

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** August 13, 2010

**To:** Environmental Quality Commission

**From:** Dick Pedersen, Director

**Subject:** Agenda item P, Informational item: Director's dialogue  
August 18-19, 2010 EQC meeting

**Zidell cleanup**

The first phase of remedial cleanup action at the Zidell Waterfront Property, located along the west side of the Willamette River between the Marquam and Ross Island Bridges, began in early August. The remedial action includes excavation of approximately 16,000 cubic yards of "hot spot" soils contaminated with PCBs, PAHs, metals and asbestos. Approximately 5000 cubic yards of soil (human health hot spots) will be removed from the site; the remaining excavated material (ecological hot spots) will be relocated from near the shore to an inland location at least 100 feet from existing top of bank, and eventually capped with soil or by future development.

The soil removal and relocation phase of the remedial action is scheduled to be complete in late fall 2010, and is being conducted in conjunction with TriMet plans for the new bridge ramp to be built on the site in 2011.

**Astoria Marine Construction potential Superfund listing outreach**

EPA Region 10 is considering placing the Astoria Marine Construction site, located along east bank of the Lewis and Clark River in Astoria, on the National Priorities List for Superfund cleanup based on the results of soil, groundwater and sediment sampling completed last year. As part of the listing process, EPA requests that Oregon concur with the listing. DEQ is in the process of contacting local and regional stakeholders to make them aware of the possible listing and solicit their feedback.

**Proposed Oregon LNG project**

DEQ met with members of Oregon LNG's project team regarding the company's proposed 401 Water Quality application, which is expected at approximately the same time the Draft Environmental Impact Statement will be completed, in November, 2010. Oregon LNG expressed an interest in obtaining the transcripts of the two public meetings DEQ held on the Bradwood Landing project, and DEQ has provided this information to Oregon LNG.

**TMDL program**

DEQ continues to work on TMDLs in rivers and basins across the state, and has held public comment periods for TMDLs in the John Day, Klamath, Malheur and North East Oregon basins. DEQ plans to review comments this summer and submit final adopted TMDLs to EPA for approval in late fall or early winter 2010. Based on the projected timelines, DEQ should meet the requirements of a consent decree regarding TMDLs with this approach.

### **Upper Klamath and Lost River TMDLs**

In addition, DEQ is developing responses to comments received and expects to finalize the Upper Klamath and Lost River TMDLs by September. These water quality management plans address several pollutants that cause ongoing impairments to water quality. The major issues are dissolved oxygen, pH and ammonia and are primarily associated with fish health. The pollutants allocated in the TMDL are the nutrients nitrate and phosphorous, and forms of biological oxygen demand. The vast majority of the pollutants in this system enter from Upper Klamath Lake and much of this is naturally occurring. A previously issued TMDL for Upper Klamath Lake acknowledged that a majority of the pollution was natural and used this natural condition as an expression of what could be achieved over time. The Upper Klamath and Lost River TMDL uses this information as a starting point for estimating a potential natural condition for the river between the lake and the Pacific Ocean.

### **Water quality permitting**

The water quality permits program has been limited in its actions for the last 18 months. This is due to: several lawsuits on the Willamette TMDL stopping permit renewals around the state, a compliance schedule lawsuit stopping the issuing of NPDES permits with compliance schedules, and EPA's objection to sanitary sewer overflow language in NPDES permits. Over the past six months, these issues have been resolved and DEQ is now able to issue water quality permits on a large scale. DEQ is committed to issuing approximately 115 individual permits this year. As of July 28, DEQ had issued 33 permits. Several more permits are out for applicant or public review, and DEQ expects to meet and possibly exceed its permit issuance plan for the year.

### **Baker/Union/Wallowa household hazardous waste facility status**

DEQ is close to approving the operations and emergency response plan for the new household hazardous waste collection facility that will serve Baker, Union and Wallowa counties. This state-of-the-art facility has been under development for some time and moving forward and closer to becoming a reality.

