium. Aldrich described the projected state budget shortfalls and the associated budget reductions. Aldrich explained that the new legislative session will begin Jan. 10, and that legislators will meet for several days and then recess until Feb. 1, 2011, with a projected session end of June 30, 2011.

Director Pedersen explained that there is a desire for state government to evaluate its processes and find new or different ways to function. He explained that the state natural resource agencies are evaluating opportunities for collaboration and funding mechanisms that result in the best environmental outcomes. Aldrich noted that DEQ will provide budget and legislative updates at the 2011 commission meetings.

F. Informational item: Water quality success stories in northwest Oregon

Presenters: Nina DeConcini, Northwest Region Division administrator, Avis Newell, basin coordinator, York Johnson, basin coordinator, Bruce Apple, basin coordinator, and Karen Williams, basin coordinator

Director Pedersen introduced the item and noted that the information today will highlight the work that DEQ staff do in the field and staff who foster the watershed collaborations for water quality improvements. Nina DeConcini introduced the basin co-presenters, Sally Puent, the basin coordinator manager, and Andy Schaedel, a former DEQ basin coordinator manager. DeConcini invited commissioners to join the basin coordinators, in northwest region and statewide, for a field visit to see the water quality improvements and processes in-person.

Avis Newell explained the watershed approach to water quality improvements, the roles of partners in the improvement process and the use and importance of volunteers in the monitoring partnership program. She presented examples of successful partnerships in the Columbia Slough, Tualatin Basin and Tillamook Basin. York Johnson, Tillamook Basin project coordinator, noted that the Tillamook Basin has issues with degraded septic systems and DEQ is working with these system owners to find solutions and water quality improvements.

The commissioners discussed the water quality projects and partnerships and DEQ's responsibilities and coordination with other state agencies working on water quality concerns across the state. Newell noted that water quality improvements are a work in progress, and DEQ is committed to community partnerships for watershed-based work and collaboration. Vice-chair Williamson noted that watershed improvements take a very long time and encouraged DEQ to persevere through the process. Director Pedersen explained that DEQ's decentralized model allows its staff to become members of their work communities, and that commitment is reflected in the partnerships for water quality improvements across the state. He complimented the DEQ basin coordinators for their work and dedication.

Please note: This item is postponed and will be presented at a later commission meeting

G. Informational item: Water quality partnerships between DEQ and the Oregon Department of Transportation

Lunch and executive session

The commission met in executive session from approximately noon to 1 p.m. to consult with counsel concerning legal rights and duties regarding current or potential litigation against DEQ. This executive session was held pursuant to ORS 192.660(2)(f), (h).

Chair Blosser recessed the meeting for lunch and executive session from noon to 1:10 p.m. He reconvened the meeting at 1:10 p.m.

H. Informational item: City of Portland combined sewer overflow stipulated final order update

Presenters: Greg Geist, DEQ Northwest Region source control manager, Dean Marriot, City of Portland Bureau of Environmental Services, Paul Gribbon, BES, and Virgil Adderley, BES

Greg Geist introduced the presenters and provided background information. He explained that the update is required by the city's combined sewer overflow control program amended order.

Dean Marriot, Portland Bureau of Environmental Services director, explained successes and challenges of the program, an overview of current and projected work. Marriott noted that the city is 19 years through a 20-year program to improve the combined sewer overflow problems in Portland. He described improvements made through the project, and their effects in protecting water quality.

Paul Gribbon presented the west side Portland combined sewer overflow projects, completed in December 2006. Gribbon explained that the controls have resulted in fewer overflows than allowed in the amended stipulated final order with DEQ. Gribbon noted that the city is in the last year of its east side Portland combined sewer overflow project, and is both under budget and ahead of schedule. Gribbon explained that the Bureau of Environmental Services faces challenges to meet its end-of-2011 completion deadline, despite the faster-than-anticipated completion of the Big Pipe project.

Marriott presented project conclusions and Virgil Adderley discussed the next steps and projections for the combined sewer overflow work in Portland. Adderley described the post-2011 facilities plan, as required by the commission's order.

Marriott explained that the commission will be asked to take action on staff recommendations in 2011 that address the post-2011 facilities plan, compliance demonstration method, completion of

the program and to agree that the requirements of order have been fulfilled. Marriott thanked the DEQ staff members who have worked in this project over the past 15 years. Director Pedersen noted that Marriott and the Bureau of Environmental Staff have been great to work with and the city has performed admirably to fulfill the order.

