

State of Oregon
Department of Environmental Quality

Memorandum

Date: May 13, 2019
To: Environmental Quality Commission
From: Richard Whitman, Director
Subject: Agenda Item J (Informational): Director's Report
May 16-17, 2019, EQC meeting

1. Environmental Data Management System (EDMS)

The Office of the State Chief Information Officer (OSCIO) issued Stage Gate 3 approval for the EDMS project on April 25, 2019. A short time later, on May 2nd, DEQ signed the project contract with enfoTech.

We must still receive final legislative approval for the next round of funding for EDMS, and that approval will have conditions requiring further submittals and check-ins with both the legislature and the OSCIO. Nevertheless, this is a big step forward for DEQ in modernizing our systems.

The EDMS software will support most of our regulatory and business processes from applications, authoring, and issuance, to compliance and enforcement. It will contain centralized entity and facility data across the air, land, and water programs. It will provide a portal for DEQ staff to manage all of their permit activities and tasks including receiving applications and data, geospatial support, calculations, mobile technology and electronic signatures.

EDMS will deliver benefits to the regulated community. Permittees will submit applications online, upload data and reports, check the status of their applications, and pay for the services that DEQ provides. The general public will also be able to use the EDMS to access information about facilities and environmental conditions.

Over the next few months, DEQ will work with enfoTech to detail the phasing and strategy as we move to begin moving processes, systems and data into the new platforms over the next two years.

Many DEQ staff have worked over a long period of time to get the agency to this point, and the commission has been a strong supporter of the effort. I want to thank everyone who has helped the agency get to this point, and recognize that there will be significant additional work to complete this effort.

2. Bond Sale Notification

DEQ will request that the State Treasurer hold a bond sale for two DEQ-related programs in June 2019. The proceeds from the sales will support the Cleanup Program Orphan Site Fund and the federal Clean Water State Revolving Loan Fund.

The two specific sales are:

- The sale of \$5.3 million of Article XI-H Tax-Exempt, General Obligation bonds placed with the Bank of America. The proceeds of the bond placement will be used to fund Orphan Site projects that clean up contaminated sites
- The sale of \$10.0 million of Article XI-H Taxable, Dedicated Fund Obligation bonds placed with JP Morgan that will be used as a new money match for a \$30 million EPA grant for Oregon's Clean Water State Revolving Fund.

3. Lab updates

3.1. Oregon Water Quality Index Report for Water Year 2018

The laboratory completed the calculation and reporting of the 2018 Oregon Water Quality Index. This index utilizes a defined set of water quality variables to produce a score that describes general water quality at a monitoring location. The 2018 index includes data analyzing 10-year trends from 149 sample locations across the state and is used by DEQ to develop and report on agency Key Performance Measure (KPM) 8 for water quality.

For 2018, the KPM 8 measure shows:

- 30 percent of the sites with long term trend monitoring show improving water quality
- Nine percent of the sites show declining water quality trends
- 51 percent of the sites show good to excellent water quality

The full report is available at <https://www.oregon.gov/deq/wq/Pages/WQI.aspx>.

3.2. Ambient Water Quality Monitoring System (AWQMS)

In August 2017, the DEQ laboratory launched a new online public access portal for water quality data, the Ambient Water Quality Monitoring System (AWQMS). Since then, laboratory staff have entered water quality data into the new systems and migrated historic data from the former database, known as LASAR.

This migration, now substantively complete, included the evaluation and review of millions of data points. In addition, the laboratory reviewed and processed the last 10 years of the backlog of

volunteer monitoring data. These data are now also contained in AWQMS. In total, AWQMS now contains over 16 million results from 20,000 stations with information dating back to 1949, including both one-time grab data and continuous data results. In addition, AWQMS is now actively exchanging Oregon's data with the federal water quality portal, providing nationwide access to our data along with the data from other states.

4. Land Quality

4.1. Multitenant Recycling Project Update

Materials Management staff have been leading an ongoing, collaborative effort to help communities implement the expanded Opportunity to Recycle Act, which will explicitly include tenants in 2022. Last year, staff circulated a draft work plan that outlined possible ways to support recycling at multitenant properties. DEQ collected feedback from people and organizations that could be affected by it through an online comment period and four public meetings across the state. As a result of this public outreach and cost analysis, the program is significantly shifting the approach to this project to better address the practical implications of the draft plan. The updated [project webpage](#) and [fact sheet](#) include additional information and next steps for this important evolution of Oregon's recycling programs.

