

Please note: The draft notes reflect the order items were presented at the meeting

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Approved with amendments _____

Minutes of the 383rd regular meeting of the Oregon Environmental Quality Commission

June 10-11, 2015

Salem, Oregon

Oregon Department of Fish and Wildlife commission room

4034 Fairview Industrial Drive SE

Wednesday, June 10 – 10 a.m. to 4 p.m.

Chair O’Keeffe convened the meeting at 10 a.m.

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

A. Action item: Draft meeting minutes from April 2015

The commission reviewed and took action on draft minutes from the April 15-16, 2015, regular EQC meeting.

Action: Approve the April 15-16, 2015, EQC meeting minutes as presented.

Move: Commissioner Eden

Second: Vice-chair Armstrong

The commission unanimously approved the motion.

B. Recognition item: 2014 Charitable Fund Drive award

Bret West, Department of Administrative Services and chair of the state Charitable Fund Drive, presented a recognition award to DEQ for its employees’ donations to the 2014 campaign. Director Pedersen accepted the award on behalf of DEQ and commented on the dedication and generosity of DEQ staff, and noted the four co-coordinators for the agency: Bob “Tracker” McCoy, Janice Leber, Lisa Clark and Bob Schwarz. McCoy, attending in-person, echoed Director Pedersen’s comments and expressed his appreciation of the staff and co-coordinators. Leber, connected by phone, noted McCoy’s commitment and leadership for the agency’s annual fundraising efforts.

The commissioners applauded the DEQ staff and the ongoing agency commitment to charitable giving.

E. Informational item: Water Quality Permitting Program updates

Ron Doughten, Water Quality Permitting Program manager, explained that the item is an overview of recent updates to the agency’s Water Quality Permitting Program in response to a request by the commission at its November 2014 meeting. William Knight, program analyst, provided an overview of the program and DEQ’s regulatory responsibilities for water quality.

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Sonja Biorn-Hansen, senior program policy analyst, described the purpose, content, development and implementation of DEQ's water quality permits.

Knight also discussed performance metrics and program evaluation. The commissioners asked clarifying and informational questions regarding the program and permit issuance delays. The commissioners discussed past and planned process improvements and the results of implemented improvements. Commissioners emphasized the importance of meeting statutory requirements to protect the environment and reducing the permit issuance backlog.

Doughten summarized program lessons learned and described the near- and long-term plans for an improved and sustainable water quality permitting program. Director Pedersen provided closing comments for the item.

The commission recessed for lunch from 11:30 a.m. to 12:15 p.m.

D. Informational and discussion item: EQC Key Performance Measure annual survey

Greg Aldrich, Office of Policy and Analysis manager, presented the informational and discussion item to solicit input from the commission on the annual self-evaluation and survey for EQC's Key Performance Measure. He noted that the survey results will be presented at the August 2015 regular commission meeting.

The commissioners discussed potential changes to the survey, and asked Aldrich to provide recommended questions to make the review more of a peer- or 360-style review regarding the commission's responsiveness to the public and agency and also in fulfilling its role as DEQ's policy-making body.

J. Informational and discussion item: Commission role in enforcement and contested cases

Joni Hammond, Deputy director, introduced the item and noted that the discussion is in response to a commission request for a presentation about contested case hearings and the commission's role in that process. Les Carlough, Office of Compliance and Enforcement senior policy analyst, described the amount and types of contested cases heard by the commission and provided an overview of the contested case process. Larry Knudsen, EQC's legal counsel, provided a history of contested cases before the commission.

The commissioners asked clarifying and informational questions about the administrative law judge panel and process, contested case history and general compliance and enforcement processes. Knudsen, Carlough and Sarah Wheeler, Office of Compliance and Enforcement acting manager, provided responses and additional clarifying information for the questions.

The commissioners discussed the information presented, and provided feedback on potential options for contested case hearings moving forward. Commissioners asked DEQ to provide some of the contested case history, process and outcomes on the agency website as information to the public. Chair O'Keeffe noted that the commission's general intent is to retain the contested case

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hearings process as it stands today, and thanked the staff for their informational presentation and context for the process. Commissioner Johnson requested a longer time period for contested case materials review, to provide extra time to assess the case materials.

Knudsen summarized the commissioners' feedback for further DEQ research and recommendations in October:

- Potentially creating a review subpanel for closer review and recommendation for action by a subset of the commission
- Potentially removing the most technical cases from the commission's review responsibilities
- Providing additional review time for contested case hearings

F. Informational item: Annual financial report

Jim Roys, Financial Services manager, presented the annual report on agency financial information and an update 2015. He noted that the annual update helps inform the commission regarding EQC and DEQ financial information as part of the commission's annual self-evaluation on best practices. The commissioners discussed the financial updates and asked clarifying and informational questions.

G. Informational item: Budget and legislative updates

Greg Aldrich, Office of Policy and Analysis manager, presented updates on the 2015-17 agency budget process, state and federal budget information and state and federal legislative matters of interest to the commission. He noted that six DEQ bills, including the agency's budget bill, were scheduled for action today and the legislature is working very quickly to move budget bills and other actions.