I. Action item: Water quality standards rule revision for iron and manganese

Presenters: Neil Mullane, Water Quality Division administrator, Jennifer Wigal, standards program manager, and Debra Sturdevant, standards coordinator

Neil Mullane introduced the item and Debra Sturdevant explained the division's request to revise the water quality standards for iron and manganese, as outlined in attachment A of the staff report. Sturdevant described background information, and noted that DEQ is not proposing revisions to the standards for arsenic at this time. She explained that DEQ will bring revisions for the arsenic standard in spring or summer 2011. Sturdevant described the proposed revisions in the rule language and explained the science and data used to revise the standards.

Motion: Approve the amendments to Oregon's water quality standards for iron and manganese as presented in attachment A of this item's staff report.

Move: Vice-chair Williamson.

Second: Commissioner O'Keeffe

Commissioner Uherbelau expressed concern that the proposed revisions may have some human health impacts, but stated that she was confident in the scientific research DEQ has done and EPA will do in review of the proposed amendments.

The motion passed unanimously

Wigal noted that DEQ received significant and substantive comments on the revisions for arsenic, and is working with EPA to evaluate the science for the rulemaking. She noted that DEQ will revise the amendments for arsenic and return for commission action in spring 2011.

J. Informational item: Graywater rules development

Presenters: Neil Mullane, Water Quality Division administrator, Ron Doughten, biosolids and water reuse program coordinator, and Lynne Paretchan, graywater advisory committee chair

Neil Mullane introduced Ron Doughten who gave the overview. Doughten discussed the legislative direction in House Bill 2080 that legalized the use of graywater for beneficial purposes and authorized EQC to create rules for graywater.

Lynne Paretchan presented the advisory committee's recommendations for use, treatment and permitting. She discussed requirements that must be met for in the proposed permits, and described limitations or restrictions of the permits. Doughten described the next steps of the

rulemaking process, and the plan to bring rules for commission action in August 2011 after a full public outreach period. He noted that rule adoption would start the implementation phase, and homeowners would be able to apply for permits in 2012.

Commissioner O’Keeffe asked how many permits DEQ expects to issue through the program, and Doughten noted that DEQ has researched that question and expects to see a slow start to the program. He explained that other states with graywater permit programs have up to 13 percent of their homes on graywater systems. Chair Blosser noted the invaluable service of the advisory committee in researching the rule material.

K. Action item: Regional haze rules and PGE Boardman best available retrofit technology rules

Presenters: Andy Ginsburg, Air Quality Division administrator, Mark Fisher, senior permit writer, and Brian Finneran, planner

Andy Ginsburg introduced the item and Brian Finneran presented an overview and background information on regional haze, and described the provisions and timeline of the rules and best available retrofit technology provisions for PGE’s coal-fired power plant in Boardman. Finneran summarized the 2009 regional haze and BART rules.

Mark Fisher explained DEQ’s proposed emission reduction options with closure dates between 2016 and 2020. Fisher noted that DEQ and EQC do not have authority to force a plant to close, but that EQC can set rules for emission standards and EPA must approve the rules through the State Implementation Plan, which would then incorporate closure dates into federal law. He described the pollution reductions and costs associated with each of the options. Fisher explained that there are other issues associated with the PGE Boardman plant, including federal hazardous air pollutant rules in development, lawsuits involving this facility and a current EPA notice of violation and subsequent enforcement action. He noted that any of these issues could affect PGE’s decision on closure dates and may result in an earlier closure date than the one recommended by DEQ in this action item.

Finneran described the public comment period, and noted that over 350 people attended seven public hearings across the state and DEQ received over 8,000 comments, many of which were form letters, during the two public comment periods. Finneran described the types of comments DEQ received, and the general concerns expressed during the comment period.

Finneran presented DEQ’s recommendations and the commissioners asked questions about the recommendations and proposed rules. Ginsburg, Finneran and Fisher responded to the questions and explained specific elements of the proposed rule language. Finneran noted that the commission received an amended attachment A1, which would clarify certain minor parts of the

rule language, and that it should replace the original attachment A1 included in DEQ's recommendation for adoption. Fisher explained the amendments, and Ginsburg notified that the amended language clarifies rule language around plant closure requirements and intent and are not subject to additional public comment, per Department of Justice review and the scope of the original public notice.

