

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

Aug. 25, 2011  
DEQ headquarters - 811 SW 6<sup>th</sup> Ave., Portland, Oregon  
Room EQC-A on the 10<sup>th</sup> floor

## Thursday, August 25

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

*Chair Blosser convened the meeting at 8:25 a.m.*

### **A. Action item: Review and approval of the minutes from the June 15-17, 2011, regular EQC meeting**

The commission reviewed the minutes from the June 15-17, 2011, regular EQC meeting. The commissioners noted and corrected several typographical errors in the document.

**Action:** Approve the meeting minutes with the amendments as noted during the item’s discussion.

**Move:** Commissioner Dodson

**Second:** Commissioner O’Keeffe

*The commission unanimously approved the June 15-17, 2011, meeting minutes as amended.*

### **B. Public forum**

At 8:30 a.m., the commission opened public forum. People were able to comment in-person in Portland or by conference call from the Eugene, Medford, Pendleton and Bend DEQ offices. Three people commented, one in-person in Portland and two by phone at the Pendleton DEQ office. There were no people present to comment at the Eugene, Medford or Bend DEQ offices.

1. **Ilsa Perse**, of Waste Not of Yamhill County, presented comments related to Riverbend Landfill and the group’s opposition to plans for landfill expansion. She provided the commission with several photographs and a copy of statutes related to the commission’s authority regarding landfills.

2. **Lillian Frease**, a farmer in Yamhill County, presented additional comments related to Riverbend Landfill and the group’s opposition to plans for landfill expansion. She noted that the landfill has not controlled the birds and other disease-carrying vectors in its property, to the detriment of her farming operations one mile from the landfill. She asked the commission to protect Oregonians’ farming interests and enforce the environmental and civil laws against the landfill. She asked for additional DEQ inspections and better response from government.

*The commissioners asked clarifying and informational questions of Perse and Frease, including a briefing on the facility's permit and its ability to comply with the landfill laws, ways DEQ can limit or prevent illegal dumping at the landfill and ways to encourage better recycling at this and all landfills. Director Pedersen stated that DEQ will prepare a summary and reply to the commission and people who commented.*

3. **Neila Wallace**, Hermiston resident, provided comment via telephone from the Pendleton DEQ office and asked several questions related to operations at the Hermiston Foods facility. She expressed concerns about potentially toxic water and other products at and near the facility and expressed dissatisfaction with the response from the company's customer service representatives.

4. **Don Walchli**, Hermiston resident and farmer, provided comment via telephone from the Pendleton DEQ office and asked why he has not yet received report as a follow-up from his comments at the June EQC meeting. He noted that food safety remains a critical concern of residents and farmers, and asked several questions about the presence of and access to a well on his property.

*Linda Hayes-Gorman, DEQ Eastern Region Division administrator, replied via telephone at the Bend DEQ office that she does not have background information or specifics but will talk to the staff person in Pendleton and provide an answer to Walchli. Director Pedersen noted that DEQ will review the record of questions presented and provide a response to the commission as soon as possible.*

One person submitted a form to comment on item C, but agreed to postpone her comment until after the commission took action on the proposed rulemaking item, as her comments pertained to the rules content. Under the commission's rules of process, people may not comment on rulemakings or other items for which a public comment period has closed.

### **C. Action item: Water Quality Graywater Program rules**

Neil Mullane, Water Quality Division administrator, introduced the item and the co-presenters, Judy Johndohl, Water Quality Division manager, and Ron Doughten, Water Quality Division biosolids and reuse program coordinator. Doughten presented an overview of the proposed rules, the comment process DEQ used to solicit feedback on the proposed rules and specific information about the proposed rules. Doughten presented the key issues raised by the advisory committee and during the public comment period, and the commission asked questions about the issues and DEQ's management of them. Johndohl presented the program implementation activities planned if the commission adopts the proposed rules.

The commission discussed the proposed rules, and asked clarifying and informational questions about the proposed rules and program and implementation design. The commission asked for a follow-up report in early 2013, approximately one year after the start of the program's operation.

**Action:** Adopt the proposed rules for graywater reuse and disposal systems under OAR Chapter 340, Division 53, and the proposed rule revisions establishing permit fees under OAR Chapter 340, Division 045.

