

# Minutes of the 379<sup>th</sup> regular meeting of the Oregon Environmental Quality Commission

Aug. 27-28, 2014  
Medford, Oregon  
The Inn at the Commons  
200 N. Riverside Ave., Medford

## Wednesday, August 27 – 8:30 a.m. to 4:30 p.m.

### **A. Tour: Dry Creek Landfill**

Commissioners and some DEQ staff attended a tour of Dry Creek Landfill. No commission business was conducted during the tour.

*Chair O’Keeffe convened the meeting at 11:05 a.m.*

**Present:** Chair O’Keeffe, Vice-chair Armstrong and Commissioner Eden

### **B. Action item: Draft meeting minutes from June 2014**

The commission reviewed the draft meeting minutes from the June 18-19, 2014, EQC meeting.

Action: Approve the June 18-19, 2014, meeting minutes as presented.

Move: Vice-chair Armstrong

Second: Commissioner Eden

*The commission unanimously approved the minutes.*

### **C. Action item: Title V permit fee increase**

Leah Feldon, acting Air Quality Operations interim manager, introduced this item. She noted the rules include a typographical error on the effective dates of the fee increase, and the language should be 2014-15, not 2013-14, and the notice sent to stakeholders had the accurate dates. There was also a minor error in a fee table, related to the calculation of past fees, which is corrected in an addendum included with this item.

Gregg Dahmen, air quality environmental engineer, presented the proposed a fee increase for Title V permits, to be issued in 2014 and at a rate equal to the increase in the Consumer Price Index, as authorized by the Oregon Legislature. The commissioners asked clarifying and informational questions about the proposed fee increases.

Action:

- Adopt phase one of the proposed rules in attachment A with the addendum amending the fee table as part of chapter 340 of the Oregon Administrative Rules.
- Adopt phase one of the proposed rules with the change in 340-220-0030 subsection (2) of the effective dates from Nov. 15, 2013, to Nov. 14, 2014, to be Nov. 15, 2014, to Nov. 14, 2015.

Move: Commissioner Eden  
Second: Vice-chair Armstrong

*The commission unanimously approved the motion.*

#### **D. Informational item: New federal rules for existing power plant**

Colin McConnaha, DEQ climate change specialist, presented information about recent draft rules proposed by EPA, under Section 111d of the federal Clean Air Act, which would require Oregon to develop a plan for reducing emissions from existing fossil fuel-fired power plants. Director Pedersen provided additional context about the rules and the national regulatory response to the draft proposals.

The commissioners asked informational and clarifying questions about the proposed federal rules and their potential impacts in Oregon and discussed next steps for the program. Director Pedersen noted that DEQ can provide an update at the November commission meeting. Commissioner Eden asked that DEQ track lawsuits in other states in relation to the draft proposed rules.

#### **Lunch**

Chair O’Keeffe recessed the commission from 12:30 to 1:30 p.m. for lunch.

#### **E. Informational and discussion item: EQC’s Key Performance Measure**

Greg Aldrich, Office of Policy and Analysis manager, presented the final report and analysis of the commission’s 2013 Key Performance Measure, the commission’s required annual self-evaluation. Commissioners offered feedback on the survey and ideas for future improvements, including opportunities to revise the overall performance target and report formats for the next review cycle.

#### **F. Informational item: Director’s report**

Director Pedersen provided written and verbal updates on federal and state environmental activities and other items of interest to the commission. The report’s written updates included information about:

- The 2014 wildfire season and multi-agency communications coordination
- A recent pesticide collection event in Milton-Freewater
- Approval for a land exchange as part of the Superfund cleanup at Northridge Estates in Klamath Falls, which will save the state about \$2 million
- The loss of community development block grants, nationally, and the local impacts for small and rural Oregon communities
- Increased homeowner awareness and media spotlight of the environmental dangers of leaking heating oil tanks
- A recent fire at a mill in Springfield that sent fire suppression materials and chemicals used in the production of plywood and veneer into the historic millrace nearby
- The Clean Fuels Program Phase 2 advisory committee kickoff

In addition the written materials, Director Pedersen presented verbal updates about:

- Attending a two-day Coastal Summit conference last week and his participation in a panel about DEQ's work.
- Nearing the end of the comment period for the 401 Water Quality Certification for the Ambre Energy project.
- A recent legal settlement, not directly involving DEQ, that may require the U.S. Army Corps of Engineers to apply for permits related to their operations of dams along the Columbia River.
- His term and work as president of the Environmental Counsel of States, which will expire this fall.