Commissioner O'Keeffe explained her position on the proposed rule language, and stated that she supports DEQ's recommendations because they support environmental, economic and social advancements for Oregon.

Motion: Adopt the following revisions to the commission's existing regional haze rules, and submit the revised rules to the U.S. Environmental Protection Agency as a revision to Oregon's Clean Air Act State Implementation Plan:

- Proposed revisions to the Regional Haze Rules in Division 223, and the State of Oregon Clean Air Act Implementation Plan in Division 200, as presented in amended attachment A1.
- Proposed revisions to 2009 Oregon Regional Haze Plan, as presented in attachment A2.

Move: Vice chair Williamson

Second: Commissioner O'Keeffe

The commissioners provided additional comment on the rules and motion. Chair Blosser complimented the staff and others who have helped DEQ, and noted his appreciation of the organizations and people who have invested in this decision.

The motion passed unanimously

Ginsburg thanked Finneran and Fisher for their work over the years, and others who have been involved in the rulemaking process.

Chair Blosser recessed the meeting at 4 p.m. until 8 a.m., Friday, December 10.

Commissioners and staff met for an informal and self-pay dinner at a downtown Portland restaurant on Thursday evening. The dinner is not part of the formal meeting agenda, but is required by public meetings law to be noticed if three or more commissioners attend.

Friday, December 10

Chair Blosser reconvened the meeting at 8 a.m.

Members present: Chair Bill Blosser, Vice-chair Ken Williamson, Commissioner Jane O'Keeffe, Commissioner Donald Dodson and Commissioner Judy Uherbelau

This item was taken out of order, and was amended from an action to an informational item

E. Informational item: Water quality 401 program fee increase

Presenter: Director Pedersen

Director Pedersen explained that the item was a proposed fee rulemaking, and DEQ reopened the public comment period based on an understanding that some people did not have an opportunity to comment during the two previous public comment periods for this item. Director Pedersen explained DEQ will bring a revised rule proposal for commission action sometime in 2011, after staff review and respond to comment received before the close of the comment period on Dec. 23. He noted that any comments presented today on the fee proposal during public forum will be entered into the public comment record.

L. Public forum

The commission provided an opportunity for members of the public to comment in-person or by telephone from the Eugene, Medford and Pendleton DEQ offices. No one chose to comment by telephone from the regional offices, and 12 people submitted request-to-speak forms. Several people presented comment together, as seen below.

1. Rich Angstrom and Bob Short – Oregon Concrete and Aggregate Producers Association
Angstrom commented on his organization's opposition to a proposed 401 program fee increase. He submitted a sample table of fees to which producers are subject. Angstrom recommended that DEQ return this program to the federal government and eliminate duplicative state processes. Bob Short noted that the proposed fees are a significant fee increase, and represents a duplicative and scattered regulatory process that is not clear or objective.

The commission asked clarifying and informational questions for Angstrom, who responded.

2. Marla Harrison and Dorothy Sperry – Port of Portland
Sperry explained that she and Harrison have participated in the advisory committee process for the 401 program rulemaking, and that they support the proposed fee increase. Harrison read prepared comments outlining the Port of Portland's position in support of the proposed fee increase. She noted that the Port will pay more in exchange for faster and better service, and that they do expect DEQ to provide certainty and timely permits.

3. Lauren Goldberg, Columbia Riverkeeper, and Mark Riskedahl, Northwest Environmental Defense Center
Goldberg and Riskedahl expressed support for a proposed fee increase in the 401 water quality certification program. Riskedahl stated that DEQ has a responsibility to draft permits that prevent environmental harm, and DEQ should make sure that the permit requirements are met. Goldberg stated that while DEQ has very strong staff in the 401 program, the program appears to be understaffed to meet the permitting requirements. She gave an example of a project with deficient permit language that allowed unintended environmental damage, which she stated was a demonstration of the understaffing of the program.