4.2. Project SOAR

The Materials Management Recycling Steering Committee is working to determine how to modernize Oregon's 35-year old recycling system to ensure it optimizes benefits for the environment, is strong and adaptable to change, and restores and maintains public trust in the system. The committee is a collaborative of representatives from local and state governments, businesses and organizations that play a role in Oregon's recycling system. DEQ initiated the effort in May 2018 in response to disruptions to global recycling markets.

Committee members are working together to identify what Oregon's recycling system should look like; conduct research; and by early summer 2020, recommend changes to achieve that future system. Core to this work is balancing economic and social needs from all parts of the state, existing systems and infrastructure, and the needs for the future. The committee's outcomes will include recommendations about which materials should be the focus for recycling; methods and facilities needed to collect, sort and process those materials for markets; and how to encourage residents and businesses to participate and recycle correctly. The committee will also recommend changes in laws, policies, contracts, responsibilities, and other parts of the organizational framework for Oregon's future recycling system.

The committee's work is guided by *Materials Management in Oregon: 2050 Vision and Framework for Action* which seeks to reduce the environmental impacts of the materials and products we use across their full life cycle from design to production to use to end of life. The committee will use this holistic approach to focus on materials and processes that optimize environmental benefits.

4.3. 2050 Materials Management Vision and Framework for Action Update

In 2012, the Environmental Quality Commission approved a statewide management plan for materials and waste called *Materials Management in Oregon: 2050 Vision and Framework for Action*. This plan establishes a comprehensive “vision” for how materials and waste are handled in the year 2050. The vision states: “Oregonians in 2050 will produce and use materials responsibly—conserving resources, protecting the environment and living well.” The “framework” portion of the plan is a flexible platform with 50 un-prioritized actions that guide progress toward achieving the 2050 Vision. Materials Management staff are now updating the Framework for Action and will present a draft of the framework update at the EQC meeting in November 2019.

5. Water Quality

5.1. Petition to Designate Waldo Lake an Outstanding Resource Water for Oregon

The commission received a petition April 22, 2019, requesting promulgation of rule amendments to designate Waldo Lake and its associated wetland as Outstanding Resource Waters. The petition came from the Northwest Environmental Defense Center on behalf of several environmental organizations. Waldo Lake occupies 9.8 square miles in the Willamette National Forest in Lane County and it sits at the western crest of the Cascade Range.

Under state law, a person may petition EQC to develop, amend, or repeal a rule. Under the petition rules, the commission has 90 days to respond and can direct DEQ to initiate rulemaking, deny the petition or provide some other direction. One of the requirements of a petition is to provide the opportunity for public comment on the petition. DEQ opened a public comment period on the petition May 3, and will close the comment opportunity at 5 p.m. on June 3, 2019. DEQ will bring an action item to the July 18-19, 2019, EQC meeting for the commission to consider the petition, public comment and agency recommendation.

The commission may designate high quality waters that constitute “an outstanding state resource” as Outstanding Resource Waters. The objective of doing so is to protect the ecological integrity or special water quality values that are vital to the unique character of the water body.

The existing water quality of the waterbody must then be maintained and protected. The commission may establish water quality values to be protected and determine what activities are not allowed because they may lower water quality below the level established, with exceptions allowed to respond to public health and welfare emergencies or to obtain long-term water quality improvements. To date, Oregon has designated one Outstanding Resource Water, the North Fork Smith River, which was accomplished through the same commission petition process.

The full text of the petition, and additional information about the Outstanding Resource Water process, is available online: <https://www.oregon.gov/deq/wq/Pages/WQ-Standards-ORWO.aspx>

6. Air Quality

6.1. Follow-up on Secretary of State 2018 Performance Audit of Air Quality Permitting Programs

The Oregon Secretary of State regularly follows-up on its performance audits approximately one year after they are completed in order to check on agency progress in implementing audit recommendations. The Audits Division conducted its follow-up review and issued its final report earlier this month. The report finds that DEQ has fully implanted five of the 10 original recommendations, and has made significant progress on the remaining five. The follow up report concludes that:

“Overall, DEQ has taken significant steps to either fully implement or begin implementing all 10 of the audit’s recommendations. The five recommendations that have been fully implemented include many important steps, such as conducting a process improvement effort to help identify needed improvements in the permitting process, improved tracking of the permit backlog, implementing the Basic Air Contaminant Discharge Permit for auto body facilities in the Northwest Region, improving application guidance for permit applicants, conducting a permit writer workload analysis, and requesting additional permit writer positions in the agency’s budget submission, to better align workload demands with appropriate staffing levels.”