Vice-chair Armstrong asked for an update on the status of permit issuance, and Director Pedersen discussed the permit program status and upcoming actions for improvement.

Commissioner Eden noted that she attended a workshop July 2 in Walla Walla regarding pesticide stewardship to keep toxics out of the Columbia River.

Chair O'Keeffe explained that she attended the Frontier Summit, though not as commission chair, in late July to discuss local priorities and coordination.

***This item taken out of order***

**H. Informational item: Commissioner reports**

Commissioners provided verbal updates on their activities and other items of interest to the commission.

Vice-chair Armstrong complimented DEQ's staff for the recent presentation at the Board of Forestry workshop on riparian protections. He noted that he and Gary Springer, Board of Forestry, are continuing to plan a water summit in fall 2015.

**G. Action item: Contested case hearing**

Larry Knudsen, the commission's legal counsel, provided an overview of the commission's process for contested case hearings and summarized the case's background information. Commissioners reported no ex parte contact or conflicts of interest in the matter.

David and Barbara Sullivan, petitioners in the case, presented their information to the commission. David Sullivan provided repaginated copies of his briefs and requested that the commission set over this matter until the next regular meeting because of very short timelines for review of the materials. The commission discussed the proposal and agreed to the request.

Motion: Set over this matter until the November 2014 regular commission meeting

Move: Commissioner Eden

Second: Vice-chair Armstrong

*The commission unanimously approved the motion.*

*Chair O’Keeffe recessed the meeting at 3:15 p.m. until 8:30 a.m. on Thursday, August 28.*

On Wednesday evening, commissioners and some DEQ staff attended an informal and self-pay dinner in Medford. No commission business was held at this dinner.

**Thursday, August 28 – 8:30 a.m. to 4:30 p.m.**

*Chair O’Keeffe reconvened the meeting at 8:30 a.m.*

**Present:** Chair O’Keeffe, Vice-chair Armstrong, Commissioner Johnson and Commissioner Eden

**I. Public forum**

The commission reconvened at 8:30 a.m. for public forum. People could present comment in-person in Medford or via conference call at the Portland (headquarters), Bend, Eugene and Pendleton DEQ offices.

Six people submitted speakers’ forms to comment in Medford. One person presented comment via conference call at the Portland headquarters office.

1. Jim James, Oregon Small Woodlands Association, presented comment regarding the water quality standard for protecting cold water. He stated the association’s position that an exception to the criterion is appropriate and that the standard should not be applied to forest lands. He submitted two documents for the commission’s record.
2. Dave Schmidt, Oregon Small Woodlands Association, presented comments supporting James’ statements. He discussed a recent survey of forest land owners, conducted voluntarily by the owners, which assessed potential negative economic impacts if the protecting cold water criteria were implemented without a forest land exception. He submitted a document for the commission’s record.
3. Chris Jarmer, Oregon Forest Industries Council, presented comment supporting James’ and Schmidt’s statements. He clarified that OFIC and others would like the commission to consider modifications, not removal, of the protecting cold water criterion as part of the water quality standards.
4. Forrest English, Rogue Riverkeeper, presented comments regarding water quality credit trading and noted concern for relying on economic benefits, not environmental improvement and ecosystem functions, as the primary driver for water temperature credits. He noted specific elements of the current permit program that present opportunities for improvement.

5. Dale Feik, Washington County Citizen Action Network, presented comments addressing air emissions, water discharges and legal representation of Intel's facilities in Hillsboro. He stated his intent to provide documents for the commission's record at a later date.