4. Sue Marshall – Tualatin Riverkeeper, Willamette Riverkeeper and Audubon Society
Marshall presented comment on the 401 program, and gave support to the fee increase. She explained that the legislative intent was for permit holders to pay what is necessary to support the actual work, and that DEQ's current program is understaffed.
5. Dorothy Cordochorea – resident
Cordochorea presented comment on graywater rulemaking recommendations, and congratulated the advisory committee for its analysis and accomplishments. She noted some deficiencies in the rule recommendations, and explained that the limitation of graywater use to landscape irrigation makes it moot for beneficial use. She presented comments on the benefits of graywater and encouraged DEQ to consider broader uses in its rule recommendations. She asked the commission to retain simple solutions and not require the installation of dual systems for homeowners interested in graywater systems.
6. Peter Ruffier – Oregon League of Cities
Ruffier presented comments on DEQ's revision to water quality standards for human health criteria. He stated that the Oregon League of Cities has participated on the advisory committee and supports the objective of reduced toxics and risk to human health. Ruffier stated that the current proposed rulemaking does not fulfill the commission's direction to develop implementation mechanisms that have meaningful reductions of toxins in fish tissue and do not sufficiently allocate pollution reduction requirements to the sources. He discussed DEQ's proposed budget reductions that would reduce DEQ's ability to follow through on its commitments for water quality improvements. Ruffier stated that the process has not incorporated innovative solutions and that the current material for the rules is not sufficient for the commission to make a decision. He requested that EQC direct DEQ to address these inconsistencies and concerns and stay engaged with the rule process.
7. Jerry Linder – Board Chair, Association of Clean Water Agencies
Linder noted his support for Ruffier's comments. He explained that intake credits and background pollutant allowances would not apply to wastewater treatment plants, so plants would only be allowed the use of variances. Linder noted that DEQ does not have clear expectations or direction on variances, and ACWA does not want to support the proposal without more assurance of the effectiveness and legality of variances. He expressed concern about the proposed rules and implementation path, and requested that EQC direct DEQ to allow multi-discharger variances in its final rule language. He noted that ACWA would work with DEQ and create a model of that multi-discharger variance for its members.
At the commission's request, Jennifer Wigal, DEQ water quality standards program manager, clarified the elements and use of a multi-discharger variance.

8. Lauren Goldberg and Mark Riskedahl

Goldberg commented on water quality standards for human health criteria. She noted that Columbia Riverkeeper has been involved with the advisory committee process, and that the organization is committed to involvement. She explained that there is time for DEQ to clarify how the standards would apply, and how DEQ and organizations can find solutions with existing tools and several new implementation tools. Goldberg urged the commission to ask DEQ these questions, and noted that EQC has made a strong commitment to toxics reduction and it needs to follow through with that commitment. Riskedahl presented his concerns about DEQ's process of issuing some water quality permits by department order, not commission action, specifically the 1200C construction general permit. He asked the commission to consider establishing an appeals process for department-issued permits, since the existing option is for an organization to sue the agency.

Director Pedersen stated that DEQ will provide a response to Riskedahl and the commission about his concerns with the 1200C permit.

9. Nina Bell – Northwest Environmental Advocates

Bell explained that there are deficiencies in DEQ's standards, processes and implementation approaches. Bell stated that implementation is the key to water quality improvements, and that nonpoint source control implementation is necessary but not happening. She urged the commission to require specific implementation commitments, with explicit timelines, from DEQ for the water quality human health criteria toxics rulemaking. Bell stated her dissatisfaction with DEQ's work on the standards and noted her intent to provide ongoing information to EQC on these issues.

10. Kathryn VanNatta – Northwest Pulp and Paper Association

VanNatta stated NWPPA's ongoing support for water quality standards with strong and consistent implementation tools. She stated that NWPPA remains concerned about the background levels for arsenic, iron and mercury. She expressed concern for the narrowing of some implementation tools, unclear variance and compliance processes and a need for a multi-discharger variance. VanNatta noted that NWPPA believes regulatory flexibility will allow sources the best opportunity for environmental protection and improvements.

11. Brian Wegener – Tualatin Riverkeeper

Wegener submitted a letter, via email, in support of the proposed 401 fee increase. The letter was provided to the commissioners at the end of this item, and was entered in the commission's official record.