“For the five recommendations that have not been fully implemented, the agency has taken action to begin implementation. This includes:

- creating a temporary database to improve compliance inspection tracking;
- hiring a training and development specialist to begin working on succession planning;
- identifying and documenting key processes in the Air Quality division and cross-training staff, to help ensure specialized knowledge is not lost when staff leave or retire;

- updating permit writer manuals, developing Title V permit application checklists, and maintaining a central repository for permit writer guidance materials;
- creating pre-application guidance and materials for Title V permit applicants;
- developing a permanent data system that consolidates the tracking of compliance inspections across all regions
- developing permit application checklists and templates for ACDP permits and maintaining those in the central repository for permit writer guidance materials
- developing an overview of the permitting process for all Title V and ACDP permits to help guide permit applicants; and
- developing pre-application guidance and materials for ACDP permit applicants.

“Though work remains to be done on these recommendations, the agency has at least started the process of implementing each of them. We sincerely appreciate the courtesies and cooperation extended by officials and employees of DEQ during the course of this follow-up work. “

The full final report is available online at: <https://sos.oregon.gov/audits/Documents/2019-18.pdf>

6.2. Clean Vehicle Rebate Program

DEQ received just under 2500 applications for Clean Vehicle rebates in 2018 (2494). As of mid-March, DEQ had received another 765 applications. In December 2018 the commission approved a bridge program for DEQ to process applications and issue rebates directly, pending completion of procurement for a third-party contractor to operate the program (as anticipated when the program was approved by the legislature in 2017). Again, as of mid-March, DEQ had approved and issued payment for 508 rebate applications, with another 287 scheduled for payment.

7. Western Region Updates

7.1. Jordan Cove Energy Project

On May 6, DEQ denied the 401 Water Quality Certification permit application for the Jordan Cove LNG project. DEQ's decision was made without prejudice, allowing the applicant to resubmit with additional information responsive to the decision. Agency review of the applications materials showed that some water quality standards were likely to be violated, and that insufficient information had been provided to demonstrate compliance with other standards. In its denial, DEQ indicated specific water quality concerns that led to the agency's decision, including:

- Expected effects of the construction and operation of the proposed pipeline and associated road and work areas on water temperature and sediment in streams and wetlands
- The risk of release of drilling materials from the construction of the proposed crossing of the Coos Bay estuary

By denying without prejudice, Jordan Cove may resubmit a 401 Water Quality Certification permit application, with additional information addressing the agency's concerns. If that occurs, DEQ will work to keep the timing of its review in line with the overall federal schedule for the project, which calls for final decisions in early 2020.

The proposed project involves for a liquefied natural gas export facility in Coos Bay as well as a 229-mile, 36-inch diameter pipeline from Malin, in Klamath County, to the facility in Coos Bay. Under Section 401 of the Clean Water Act, DEQ has the authority to certify whether federally permitted activities that may result in a discharge to state waters comply with applicable water quality standards.

More information, and additional documentation of the project and permitting process, is available on the project webpage: <https://www.oregon.gov/deq/Programs/Pages/Jordan-Cove.aspx>

7.2. Onsite Septic Program in Umatilla County Transferred to the County

Implementation of the onsite septic system program in Umatilla County was transferred from DEQ to Umatilla County on May 1st. The move will improve response time and service. It will also allow DEQ to provide better service in the remaining eight counties where DEQ operates the residential onsite program.

Morrow County is the second county in the past three months to move to local implementation. In February 2019, Harney County began administering the onsite program in Grant County. DEQ's onsite program has staff in Medford, Eugene, Coos Bay, Bend and Pendleton. The program regulates septic system siting, design, installation and maintenance in Oregon. DEQ administers onsite septic system programs in eight counties and oversees administration by local agencies in the other 28. It also provides training, certification and licensing to onsite professionals throughout the state.

8. Eastern Region Updates

8.1. Free Drinking Water Well Testing in Klamath Basin

DEQ is offering free well water testing in the Klamath Basin as part of a groundwater quality study. DEQ will test between 60 and 100 Klamath Basin wells for nitrate, arsenic, bacteria, pesticides and other chemicals and send property owners their individual results. Knowing if contaminants exist in well water can help residents make decisions to protect their health and their crops.

Possible sources of groundwater contamination include nearby failing septic systems, application of fertilizers and pesticides, and leaking underground storage tanks. Property owners are responsible for maintaining and monitoring private wells in Oregon. Well water testing is required when residential properties are sold.