**Move:** Vice-chair Williamson

**Second:** Commissioner Dodson

*The commission unanimously adopted the proposed graywater rules.*

Following the commission's action, Chair Blosser invited Brenna Bell, who submitted a request-to-speak form during public forum, to present her comments on this item. She explained that she was a lead organizer for developing a bill that eventually passed as the Oregon House Bill that authorized the graywater rules and program. She thanked the commission and DEQ staff, particularly Ron Doughten, for the work to make the program a reality. She noted that the provision of evapotranspiration is unfeasible for people who plan to use these types of systems. Director Pedersen thanked Bell for her participation with DEQ's advisory committee on this rulemaking.

#### **D. Informational item: Federal and state pharmaceutical take-back programs**

Neil Mullane, Water Quality Division administrator, introduced Janet Gillaspie, Executive Director, Oregon Association of Clean Water Agencies, who presented an informational item about pharmaceutical take-back programs at the state and federal levels. DEQ does not operate any pharmaceutical take-back or product stewardship programs, but does support responsible management of these products to maintain water quality in Oregon. Gillaspie introduced her co-presenters, Deb Marriott and Maggie Coddington Jones from the Lower Columbia River Estuary Partnership.

Gillaspie explained that drug take-back programs are critical in Oregon due to prescription drug abuse, accidental poisonings and the protection of water quality. She presented information about ACWA's drug take-back stakeholder group, federal regulations, state regulations, Oregon's participation in law enforcement-led take-back events and ways the commission, and DEQ, can participate in these events and activities. Maggie Coddington Jones discussed the drug take-back pilot program among the Lower Columbia River Estuary Partnership, Oregon Hospice Association and the Astoria Police Association. She noted that the program is on hold due to issues with the U.S. Postal Service .

The commission discussed the drug take-back opportunities in Oregon, and offered suggestions on management and promotion of these opportunities. Director Pedersen thanked Gillaspie and her co-presenters for their information, and noted that DEQ is committed to promoting drug take-back events and activities, and will investigate ways to distribute information and work with public health agencies and organizations.

#### **E. Action item: Underground storage tanks soil matrix licensing rules repeal**

Wendy Wiles, Land Quality Division administrator, introduced the item and Mitch Schell, DEQ underground storage tank policy coordinator. Schell explained the background information related to the proposed repeal, noting that the rules are no longer needed due to changes in the process and personnel providing these services.

The commission discussed the proposed repeal, and asked clarifying and informational questions about the program and proposed rule repeal.

**Action:** Repeal Division 162 as seen in attachment A of this report.

**Move:** Commissioner O’Keeffe

**Second:** Vice-chair Williamson

*The commission unanimously approved the rule repeal.*

#### **F. Informational item: Budget and legislative updates**

Greg Aldrich, DEQ government relations manager, and Jim Roys, DEQ financial services manager, presented updates on the status of the agency’s 2011-13 legislative agenda and the outcomes of the 2011 Oregon Legislative Session.

Aldrich presented a follow-up to the 2011 Oregon Legislative Session, and explained that the document outlines the highlights of the session, follow-ups requested by the Legislature and other legislative information. He noted that the next annual session starts in February 2012 and will be a short session, limited in scope.

Roys presented financial information for DEQ’s budget and the reductions taken by the 2011 Oregon Legislature and governor’s office. Roys noted that the reductions have led to a layoff process for DEQ. Roys noted several issues for DEQ’s operating budget, including a decline in the federal budget, and explained that the budget will require very close attention and may require future reductions for the agency.

The commission asked clarifying and informational questions about the legislative and budget information. Director Pedersen explained that he would like to present an informational item about DEQ’s work on outcome-based management planning and development to the commission at the October EQC meeting.

#### **Lunch and executive session**

Chair Blosser recessed the commission for an executive session and lunch from approximately 12:15 to 1:45 p.m. The session was held pursuant to ORS 192.660(2)(f), (h).

#### **G. Informational item: Commissioner recognition**

DEQ staff and the commission recognized Vice-chair Williamson and Commissioner Dodson for their service on the commission and to Oregon’s environment.