This item was postponed and will be presented at a later commission meeting

M. Informational and discussion item: Hermiston Foods report

This item was taken out of order

O. Informational item: Oregon’s plan for climate adaptation

Presenters: Andy Ginsburg, DEQ Air Quality Division administrator, Dr. Phil Mote, Oregon Climate Change Research Institute, Richard Whitman, Oregon Department of Land Conservation and Development, and Steve Adams, Climate Leadership Initiative

Andy Ginsburg introduced this sixth and final informational item on climate change, as requested by the commission. Ginsburg introduced the panelists and gave an overview of the presentation.

Dr. Phil Mote described the 2009 Oregon Legislature’s direction to create a report on climate adaptation, and explained that the report was developed by over 70 contributors who drew from peer-reviewed literature and other science-based data and a climate change adaptation framework. Mote gave an overview from the report’s nine chapters, and discussed the impacts of climate change on Oregon and its ability to adapt to the projected changes. He noted that the changes will have significant effects for Oregon’s water quantity, and some opportunities exist for shifts in agricultural production.

Richard Whitman presented information on the Oregon climate change adaptation framework, developed by state agencies and organizations at the request of the governor. Whitman described the elements of the framework, and the short-term priority issues identified as recommendations for action. Whitman explained that the full report, available online, has detailed information on priority actions and recommendations for implementation. Vice-chair Williamson noted that the framework does not include the state education system, and stated that outreach to and integration of the school system with requirements and standards for knowledge about climate change is essential. Whitman explained that this is the first version of the report and framework, and those suggestions could be incorporated into the ongoing process.

Steve Adams presented information and recommendations for the lower Willamette Valley to prepare for climate change, gathered through a series of community forums in 2010. Adams explained that resilient strategies for adaptation to climate change must incorporate natural, built, human, economic and natural systems. Adams presented specific climate change results, likely impacts for the lower Willamette Valley and recommendations for adaptation. Adams noted that whole-systems planning, decision-making under uncertainty, risk management and intergovernmental coordination are critical management issues for Oregon’s adaptations to climate change.

The commissioners discussed local and global issues from climate change, and described the need for resiliency and a sense of urgency for Oregon to prepare for climate change and necessary adaptations. Director Pedersen stated that DEQ must understand and incorporate new

ways of approaching its work and create operational models that ensure protection for Oregon's environment and responsiveness to Oregonians' needs. He stated that the state natural resource agencies have an opportunity to collaborate on planning that would best leverage limited resources. Ginsburg noted that the information about climate adaptation empowers DEQ and the commission to begin planning and moving forward. Commissioner O'Keeffe thanked Ginsburg and the presenters for bringing the series on climate change for the commission. Ginsburg thanked Wendy Anderson, the air quality staff person who organized the series.

This item was taken out of order

N. Action item: Title V permit fee increase

Presenters: Andy Ginsburg, Air Quality Division administrator, and Andrea Curtis, natural resource specialist

Andy Ginsburg introduced the item and Andrea Curtis presented background information on the proposed fee rules for Title V permits. Curtis explained that the proposed rule implements the legislatively-set increase in the program base fee and an increase in the consumer price index. Curtis explained the rule elements and the need for the proposed fee increases. Ginsburg noted that the rule proposal includes a two-year schedule for implementation, and DEQ's goal is to have a two-year fee schedule and bring updates for commission consideration every two years.

Commissioner Uherbelau expressed concern for the cumulative impacts of fees on Oregon businesses, and asked DEQ to apply more consideration to the effects of fees and economics when drafting rules. Ginsburg noted that the proposed fee increase was drafted in consultation with permitted sources and DEQ recognizes those concerns from businesses. Director Pedersen acknowledged that DEQ is hearing a lot of comments about fee increases, and explained that DEQ is working to find agency efficiencies to limit the need for fee increases.

Motion: Adopt the recommendation, as seen on page one of this item's staff report.

Move: Commissioner O'Keeffe

Second: Vice-chair Williamson

The motion passed unanimously

This item was taken out of order

Q. Informational item: DEQ director's annual review

Presenter: Joanie Stevens-Schwenger, Office of Communications and Outreach manager

Joanie Stevens-Schwenger explained that the commission is responsible for the director's annual review, and asked for volunteers to be a subcommittee that would lead the annual review process. She noted that the projected timeline is for the evaluation process to take place over the

next two months with a final report for the February EQC meeting. Commissioners Dodson and O’Keeffe volunteered to be the subcommittee for the annual review.

Chair Blosser recessed the commission for lunch from 11:50 a.m. to 12:30 p.m. He reconvened the meeting at 12:35 p.m.