DEQ will provide study participants with information on proper well maintenance, the health effects of common contaminants, and options for water treatment if contamination exists. DEQ will collect water samples in fall 2019 and spring 2020 and send reports to property owners within six months to a year after testing. Participants must have spigot access to their well before any filtration or treatment occurs.

Sample results will be publicly available, but landowner information will not be included in the public database. Klamath Basin is the sixth geographic area DEQ has studied as part of its Statewide Groundwater Quality Monitoring Program, which evaluates the current condition of Oregon's groundwater. Find more information about the study at <http://bit.ly/DEQWaterStudy>

8.2. John Day Wastewater Treatment Facility

The City of John Day is exploring innovative approaches to using wastewater effluent to create an economic asset for the local economy. The vision is to treat wastewater to Class A, which is the highest level of treatment, and use it for value-added products rather than discharge to the John Day River.

In March 2019, DEQ gave conditional approval of the city's new wastewater treatment facility plan. The city is proposing to construct a mechanical facility that will include biosolid disposal and reuse activities. The city will use a "purple pipe" distribution system to existing percolation ponds during the winter months and land apply wastewater over summer months to ball fields, city parks and a 33-acre golf course. DEQ has requested that additional data, including water levels and groundwater flows, be gathered at several times of the year, to help inform the

appropriate wastewater permit pathway and subsequent permit application. The city is also exploring DEQ's Clean Water State Revolving Fund loan program, which provides low-interest loans for water projects, and is interested in completing a riparian restoration project as part of the loan. Proposed facility construction is planned for spring 2021.

8.3. Wheatridge Wind Energy Facility

Wheatridge Wind Energy Facility is a planned wind energy generation facility near Heppner, in Morrow and Umatilla Counties. The facility design includes co-located and integrated solar energy and battery storage components. The Oregon Department of Energy has approved the project as part of the Energy Facility Siting Council's process, but the facility has not yet been built. The project proponents, Portland General Electric and NextEra Energy Resources, recently submitted an amendment to increase the total energy output from 500 to 650 megawatts by constructing a 150-megawatt photovoltaic solar energy system and 41 distributed energy (battery) storage sites, which would expand the site boundary to 14,624 total acres.

DEQ is providing assistance to address potential environmental issues, including air quality concerns including dust minimization during construction, water quality requirements for construction stormwater, on-site septic systems, and Water Pollution Control Facility permit for solar panel washing, waste minimization planning and hazardous waste and spill response. DEQ will continue to work with the Oregon Department of Energy to address these issues in the latest iteration of the project.

8.4. Columbia Forest Products Water Quality Permit Renewal - Klamath Falls

DEQ has started the process of renewing the NPDES wastewater permit for Columbia Forest Products, a plywood manufacturer based in Klamath Falls. The facility is somewhat rare in that it does not discharge industrial wastewater. Instead, the water quality challenge is the floating logs that the facility stores for several weeks in the Klamath River prior to processing. The storage of these logs causes bark and wood debris to accumulate and float downstream. The log debris increases biochemical oxygen demand, which consumes oxygen in the water and can threaten aquatic life. The facility is on the 2019 permit work plan.

8.5. Klamath Falls and Oakridge: Exceptional Event - EPA Concurrence Request

The Environmental Protection Agency sets a limited number of national clean air standards (National Ambient Air Quality Standards, or NAAQSs) that all states must comply with. Because of topography, weather, and a large number of woodstoves, the Klamath Falls and

Oakridge areas experience higher levels of particulate pollution than many other parts of the state, and have failed to meet the applicable national standard for small particulates (PM2.5).

Klamath Falls and Oakridge also experienced significant smoke from wildfire events in 2017 that caused unhealthy levels of PM2.5, fine particle pollution, that violated the NAAQS. DEQ developed and submitted an Exceptional Event Request document requesting that EPA exclude monitoring results directly related to the wildfires from its 2017 compliance determinations. Exceptional events are unusual or naturally occurring events that affect air quality but are not reasonably controllable. They often include wildfires, high wind dust events, and other activities not directly caused by people. For Klamath Falls and Oakridge to show they have attained the standard under their respective federally-approved attainment plans, these data must be excluded. If these days are not omitted, Klamath Falls and Oakridge may risk losing some federal funds for violating the NAAQS. DEQ is accepting public comments on the request until May 20, after which it will revise the request and submit the data to EPA for its consideration.

8.6. Idaho-Oregon Agreement for Idaho Power Company (IPC) Hells Canyon Dam Complex

Oregon, Idaho and Idaho Power Company reached a settlement agreement in April regarding the operation of the Idaho Power Hells Canyon Complex of dams. The agreement benefits water quality, habitat and Columbia Basin fish.

