

State of Oregon

## Department of Environmental Quality Memorandum

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**Date:** March 11, 2025

**To:** Environmental Quality Commission

**From:** Leah Feldon, Director

**Subject:** Agenda item B, Informational item: Director's Report  
March 13-14, 2025, EQC meeting

### 1.0 Director's Office

#### 1.1 Strategic Planning

DEQ is continuing its work to develop a Strategic Plan. Over the last several months, the agency's Leadership Team has been working to refine the plan in response to feedback from the Department of Administrative Services. This primarily involves weaving together the plan's roots in principles of anti-racism and equity, with the agency's statutory mission and obligations.

Currently, agency leadership is working to refine the plan's goals and strategies. DEQ will present a draft of the plan for the commission's consideration at its May 2025 meeting.

#### 1.2 Federal Funds

On Jan. 28, 2025, most of DEQ's federal grants authorized under the Bipartisan Infrastructure Law or the Inflation Reduction Act were suspended in the accounting system the agency uses to request reimbursement. Federal funding "freezes" were experienced nationally and broadly reported on in the news media. The federal government's rationale for the suspension shifted over the subsequent weeks, creating confusion and uncertainty and resulting in multi-state litigation. At various points in the month of February 2025, DEQ had up to 12 grants frozen, including the state's \$197 million [Climate Equity and Resilience Through Action \(CERTA\) Grant](#).

As of Feb. 28, 2025, all grants were available to draw funds on. The agency is proceeding with grant-funded activities while preparing mitigation strategies should federal funds again become unavailable. In addition to the CERTA grant, approximately 12% of the agency's operating budget is supported by federal funds. These funds are crucial for implementing delegated federal responsibilities related to ensuring clean air, land and water.

#### 1.3 Rulemaking Expectations

On Feb. 19, 2025, Governor Kotek issued a [letter to all state agency directors](#), establishing new and uniform expectations regarding rulemaking. Generally, the expectations seek to ensure the public and interested parties can easily track and engage in all state agency rulemaking processes. An audit of the new expectations against DEQ's standard procedures found that the agency is consistently implementing the identified best practices. This includes:

- Maintaining all proposed, temporary and permanent rules on our website, in one central location;
- Publishing public comments, and the agency's response, on our website throughout the rulemaking process;

- Preparing, publishing and maintain an annual rulemaking plan; and
- Cross-linking between the agency's rulemaking pages and the Secretary of State's Administrative Rule Database and the Oregon Transparency webpage on rulemaking.

DEQ will continue to seek feedback from the public and interested parties to continuously improve the quality, accessibility and transparency of our rulemaking work.

## **2.0 Air Quality**

### **2.1 Cleaner Air Oregon**

DEQ's Air Quality Division must periodically review and update the Toxicity Reference Values (TRVs) used to assess adverse health effects from exposure to toxic air contaminant emissions under OAR 340-247-0040. DEQ relies on authoritative sources, including the U.S. Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, and the California Environmental Protection Agency, to establish and revise TRVs. These agencies have sufficient resources to analyze the most up-to-date scientific and toxicological information to establish health-based standards for exposure to specific pollutants.

Under Division 247 rules, DEQ is required to convene an Air Toxics Science Advisory Committee (ATSAC) to consult during this review process before engaging in the formal rulemaking process to propose updates to the TRVs for EQC consideration. The ATSAC is a non-decision-making body that is composed of experts with experience interpreting and analyzing toxicology data and information to establish health-based standards. DEQ is reviewing the proposed TRVs with ATSAC and has held several working meetings to obtain feedback on potential revisions to the values. DEQ will incorporate this feedback into proposals discussed with a Rules Advisory Committee. The agency plans to provide the EQC with a briefing on the status of this work in May 2025 as it prepares to initiate the rulemaking process this summer.

## **3.0 Land Quality**

### **3.1 Plastic Pollution and Recycling Modernization Act**

Circular Action Alliance (CAA) is now the official producer responsibility organization implementing Oregon's Plastic Pollution and Recycling Modernization Act. On Feb. 20, 2025, DEQ approved the [program plan](#) submitted by CAA.

This important milestone will enable CAA to begin implementing key initiatives in the program plan, including:

- Providing funding to local governments and recycling service providers for improvements to Oregon's recycling system;
- Establishing locations around the state to collect harder-to-recycle items;
- Ensuring that collected materials are recycled responsibly;
- Creating educational resources to help people learn about recycling changes and opportunities; and
- Reducing the environmental impacts of paper, packaging, and food serviceware through fee incentives and by capitalizing on a new waste reduction and reuse program.