P. Informational item: Low carbon fuel standard rules

Presenters: Andy Ginsburg, Air Quality Division administrator, Sue Langston, planner, and Cory-Ann Wind, planner

Andy Ginsburg explained that the commission requested an informational item on these standards that DEQ is developing to implement House Bill 2186. Sue Langston presented information on the background and development of low carbon fuel standards. She discussed the advisory committee process, interagency development team, technical issues and proposed program design, including identification of regulated parties, and compliance mechanisms. Ginsburg explained that DEQ did not receive additional funds to implement the program, and staff will have to assess how to implement the program and standards.

Cory-Ann Wind described eight compliance scenarios staff considered for standard development and the forecasted fuel consumption models that correspond to the scenarios. She explained the costs and an economic analysis of program costs. Wind described the economic analysis findings, including jobs created in Oregon, future fuel prices and general conclusions for potential positive impacts on Oregon’s economy.

Wind presented DEQ’s next steps and process for the low carbon fuel standard and rules. She discussed the key policy issues and DEQ’s plans to address these and other issues through the rulemaking. Ginsburg noted that DEQ will have to work with other agencies to develop complementary policies that encourage in-state production of alternative fuels. Director Pedersen explained that the Legislature passed the bill with uncertainty about its long-term effects, and demanded a much broader public involvement process than is normal for DEQ. He thanked the staff who have worked on this process.

R. Informational and discussion item: DEQ’s annual rulemaking agenda

Presenter: Maggie Vandehey, agency rules coordinator, Neil Mullane, Andy Ginsburg and Wendy Wiles, division administrators

Maggie explained that the division administrators would provide detail on the agency’s 2011 rulemaking agenda items and commissioners may select a level of involvement for each proposed item.

Neil Mullane, Wendy Wiles and Andy Ginsburg described the rulemaking items for the Water, Land and Air Quality Divisions, respectively, and provided recommendations for commission involvement with each item. The commissioners selected their desired level of involvement for each item on the 2011 rulemaking agenda. Vandehey noted that she will compile the information from the worksheets and provide copies to the commissioners and staff. Director Pedersen noted that DEQ will work to involve interested parties with informational items.

S. Action item: Housekeeping and streamlining for DEQ-administered tax credits

Presenter: Maggie Vandehey, tax credits coordinator

Maggie Vandehey presented the action item and described the proposed amendments to DEQ's tax credits program that streamline the administration of this program.

Motion: Adopt the recommendation, as seen on page two of this item's staff report.

- Amend OAR 340-016-0080 and adopt OAR 340-016-0088 to allow DEQ to perform pollution control tax credit certificate administration tasks,
- Repeal OAR 340-016-0100 through 340-016-0150 for the pollution prevention tax credit pilot program, and
- Amend OAR 340-016-0210 for the truck engine tax credits program to align with the 2009 law.

Move: Commissioner Dodson

Second: Commissioner Uherbelau

The motion passed unanimously

U. Director's dialogue

Director Pedersen presented an update on relevant environmental and agency issues and projects. His updates included information on new permitting documents available on DEQ's web page, issuance of an updated general permit for stormwater related to construction projects, a recent major enforcement action for water quality violations at the Medford Water Commission, an update on greenhouse gas permitting at the federal and state levels, a recent EPA request to delay the deadline for promulgating limits and rules for boilers and incinerators, EPA actions for various air quality standards, challenges to EPA rules for Portland Cement sources and facilities, an update on the ongoing issues with resident concerns about odors near the Hermiston Foods facility and a summary of the commission's Nov. 18 special meeting to discuss DEQ's update to its Strategic Directions. He explained that DEQ is starting work with Mass Ingenuity, a consulting firm that specializes in helping organizations assess and identify core business practices and performance measures, and will incorporate this work into the Strategic Directions update process.

V. Commissioner reports

The commissioners presented brief updates on their activities related to environmental concerns and their service as commissioners.

Chair Blosser adjourned the meeting at 3:45 p.m.

The next regular EQC meeting is Thursday and Friday, Feb. 17 and 18, 2011.

2011 Oregon Environmental Quality meeting dates

February 17 and 18

April 21 and 22

June 16 and 17

August 18 and 19

October 20 and 21

December 15 and 16

Meeting locations to be determined