### **Municipal solid waste plasma gasification facility in Arlington, Oregon, at the Columbia Ridge Landfill site**

DEQ issued a draft solid waste treatment permit for a 25 ton-per-day municipal solid waste plasma gasification facility on July 26. A public hearing is scheduled for August 25 in Arlington and the public comment period ends August 31. DEQ believes it is the only permitted facility of its type in the US. The emissions from the plasma gasifier will be covered under the current Title V air quality permit held by Columbia Ridge Landfill. Emissions from the plasma gasifier would be vented to an existing flare at the landfill. Concerns have been raised that this type of technology could potentially discourage recycling and composting, and DEQ plans to discuss where these types of conversion technologies fit in the solid waste management hierarchy.

### **Waste from Honolulu (APHIS)**

A Washington judge issued an injunction based on a lawsuit submitted by the Yakima Tribes and two environmental groups to prevent waste from Hawaii being disposed of in Washington. The primary concern is over invasive species carried on waste shipped from Hawaii and travelling up the Columbia River for disposal in a Washington landfill. A hearing is set for August 30.

Oregon's Columbia Ridge Landfill was interested in getting this waste. When this was being considered, DEQ provided comments to and focused on invasive species. DEQ would require a transfer station permit to offload the bales of waste and update their operations plan for management of the waste bales to keep them from being punctured.

### **Sunriver asbestos cleanup proposal**

Asbestos containing material has been discovered in the soil at the Sunriver Owners Association Amphitheater Site. DEQ proposes to recommend a remedial action consisting of capping the asbestos containing material in-place with clean soil, asphalt or concrete and institutional controls to maintain and monitor the cap. The community of Sunriver was developed between approximately 1968 and 1972 on the grounds of Camp Abbot, a former U.S. Army training facility during World War II. The source of the asbestos containing material is uncertain, but is presumed to be related to the former Camp Abbot structures, including roofing material, siding, piping and pipe insulation. The association is considering redeveloping the site into an aquatics and multi-use park. DEQ will release its recommendation for public comment in mid-August 2010.

### **DEQ considers use of Oregon's nomination to list North Ridge Estates as a Superfund site**

EPA has asked DEQ to consider using its National Priorities List nomination for North Ridge Estates. This nomination would place North Ridge Estates on the national Superfund list and make the site eligible to receive congressional funding to implement necessary cleanup at the site. DEQ held a public hearing July 27, 2010, in Klamath Falls to gauge public support for the possible use of Oregon's national priorities list nomination. Listing North Ridge Estates to the national Superfund list could eventually provide for 90 percent of the funding to conduct the cleanup of asbestos materials that currently exists at the site. EPA has estimated that the cost of this cleanup is approximately \$22 million. Oregon would need to contribute 10 percent of the cleanup cost, and provide a mechanism for long-term monitoring and maintenance of the site following cleanup. If Oregon were to use its nomination to place North Ridge Estates on the Superfund list, an EPA national panel would assign a priority for funding that would influence the timing of appropriation of funding for cleanup.

### **City of Klamath Falls sewage treat plant upgrades**

DEQ continues its conversations with the City of Klamath Falls and other stakeholders regarding sewage treatment plant upgrades. The city's current treatment plant discharges relatively high concentrations of arsenic and the cost of treatment to meet standards are estimated to be significant. DEQ is working on an interim strategy for dealing specifically with arsenic that would be cost-effective and environmentally beneficial. The city sends its treated wastewater to a cogeneration plant that concentrates many pollutants through evaporation while producing electricity.

### **Lakeview Biomass draft air contaminant discharge permit issued**

This facility is proposed to locate in the Town of Lakeview, which is designated a PM10 maintenance area under the federal clean air act . The town also exceeds the new PM2.5 air quality standards but EPA has not yet identified it as a nonattainment area. As you heard at the June commission meeting, some residents are concerned about the addition of the facility because of the town's nonattainment status, as well as neighbors who are unhappy about the proposed location. The facility will replace the boiler currently used to supply energy to Collins

Lumber mill and it will emit an estimated 66 percent fewer emissions than what is currently generated by the boiler. DEQ will hold a public hearing August 23, and public comments are due August 27.