Oregon's Plastic Pollution and Recycling Modernization Act, which was approved by the legislature in

2021, required DEQ to adopt administrative rules on multiple topics. On Nov. 16, 2023, the EQC approved the first of two rulemakings. The second rulemaking was approved on Nov. 21, 2024. Approval of CAA's program plan is another important step necessary to implement the Recycling Modernization Act by July 1, 2025.

Implementation of the Recycling Modernization Act will create a more responsible and resilient recycling system that will restore public confidence and improve outcomes for public health and the environment.

Congratulations to the following DEQ staff members, who engaged in the months-long process of careful technical review, engagement with interested parties, and strategic and creative problem-solving: Nicole Portley, Arianne Sperry, David Allaway, Justin Gast, Stephanie Caldera, Blaine Mershon, Peter Canepa, Rachel Fernandez, Peter Spendelow, Cathy Brown, Ellie Brown, Steven Chang, Laurie Gordon, Telicia Hixson, Michael Lee, Lexi Meek, Roxy Nayar, Caitlyn Peake, Daniel Redick, Cat Rhoades, Katie Romano, Gretchen Sandau, Steve Siegel, Colin Teems, Rachel Vanwoert, Abby Boudouris, Ron Doughton, Audrey O'Brien, Becky Williams and Cheryl Grabham.

## **4.0 Water Quality**

### **4.1 Lower Deschutes River Water Quality Concerns**

Water quality in the lower Deschutes River has attracted increasing attention from the public, local workgroups, and other parties in recent years, with a specific focus on operations of the Pelton Round Butte (PRB) Hydroelectric Project. DEQ's water quality program work plan for 2025 encompasses a variety of work throughout the Deschutes basin, specifically a renewed data and information evaluation related to the PRB project Clean Water Act § 401 Water Quality Certification (Certification).

The PRB project is located on the lower Deschutes River and is jointly owned by Portland General Electric (PGE) and Warm Springs Power Enterprises (WSPE). These two entities operate the project under the terms and conditions of the hydropower license issued by the Federal Energy Regulatory Commission (FERC) in 2005. The Certification DEQ issued in 2002 became a required component of the project's FERC license.

Much of the public attention has been directed at the project's Selective Water Withdrawal (SWW) operations, which began in 2010 as a requirement of the FERC license to improve control over water temperatures released into the lower Deschutes River and provide for fish passage past the project dams.

Through the operation of the SWW, water temperature patterns below the project now more closely resemble natural patterns unaffected by artificial cooling from the release of bottom water within the reservoir, which is how the PRB operated after construction in the 1950s. Since the project's SWW began operating, interested parties have observed changes in other water quality characteristics, such as algae, pH, and nutrients in the lower Deschutes.

DEQ is planning Total Maximum Daily Load (TMDL) development in the Deschutes basin in the coming years which will include potential management actions throughout the basin which are needed to improve water quality. Findings from TMDL analyses will provide new insights into pollution that contributes to water quality degradation in the Deschutes basin and set the baseline for implementing management strategies to support designated beneficial uses of surface waters.

DEQ has engaged in many discussions with PGE, the Confederated Tribes of the Warm Springs (CTWS)

and WSPE related to Oregon's 401 Certification and adaptive management of operations impacting water quality using the Water Quality Monitoring and Management Plan (WQMMP). As part of the 2025 evaluation, DEQ will re-engage in discussions with PGE and CTWS about the 401 Certification, including consideration of lessons learned from SWW operations, proposed changes to the WQMMP, and potential alignments needed to meet water quality standards. DEQ anticipates completing the initial data evaluation and discussions in the fall of 2025. DEQ is committed to continuing discussions with the joint licensees and other interested parties in evaluating water quality data and understanding the sufficiency of current operations and regulatory approaches to protect beneficial uses of the Deschutes River.

#### **4.2 Nutrient Reduction Strategy Development**

DEQ is beginning to develop a Nutrient Reduction Strategy to support nutrient reduction goals in waterways, including surface and groundwater, throughout the state. The strategy's objective is to provide a long-term roadmap to prioritize DEQ's program activities and resources related to the prevention and reduction of nutrient pollution from both point and nonpoint sources of pollution. This strategy will build upon current efforts and programs that already exist in DEQ's Water Quality Division.

As a first step in this process, DEQ is contracting with Oregon's Kitchen Table (OKT) to solicit input and perspectives from people across Oregon about issues related to nutrient pollution and water quality and to gather their ideas for improving water quality. This community engagement will run from Feb. 10 to March 31, 2025. OKT will offer multiple ways to participate, including via a survey and public forums. Oregon Department of Agriculture will advise and assist DEQ in this first phase of the effort. This is just one way in which DEQ gathers feedback from interested parties about the project, and there will be additional outreach and engagement opportunities later this year as the strategy is developed.

