

State of Oregon
Department of Environmental Quality

Memorandum

Date: April 23, 2010

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item AA, Action item: Extension of settlement agreement for revising Industrial Stormwater NPDES General Permits No. 1200-Z and 1200-COLS April 29-30, 2010 EQC meeting

Why this is important The commission is a party to the settlement agreement for revising the Industrial Stormwater NPDES General Permits and must also be a party to any amendment to the agreement. DEQ and the plaintiffs agree that an extension is warranted, but the commission's concurrence is also required to finalize the amendment.

DEQ recommendation and EQC motion DEQ recommends that the commission approve the amendment to the settlement agreement and authorize the director to sign on the commission's behalf.

Commission authority The commission may take action on this item under ORS 468.020, 468B.035 and 468B.050.

Background On June 30, 2009, DEQ and the commission entered into a settlement agreement with Northwest Environmental Defense Center and Columbia Riverkeeper to revise the Industrial Stormwater NPDES General Permits. The parties agreed to issue the new permits by Oct. 29, 2010.

Beginning in June 2009, DEQ convened an Industrial Stormwater Advisory Committee to provide input on the proposed changes to the permits. EQC vice-chair Ken Williamson is chair of the advisory committee. Based on feedback from the committee, DEQ is developing new benchmarks for industrial stormwater discharges. This task was not included in the original settlement agreement and additional time is necessary to conduct this analysis. As a result, the parties agree to amend the settlement agreement and extend the issuance date of the permits to Aug. 31, 2011.

Attachments A. Amendment to settlement agreement

Available upon request 1. Settlement agreement

Approved:

Division: _____

Report prepared by: Jenine Camilleri
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Amendment to Settlement Agreement and Release of Claims

This Amendment modifies the Settlement Agreement and Release of Claims (Settlement Agreement) executed by the Parties on June 30, 2009, and incorporated by reference herein as Attachment A.

Recitals

The Department of Environmental Quality is proposing to develop new or revised pollutant Benchmarks in the proposed new industrial stormwater permits for copper, lead and zinc. DEQ has identified the following task as necessary for this process:

- Conduct queries of DEQ's water quality database to gather information on the representative background concentrations and hardness in the state's receiving waters.
- Evaluate whether there is an adequate quantity of high quality data to characterize surface water quality at a watershed scale such as the Columbia Slough Watershed and the Willamette Watershed or a larger regional scale such as Western and Eastern Oregon.
- Evaluate dilution rates.
- Conduct modeling to estimate the probability of exceeding water quality standards.
- Present the results of research and analysis to the advisory committee throughout the project (estimated at three meetings).

Agreement

1. Paragraph 3 of the Settlement Agreement is amended to read as follows:

DEQ agrees to modify the permits or to adopt new or renewed permits by August, 31, 2011. DEQ also commits to convening an Advisory Committee to assist in revising the 1200-Z and 1200-COLS permits. DEQ will provide Petitioners with status reports every other month, detailing the progress of DEQ and the Advisory Committee.

2. This Amendment to the Settlement Agreement is effective upon execution by the parties.

3. The parties agree that this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same original. Signatures exchanged via facsimile or e-mail shall have the same force and effect as the original signatures.

Respondents **DICK PEDERSEN,
OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY, and
OREGON ENVIRONMENTAL
QUALITY COMMISSION**

Petitioners **NORTHWEST
ENVIRONMENTAL DEFENSE
CENTER, COLUMBIA RIVERKEEPER,
and MARK RISKEDAH**

By:_____

By:_____

Name:_____

Name:_____

Title:_____

Title:_____

Date:_____

Date:_____