Director Pedersen explained that today’s item is a celebration and recognition of the service of Vice-chair Williamson and Commissioner Dodson – who have both been asked to extend their terms of service through the end of 2011 – and a thank you from the DEQ staff to the commissioners. He thanked the two commissioners, and the other commissioners offered thanks and additional remarks. Chair Blosser invited DEQ staff in attendance to provide their remarks, to which staff responded and offered their thanks to Commissioner Dodson and Vice-chair Williamson.

Director Pedersen presented Vice-chair Williamson and Commissioner Dodson with plaques of recognition and small gifts of appreciation from DEQ. Commissioner Dodson and Vice-chair Williamson presented their comments and reflections on serving as commissioners.

#### **H. Informational item: Umatilla Chemical Demilitarization Program update**

Joni Hammond, DEQ deputy director, and Steve Potts, Umatilla Chemical Demilitarization Program administrator, presented an update on activities and progress of chemical destruction at the Umatilla facility. Potts explained that the agent operations should be complete Nov. 15, 2011, and that the facility has 383 containers left for destruction. Potts described recent permit modifications and activities at the facility.

Potts explained that the closure of the Umatilla facility raised concern in the community following the Army's decision to alter the original base realignment and closure plan in June 2011. Hammond read a statement from the Army about this change, and the commission asked clarifying and informational questions. Potts noted that the Department of Justice informed DEQ that the Court of Appeals affirmed Judge Marcus's decision in GASP VI lawsuit.

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

Director Pedersen presented an update of agency activities and items of interest for the commission. Those items, taken from the director's report, included:

- Hermiston Foods and neighbors' concerns
- A request from Clean Water Services for increased mass load limits for four wastewater treatment plants
- The Mid-coast implementation-ready TMDL
- Harmful algal blooms in Oregon
- Revising water quality standards for the West Division Main Irrigation Canal near Hermiston
- A possible rulemaking related to potential approval of dam removal along the Klamath River
- Emission controls and other activities at PGE Boardman
- New federal greenhouse gas and fuel economy standards for light-duty vehicles
- The opening and dedication of the NOAA facility in Newport

Director Pedersen presented several verbal updates, not included in the written director's report. Those items were:

- Signing of the Columbia Basin Toxics Collaborative Workgroup document, to signify Oregon's involvement with toxics reduction work in that basin. The workgroup includes state agencies, federal partners and tribal governments. He noted that many people expressed thanks to the commission for its work related to toxics reduction through the human health toxics criteria adopted in June.
- A plan for Director Pedersen and Deputy director Hammond to meet individually with commissioners over 2011 and 2012 for ongoing informational sessions.
- Attending the annual Environmental Council of States meeting next month, and that he is on the ballot to be on the board of that organization.
- Michael Jordan, Oregon's Chief Operating Officer, has asked some state agency directors to participate in a planning effort for outcome-based management for the state. Director Pedersen and Deputy Director Hammond will be part of a small group working on environmental stewardship, good government and livable communities.
  - *This item was noted during the commissioner reports, and its audio can be found in that item's file.*

The commissioners asked clarifying and informational questions, to which Director Pedersen, DEQ staff and guests responded.

#### **J. Informational item: Commissioner reports**

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

Vice-chair Williamson explained that the Oregon Watershed Enhancement Board is assessing how to operate under new funding and structural rules. OWEB has committed \$14 million to the Deschutes River special project, and will continue to invest in improvements for the Willamette and Klamath Rivers. He noted that he and Director Pedersen attended the recent annual meeting of the Association of Clean Water Agencies.

Chair Blosser stated that NOAA recently issued its five-year review of endangered species in Oregon, and many dams in Oregon may need to install new technology to improve water temperature mixing zones and better fish passage mechanisms.

*Chair Blosser adjourned the meeting at 3:40 p.m.*

Commissioners and some DEQ staff attended an informal dinner on Thursday, August 25, in downtown Portland. The dinner was self-pay, optional and not part of the formal meeting agenda. State law requires notice of this dinner.

#### **2011 EQC meeting dates and locations**

October 20-21: Yachats  
December 15-16: Portland

#### ***Tentative 2012 dates, exact dates and meeting locations to be confirmed***

February 16-17  
April 19-20  
June 21-22  
August 23-24  
October 25-26  
December 13-14