More information is available on [Oregon's Kitchen Table's website](#) and on [DEQ's Nutrient Reduction Strategy website](#).

#### **4.3 Oregon Water Data Portal Project**

In collaboration with other agencies, DEQ is leading the Oregon Water Data Portal project, which will improve access to data and information to help people make water infrastructure decisions. The concept of a water data portal was initially described in the implementation portion of [Oregon's 2017 Integrated Water Resources Strategy](#) and [Oregon's 100-Year Water Vision](#). A water data portal aims to bring together Oregon's water data and information into a single point of access so that water decision-makers and others can find the data and to improve data access and integration for better water-related decision-making. This project began following the 2021 Legislative session when DEQ received funding to lead a multi-agency effort for the initial scoping and designing of a portal for water and infrastructure data.

The Oregon Water Data Portal project is currently in Phase 2, which has been focused on the development of a pilot portal. On Jan. 31, 2025, the [beta version of the pilot portal](#) for the Oregon Water Data Portal project debuted. This Oregon water data pilot portal was developed in collaboration with multiple Oregon agencies, Oregon State University, and the Internet of Water Coalition. The pilot was developed based on the experience and knowledge of this group as well as from input and questions the team received through various engagements. The objective of this initial pilot portal is to test functionality using limited data and it will evolve over the next six months as data is added and improvements are made based on user feedback. DEQ will continue to build understanding about user needs and experiences through this pilot portal phase. Users can provide feedback about the beta version of the pilot portal by completing [this survey](#) or by emailing [OWDP@deq.oregon.gov](mailto:OWDP@deq.oregon.gov).

More information about this project is available on [DEQ's Oregon Water Data Portal website](#).

## 5.0 Eastern Region

### 5.1 Crook County Domestic Well Concerns

On Feb. 12, 2025, DEQ distributed domestic drinking water results and a lab report following a sampling effort in Crook County related to manganese concerns. In November 2024, DEQ hired an environmental consultant, Maul Foster and Alongi (MFA), to sample private drinking water wells in Crook County. The purpose of this sampling event was to provide homeowners with drinking water quality information and to provide the Oregon Health Authority (OHA) with initial data to begin a health consultation. This sampling event was not intended to identify the source of any contaminants found because there was insufficient funding to complete a more comprehensive source investigation. Many residents, Crook County staff and elected officials, federal partners and other stakeholders have been awaiting the report due to manganese concerns residents have reported for several years. OHA will use the data to assess public health risks by completing a Public Health Consultation later this year.

MFA collected 61 samples from 55 private wells over a two-week period. Final sampling results in January 2025 showed that:

- 28 (51%) wells had manganese levels at or above EPA's secondary drinking water standards of 50 micrograms per liter ( $\mu\text{g/L}$ ), with a high of 414  $\mu\text{g/L}$ . Contaminants in EPA's secondary drinking water standards provide guidelines for aesthetic considerations, such as taste, color, and odor and are not considered to present a risk to human health.
- Total metals showed detections of other metals such as arsenic and lead that may be of concern for the health assessment.
- Nitrate concentrations were detected in 10 wells slightly above the primary Maximum Contaminant Level (MCL) of 10 milligrams per liter (mg/L), with a high of 13.75 mg/L.
- Finally, there were 13 wells that had positive detections for Total Coliform but were negative for E.coli. Individual residents with these detections were notified via a letter from OHA.

Along with the data and report, DEQ shared a memo describing the various data collection efforts that could provide a better understanding of the problem. DEQ has required Knife River Corporation to conduct a groundwater investigation on a sand and gravel mine near where residents have experienced discoloration and odors in drinking water. DEQ is also finalizing a more comprehensive sampling plan that could better identify a source or sources of the contamination. A source of funding to implement the comprehensive sampling plan has not yet been identified.

### 5.2 Lower Umatilla Basin Groundwater Management Area (LUBGWMA)

The [LUBGWMA Well Network Groundwater Nitrate Trend Analysis](#), which summarizes groundwater nitrate concentrations and trends from a network of 33 wells within the LUBGWMA sampled over a 32-year monitoring period, was released in January 2025. The trend analysis shows the nitrate concentrations within the area continue to increase, with a few exceptions. This is not unexpected since there are still nitrogen sources in the region. The next step is to evaluate trends using data from permitted sites.