### **Climate change: Oregon**

To support the Low Carbon Fuel Standard rule development, DEQ finalized contracts with TIAX to develop compliance scenarios and JFA to conduct the economic analysis. The low carbon fuel standard advisory committee held its eighth meeting July 7 and discussed the assumptions for the business-as-usual case with TIAX. The business-as-usual case will be the future reference point against which to compare the economic effects of compliance scenarios. The committee also discussed compliance scenario ideas with TIAX. DEQ will present information about the low carbon fuel standard to the legislative interim committees during the week of December 13.

DEQ's Truck Efficiency and Idling Work Group held its fourth and final meeting July 29. The group reviewed DEQ's draft final report and provided comments. DEQ informed the committee that comments will be accepted for two additional weeks, after which the report will be finalized for presentation to the interim legislative committees in September. DEQ will present information about truck efficiency and idling to the legislative interim committees during the week of September 20.

### **PGE Boardman**

During July and August, DEQ worked to refine its draft options for best available retrofit technology for the PGE Boardman coal-fired power plant. This followed the commission's direction for DEQ to develop new options when they rejected PGE's petition for a 2020 closure of the facility without controls currently required to be installed in 2014. On August 4, DEQ convened a fiscal advisory committee to review a draft fiscal and economic impact statement for the proposed rule. The committee included representatives from PGE, environmental groups, the Citizens Utility Board, the Public Utility Commission, the Morrow County Commission and the Yakama Nation. DEQ submitted notice to the Secretary of State on August 13, and will open the public comment period for this rulemaking on September 1. The comment period is scheduled to close on October 1. DEQ is planning five public hearings in Portland, Eugene, Medford, Hermiston and The Dalles. DEQ intends to bring this rulemaking to the commission for consideration in December.

### **Portland Air Toxics Solutions**

The Portland Air Toxics Solutions Advisory Committee held its fourth meeting July 20. The committee discussed methodologies that will be used to analyze the 2017 air quality modeling results. The methodologies will help identify the emission reduction targets for those pollutants that exceed ambient benchmark concentrations. In addition, the methodologies will help identify localized impact areas, which will need targeted emission reduction strategies to address a unique mix of sources in areas with the highest expected concentrations of air toxics. The committee also discussed the request for proposals for a contractor to support the committee by helping evaluate emission reductions and costs of measures that will be considered by the committee.

### **National Ambient Air Quality Standards**

EPA has updated several National Ambient Air Quality Standards and is in the process of updating others. The most significant changes are those to ozone, currently in process, and particulate matter, scheduled for early 2011.

As reported previously, EPA is considering revising the eight-hour ozone NAAQS from 75 ppb to a range of 60 to 70 ppb. DEQ expects a number of Oregon communities to violate the standard if EPA sets it at the middle or lower end of the range. While the final rule is scheduled for August, DEQ has heard that it could be delayed until fall.

On July 8, EPA released a second draft of its review of the particulate matter NAAQS. The report indicates that EPA is considering lowering the annual fine particulate, PM<sub>2.5</sub>, standard from 15 ug/m<sup>3</sup> to a range of 11-13 ug/m<sup>3</sup>. The draft report also recommends lowering the 24-hour fine particulate standard from 35 to 30 ug/m<sup>3</sup>. DEQ expects that half a dozen Oregon communities could violate the proposed 24-hour standard. The draft report also calls for the establishment of a new coarse particulate standard to replace the existing PM<sub>10</sub> standard. The coarse particulate standard would cover particulate between PM<sub>2.5</sub> and PM<sub>10</sub>, and would be set at a range of 65-85 ug/m<sup>3</sup>, as compared to the PM<sub>10</sub> standard of 150 ug/m<sup>3</sup>. While the coarse particulate standard has created concern in the mining and agricultural industries, DEQ does not have enough monitoring data to predict the effects of this standard in Oregon.

The new and proposed standards also have significant implications for DEQ's air quality monitoring network, leading DEQ to conduct a comprehensive assessment of the network. The draft report concludes that new monitors are needed for lead, nitrogen dioxide and ozone, and that some existing monitors for carbon monoxide and PM<sub>10</sub> can be closed.

### **Oregon E-Cycles**

Now in its second year, the Oregon E-Cycles program is collecting greater volumes of old TVs, computers and monitors than last year. In the first half of this year, over 11.9 million pounds have been collected and recycled from collection sites and events. DEQ has set the 2010 minimum annual collection goal at 21.5 million pounds. The four programs, which are funded by manufacturers, are on track to meet their recycling goals this year. A total of 11,687 units have been diverted for reuse.