6. Lesley Adams, Western Region Coordinator for Waterkeeper Alliance, presented comments regarding coal extraction and transport. She asked the commission and DEQ to deny Ambre Energy's application for a 401 Water Quality Certification.

7. Linc Cannon, Oregon Forest Industries Council, expressed concern about draft rules concerning biomass. He asked the commission to retain provisions allowing biomass to be considered renewable sources as part of draft rules for greenhouse gas emissions.

#### **J. Informational item and tour: Rogue Basin water quality improvements**

Director Pedersen provided an overview of water quality credit trading and its use in the Rogue Basin. Representatives from the Medford Regional Water Reclamation Facility, The Freshwater Trust and Oregon Association of Clean Water Agencies co-presented a short informational item on water quality improvements in the Rogue Basin.

Ken Williamson, Clean Water Services Director of Regulatory Affairs, presented a brief history of water quality trading in Oregon. He discussed project elements and described the effects from trading at several sites in Washington County. Joe Whitworth and David Primozich, The Freshwater Trust, described the work of the Trust and opportunities for newer approaches to meeting water quality standards and creating environmental gains. Walt Meyer and Dennis Baker, City of Medford, provided additional information about the specifics of temperature credit trading in Medford. Williamson played a short video about a planting project Clean Water Services operates with middle and high school students.

*The presentation was followed by a tour of the Medford Regional Water Reclamation Facility and riverbank planting sites operated by The Freshwater Trust. No commission business was conducted during the tour.*

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

Staff from the Oregon Department of Justice presented updates about litigation, in-process and pending, during an executive session with the commission and some DEQ staff over a working lunch. This session was held pursuant to state meeting law.

*The commission's tour and lunch, with executive session, took place between 10:15 a.m. and 1:15 p.m. Chair O'Keeffe reconvened the meeting at approximately 1:20 p.m.*

#### **K. Informational item: Water quality standard modification for total dissolved gas for fish spill**

Paula Calvert, Columbia River Coordinator, presented an informational item via conference call regarding a request from the U.S. Army Corps of Engineers for a modification to the total dissolved gas water quality standard at the four lower Columbia River dams for the purposes of

fish spill. Calvert noted that this item was a follow-up to discussion at the June 2014 EQC meeting and is preparation for a request for commission action at its next regular meeting.

The commissioners asked clarifying and informational questions about the standard modification request and fish spill. DEQ, state and federal partners provided responses to the commissioners' questions. Commissioner Eden requested that the commission have an opportunity to receive a briefing and full tour of the fish monitoring station at Bonneville Dam.

**L. Informational item: Budget and legislative updates**

Jim Roys, Financial Services manager, and Greg Aldrich, Office of Policy and Analysis manager, presented budget and legislative information. This item was a wrap-up from an Aug. 7, 2014, special commission session on budget details.

The commission asked clarifying and informational questions about budget, policy and legislative information. Director Pedersen noted that DEQ intends to involve the commission earlier in the budget development cycle in future bienniums and also solicit direction from the commission for the final 2015-17 Governor's Balanced Budget.

*This item taken out of order*

**N. Action item: Certification of DEQ's 2015-17 Agency Request Budget**

Jim Roys, Financial Services manager, requested that the commission authorize Chair O'Keeffe to certify the Agency Request Budget for 2015-17.

Action: Authorize Chair O'Keeffe to sign and certify the DEQ 2015-17 Agency Request Budget on behalf of the commission.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

*The commission unanimously approved the motion and Chair O'Keeffe signed the certification page.*

**M. Informational item: Annual financial report**

Jim Roys, Financial Services manager, presented the agency's annual financial summary report for commission review and discussion. Roys described the report sections, provided summary information about the report contents and discussed the materials with the commissioners.

Chair O'Keeffe adjourned the meeting at approximately 4:40 p.m.

**2014 EQC meetings**  
November 5-6: Portland area  
Jan. 7-8, 2015: Portland area