Coupled with other commitments from the Idaho Power Company, the agreement allocates over \$312 million toward water quality and habitat improvements, and includes investments in additional fish production, monitoring, and study. This research will benefit the parties in a future review of water quality, including an assessment of fisheries and habitat, scheduled for 20 years into the license term. Oregon and Idaho have been working since 2005 to resolve disagreements on water quality and fish passage along the portion of the Snake River that is shared by Idaho and Oregon.

In December 2018, DEQ issued a draft 401 water quality certification for the continued operation of the dams, and requested public comment on the draft. DEQ is currently finalizing its responses to the comments, and expects to issue the water quality certification by June 2019.

9. Northwest Region Updates

9.1. Portland Gas Manufacturing Site Work – Willamette River Downtown Reach (above Portland Harbor Superfund)

Planning continues for implementation of the in-water cleanup at the former Portland Gas Manufacturing site this summer, likely starting in July. Work will take place in the downtown segment of the Willamette River, adjacent to the Japanese Memorial Garden, a short distance upriver of the Steel Bridge. Work will include barges in the river for approximately 60 days. Remediation work will include dredging of tar and contaminated sediment, capping, and application of carbon-amended clean sand in some areas to enhance ongoing natural recovery.

The work represents an important milestone in DEQ's ongoing cleanup efforts in downtown reach of the river, just upriver of the Portland Harbor Superfund site.

9.2. Cleanup of Armstrong World Industries Site in St. Helens

DEQ is working with three St. Helens fiberboard manufacturers to clean up historic contamination at the site and along Scappoose Bay that dates back to the 1920s. Kaiser Gypsum, a former site owner, has agreed to settle its liability for the contamination as part of the company's bankruptcy proceedings. The proposed settlement would be the largest in DEQ history for any single cleanup action. The extent and severity of contamination is significant, and restoring this site will be a major undertaking and, when it is completed, a major success for Oregon's public health and the environment.

DEQ is seeking public comment on the proposed settlement May 1 through 31. Contaminated sediment in Scappoose Bay poses health threats to humans, fish and wildlife. Kaiser is a significant responsible party for the contamination in Scappoose Bay. Kaiser declared bankruptcy in 2016, and DEQ filed a claim in bankruptcy court for the costs of cleaning up the contamination. Under the proposed settlement, Kaiser would pay \$67 million into a remediation trust. The trust would be used to fund investigation and cleanup of the lowland/in-water areas of the site and other impacted areas of Scappoose Bay. This account also would be used for habitat restoration and mitigation projects in the Scappoose Bay watershed. This work will likely occur over a number of years.

The proposed \$67 million settlement is in addition to a \$10.1 million settlement DEQ reached in 2017 with two other companies: Armstrong World Industries and Owens Corning Fiberglass Corporation. Armstrong is also completing cleanup of the upland, or developed portion of the

site, which will protect site workers and prevent further contamination from entering the wetlands and river.

9.3. Astoria Marine Construction Company Cleanup Site

Planning is underway to begin cleanup this summer of this shipyard located in Astoria. EPA deferred a Superfund listing of AMCCO in 2012, resulting in DEQ overseeing the remedial investigation, feasibility study and cleanup. The remedial investigation found that past operations contaminated the upland soil and nearshore sediment in the adjacent Lewis and Clark River.

In 2016, DEQ proposed a remedy to address unacceptable risk levels and sought public input. The selected remedy, documented in DEQ's February 2017 Record of Decision, will be implemented under a consent judgment with AMCCO. Under this remedy, the most contaminated upland soil and in-water sediment will be excavated and removed from the site. Remaining soil contamination will be capped in place. Most of the remaining in-water sediment contamination will be covered with a layer of clean imported sand. DEQ will perform long-term monitoring to verify the effectiveness of the remedial action. The consent judgment also specifies restoration of natural resource damages agreed upon by tribal, federal and state natural resource trustees. Construction is planned to commence July 2019 pending receipt of several federal permits.

9.4. 900J NPDES Water Quality General Permit Renewal – Seafood Processors

DEQ issued a new draft of this permit, which would regulate fish processing operations, on public notice in late March and public comment closed on May 10th. This revised draft includes benchmarks for pollutants not previously regulated under the permit and describes how the permit applies when the receiving water's quality is impaired. DEQ held a public hearing May 7, and will evaluate all comments prior to taking final agency action on the final permit.