In comparison to 2009, 9.5 million pounds were recycled by mid-year and a total of approximately 19 million pounds were recycled during the first year. The large increase in 2010 is the result of a Jan 1, 2010, ban on landfill disposal of e-waste and increased awareness of the E-Cycles program.

### **New federal maximum achievable control technology standards for cement**

On August 6, EPA issued two rules to reduce emissions from the Portland cement industry, one rule for air toxics standards and one rule for new source performance standards. Oregon's one cement manufacturing company, Ash Grove Cement in Durkee, is affected by the toxics rules only because it is an existing source. The rule requires specific emissions reductions and continuous emissions monitoring for mercury, total hydrocarbons, particulate matter and, in some cases, hydrogen chloride.

The rules set a mercury emissions standard that the Ash Grove facility cannot meet due to the naturally high concentration of mercury in the ore used in their manufacturing process. The facility estimated that it would need to recover 99 percent of the mercury emitted in order to comply with the EPA rules when they were proposed in 2009. Ash Grove advocated for a subcategory in the rules for plants with naturally-high mercury content ore, however, the final rules did not create such a subcategory.

The compliance date is 2013 with an emissions standard of 55 pounds of mercury per million tons clinker, the solid product in the manufacturing of Portland cement. That standard is equivalent to Ash Grove implementing 98 percent efficiency for removal of mercury. Facilities may request a one-year extension to install pollution control equipment. EPA decided not to create a subcategory for the two cement plants with naturally occurring high mercury ore, Ash Grove and Tehachapi, in California, because even with 85 percent control of mercury emissions, the emissions from these two plants would be as much as the uncontrolled mercury emissions of all other kilns combined. The rule's preamble specifically states EPA's willingness to create a compliance schedule for these two plants if they commit to installing controls with 90 percent efficiency. The compliance schedule would not excuse Ash Grove from eventually complying with the standard, but it would give additional time to operate before either coming into compliance or shutting down.

DEQ discovered high mercury emissions from Ash Grove in 2006 and convened an advisory committee which included the company, tribes, environmentalists, scientists, toxicologists, city and county officials and other state agencies to find a solution for the Durkee plant emissions. This resulted in the company agreeing, through a mutual agreement and order, to install pollution control equipment by July 2010 and reach an 85 percent reduction in emissions by January 2012. Currently, Ash Grove is in compliance with the order. They installed over \$20 million in mercury control equipment using activated carbon injection technology. Ash Grove's first two emission test runs showed 83 percent and 93 percent mercury removal efficiency. DEQ will continue to work with the company to help them meet the standards, but the plant will have to make a decision to keep operating or close based on its ability to comply with the new rules.

### **Paint product stewardship**

On June 28, DEQ approved the Oregon Paint Stewardship Pilot Program Plan that established the first paint product stewardship "take-back" program in the nation. The PaintCare program began July 1, and allows consumers to return unused paint to participating retailers and other sites for proper disposal. The pilot program will collect as much as 600,000 gallons of leftover paint annually in Oregon, and is expected to be rolled out nationally. The program stems from the Oregon Paint Product Stewardship law, passed by the 2009 Oregon Legislature. The law directed manufacturers of paints sold in Oregon to set up and run "a convenient, statewide system" for the collection of post-consumer latex and oil-based paint.

The American Coatings Association, a trade organization for paint manufacturers, created the non-profit organization PaintCare to administer the program. Consumers will pay for the program by paying a surcharge on paint and stain containers. PaintCare, in turn, will provide a series of depots statewide where people can drop off unused paint. PaintCare pays an

administrative fee to DEQ of \$10,000 for submittal of the program plan and \$10,000 annually thereafter on behalf of manufacturers for plan approval and program enforcement and oversight.

The complete, approved Oregon Paint Stewardship Pilot Program Plan is available on DEQ's paint product stewardship webpage: <http://www.deq.state.or.us/lq/sw/prodstewardship/paint.htm>. The page also lists participating retailers and brands in the PaintCare program. While statewide paint collection services will be available July 1, additional collection locations will be phased in over the next six months. Manufacturers of covered products may not sell their product in Oregon unless they are participating in the PaintCare program. This program is a major success for DEQ and Oregonians, and a good example of product stewardship and environmental solutions applied to an issue outside of DEQ's traditional regulatory systems.