Additionally, DEQ will conduct a synoptic sampling event in the LUBGWMA in spring 2025. DEQ plans to sample approximately 100 wells for more than 70 analytes and provide free lab results to participating residents. DEQ, the Oregon Health Authority and local county public health officials will be ready to help residents interpret results. State agencies will also use the results in a regional groundwater quality assessment.

### 5.3 Port of Morrow Water Pollution Control Facilities Permit Pause

On Jan. 13, 2025, the Governor's office issued an executive order temporarily pausing certain conditions in the Port of Morrow's state-issued Water Pollution Control Facilities (WPCF) permit. The Port

indicated that, due to significant rainfall in November and December 2024, their storage ponds were running dangerously close to overflowing. The Port was in a position of violating permit conditions by over-applying wastewater to avoid overflowing the ponds or to stop the acceptance of industrial wastewater. As a result, the Port of Morrow's industry would shut down operations leading to significant economic loss. The effective date for the Port to operate under the executive order was Jan. 15, 2025, to Feb. 28, 2025, and they were to notify DEQ when operations under the order started. DEQ was notified on Feb. 17, 2025, that the Port would execute the executive order and conduct operations under the paused compliance regime for the last 11 days of the month. DEQ has made note of the execution date and will not enforce upon violations stemming from exceedances in Schedule A conditions 6, 8, 11 and 13 of the state-issued WPCF permit.

The Governor received a letter from Oregon Rural Action (ORA) and other community partners on Feb. 21, 2025, expressing dissatisfaction with the Governor's executive order. They claimed the Governor's decision was misguided and based on incomplete, misleading or inaccurate information. Leading up to the Governor's executive order, DEQ staff worked with the Governor's office to identify a viable pathway forward. To minimize impact to groundwater, the Port identified application sites that had no downgradient drinking water sources or were deemed as low risk for nitrate leaching. DEQ identified select permit conditions to pause that would support the ask from the Port while also allowing the Governor to exercise her full authorities around the economic implications of widespread shut down of food processors and its impact on the local labor force. The Governor has since issued a response letter to ORA and other community partners, dated Feb. 27, 2025, restating her position on the issue and reasserting efforts DEQ and other state agencies have taken to address the long-standing groundwater contamination in the LUBGWMA.

#### **5.4 Grassy Mountain Gold Mine Project**

The Grassy Mountain Gold Mine Project, owned by Calico Resources USA Corp., is a proposed underground gold mine and an indoor processing facility in Malheur County in eastern Oregon, 22 miles south of Vale. Oregon's Chemical Mining Rules apply to this project because the proposal includes the use of cyanide for gold processing. The Oregon Department of Geology and Mineral Industries (DOGAMI) leads the multi-agency consolidated permitting process for the proposed gold mine project. DEQ participates as the permitting agency and reviews Calico's permit applications to ensure proper adherence to regulatory standards. DEQ is currently preparing draft permits, which are tentatively scheduled for public notice on May 15, 2025. DEQ will collaborate with DOGAMI and other state agencies to develop shared messaging and proactive communications with interested parties. DEQ will continue to update the EQC on the progression of this permit.

### **6.0 Northwest Region**

#### **6.1 Zenith Energy**

Zenith Energy Terminal Holdings, LLC is a fuel product transloading facility located in an industrial section of Northwest Portland near the Linnton neighborhood. The company accepts various fuel products, including crude oil, diesel, and renewable fuel, from one mode of transportation, such as railcars or pipelines, and transfers them to another mode, such as marine vessels. During this process, the fuel products are stored at the facility in above-ground tanks.

DEQ has been working on a draft air quality permit and received an approved land use compatibility statement from the City of Portland on Feb. 3, 2025. The draft permit will be available for public review and comment soon, and there will be two hearings scheduled. After the public comment period concludes, DEQ will evaluate all comments received on the draft permit and make a decision regarding the permit,

which may include revisions.

## **7.0 Western Region**

### **7.1 Josephine County Onsite Program**

In early February 2025, Josephine County commissioners voted to return the Onsite Program to DEQ to implement after several months of struggling to staff the program. Like most other counties in Oregon, DEQ has had a Memorandum of Agreement with Josephine and Curry counties for Josephine County to operate the Residential Onsite Septic program. This recent action taken by Josephine County commissioners will result in DEQ operating the program again in Josephine and Curry counties. While the Memorandum of Agreement gives DEQ 90 days to re-assume the program (DEQ has until May 13, 2025), due to the backlog of work and immediate needs, DEQ will likely begin administering the program within the next few weeks. DEQ will need to restaff to assume program operations and expects to be working on recruiting necessary staff right away.

### **Translation or other formats**

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