### **Wapato Lake**

Wapato Lake is a wetland area currently managed to drain standing water accumulated during the wet season so crops can be grown during the dry season. During 2008, the dike surrounding the drainage area breached, and the lake bed flooded. Water pumped from the lakebed during July and August of that year caused drinking water treatment problems downstream, and may have contributed to a noxious bloom of blue-green algae in the lower Tualatin River. This past winter, no dike damage occurred, but the large-capacity pump used to drain the lake was not functional, and the lakebed again filled with water. This spring, several groups collaborated to pump the lake between early April and mid-June; activities included providing and maintaining several auxiliary pumps, and monitoring water quality to protect downstream uses. Partners included Clean Water Services, the Joint Water Commission, the Tualatin Valley Irrigation District, the Wapato Improvement District, the U.S. Fish and Wildlife Service, and DEQ, among others. In early June, blue-green algae populations did thrive near the Wapato Lake area, but remained below advisory levels, and downstream uses were not affected. The lakebed is now dry, and repairs to the high capacity pump are underway. The risk for further concern this season is now low, although monitoring in the area continues.

Changes in the long-term management of the Wapato Lake are underway. The U.S. Fish and Wildlife Service has purchased much of the land in and surrounding the Wapato Lake as a future expansion of the Tualatin Wildlife Refuge. The U.S. Fish and Wildlife Service is currently developing a comprehensive plan for management of the entire Tualatin Refuge system, including the new Wapato Unit. While not finalized, plans for the Wapato unit include restoration to a natural wetland system, no longer modifying the hydrology of the area. Transition from agricultural use to wildlife refuge in the Wapato area is expected to take three to five years, during which time the area will continue to be used for agricultural use.

### **700 PM suction dredge permit issued**

On July 30, DEQ reissued the 700PM general water quality permit for in-water, small-scale mining activities. The reissued permit replaces an earlier version of the permit, which had expired, and includes several new requirements to ensure greater environmental protection. About 2,000 suction dredge operators in Oregon had registered under the previous permit since 2005, primarily in the mineral-rich areas of southwest Oregon and northeast Oregon. About 1,200 operators had been actively assigned for 2010 under the previous permit, which expired June 30 and was administratively extended. DEQ extended the permit for those who had

registered and paid the annual \$25 fee for 2010 prior to the June 30 expiration date. DEQ is now accepting permit applications from new permit holders. DEQ will also send out renewal applications to those who have paid the 2010 fee. Expired permit holders who paid fees for 2010 will not need to pay a fee with the new application.

The reissued permit reflects several permit condition changes. These changes included suggested adjustments based on comments DEQ received during a public comment process conducted from late April to mid June. The changes also reflect determinations reached by the Oregon Court of Appeals in late December 2009 that the previous permit was invalid because DEQ did not adequately articulate the basis of the water quality protections contained in the previous permit.

The new permit:

- Applies to non-motorized mining equipment, but miners who use this equipment will not have to submit an application or pay the fee. The previous permit did not apply to these activities.
- Clarifies that a permit is **not** required for hand panning.
- Contains a 300-foot turbidity limit for all activities covered by the permit. The previous permit contained a 300-foot limit only for suction hoses four to six inches in diameter.
- States that where more than one piece of mining equipment operates in the same location, turbidity plumes cannot overlap. The previous permit allowed two or more dredges to operate side by side.
- Protects drinking water intakes and prohibits visible turbidity from mining activities at the point of a drinking water intake. The previous permit did not contain this requirement.
- Requires miners who operate suction dredges to monitor their work so they're not exceeding the 300-foot turbidity limit, and record the results of daily monitoring. DEQ's previous permit only required monitoring for dredges with four to six-inch- diameter suction hoses or did not specify record keeping.
- Aligns nozzle and horsepower restrictions with restrictions adopted by the Oregon Department of State Lands, for protecting essential salmon habitat. The previous permit did not provide for this consistency