The commissioners discussed the legislative information and noted their appreciation for ongoing updates about the legislative and budget developments. Jim Roys, Financial Services manager, provided additional updates about non-environmental and administrative bills. Director Pedersen noted that DEQ will bring a follow-up on the 2015 Legislative Session as part of its regular update at the August EQC meeting.

H. Action item: Director's annual transactions

Jim Roys, Financial Services manager, presented Director Pedersen's 2014 transactions for review and approval, per agency policy and state rules.

Action: Accept the DEQ director's approved transactions as seen in attachment C of the item.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the motion.

The commission recessed at approximately 4 p.m. until 9 a.m. on Thursday, June 11.

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Thursday, June 11 – 9 a.m. to 3:30 p.m.

Chair O’Keeffe convened the meeting at 9 a.m.

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

I. Public forum

The commission reconvened at 9 a.m. for public forum. People could present comment in-person in Salem at the meeting venue or via conference call at one of several DEQ offices.

- *Bend: 475 NE Bellevue*
- *Medford: 221 Stewart Avenue*
- *Portland (headquarters): 811 SW 6th Avenue*

Two people presented comment in-person at the meeting. No people presented comment by phone in Bend, Medford or Portland.

1. Meg Thompson, Oceanside Water Protection Committee and North Coast Basin Coalition, presented comments and thanks to DEQ and the commission regarding support for the Coalition’s efforts to create a comprehensive regional plan to protect the region’s watersheds. She described the watershed’s concerns and issues and encouraged private foresters to voluntarily, or under state direction, limit logging activities while the water district develops and implements its water protection plans. She asked the commission to take leadership on pesticide reduction and removal from watersheds as a public health concern. She provided a handout to the commission to accompany her comments.
2. Ilsa Perse, Stop the Dump Coalition, presented comments regarding concerns about Riverbend Landfill. She noted that she provided testimony in January on the issue of Riverbend’s vulnerability to earthquakes and provided additional comments on these concerns and follow-up questions. Perse expressed concern about leachate being removed from the landfill without any indication on the trucks that they contain the runoff with potentially toxic chemicals. She asked DEQ to evaluate the composition of landfill leachate as a source of odors and potential toxic substances. She provided commissioners with a copy of a recent *Street Roots* article regarding water quality regulations in Oregon.

C. Informational item: Director’s report

Director Pedersen presented written and verbal updates about DEQ, state and federal environmental activities of interest to the commission. The written material included updates about:

- Commissioner reappointments for Vice-chair Armstrong and Commissioner Rider
- Recent media coverage, including technical inaccuracies, of groundwater concerns at an Intel facility
- A request for an exception to land use Goal 11 for the South Deschutes/North Klamath County area as a potential remedy for local groundwater concerns

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- EPA’s release of EJSCREEN, a web-based mapping tool for environmental justice concerns, on June 10
- Public comments sought by EPA regarding Oregon’s agricultural water quality management plans as part of the CZARA review
- Annual audit information for the Clean Water State Revolving Fund Loan Program
- A brownfield grant from EPA for cleanup and redevelopment of a former landfill site in northeast Portland, to be used as a Zen center and public access to recreational lands
- A recent partnership with University of Oregon students and their analysis and report on DEQ’s Cleanup Program land use assessments
- Drought conditions in Oregon and DEQ’s role and response
- Four proposed rulemakings for the agency rulemaking plan
 - Vice-chair Armstrong expressed his interest in participating in the rule development process for copper standards

In addition to the written material, Director Pedersen provided verbal updates on:

- The end of his term as an officer with ECOS and continued involvement in new roles for the organization
- A note of thanks to the Oregon Department of Fish and Wildlife for hosting the commission meeting and recognition of the DEQ Salem office next door
- The move of the Northwest Region office to a renovated building in the Lloyd Center in Portland, and the headquarters office move to that same building in late 2016
- Coordination for source water control and planning in the Tillamook area
- A tour of Hampton Mill, a logging and lumber company in Tillamook, and its innovative stormwater management and air quality controls

The commissioners asked clarifying and informational questions about the report and updates.

K. Informational item: Commissioner reports and agenda planning discussion

Commissioners provided verbal updates on their activities and other items of interest to the commission. Vice-chair Armstrong explained that he attended a recent Board of Forestry meeting where the board discussed the 2015 drought and expected wildfire season, land management related to department budget concerns and ongoing discussions and development of Forest Practices Act updates.

Commissioner Johnson noted that the Water Resources Commission meets next week and she will report on that meeting at the August EQC meeting.

Greg Aldrich, Office of Policy and Analysis manager, discussed potential agenda items at the remainder of the 2015 meetings. He noted that there is no specific plan for co-presented items with sister agencies at the August meeting, and suggested that the August meeting could include a presentation from the Oregon Watershed Enhancement Board and its plans for strategic investment for watersheds across the state.

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The commissioners provided feedback on items and information of interest, including:

- Landfill leachate, including its general composition and classification
- EPA’s planned rules for Clean Air Act Section 111d, if the information is released and available before the August commission meeting
- Relationship-building with EPA Region 10
- An update from the Natural Resources policy advisors in Governor Brown’s administration in August or October
- General information about liquefied natural gas sites planned near Astoria

Note: Action item added at the Chair’s discretion

Item 1: Action item, Rulemaking delegation

Larry Knudsen, EQC legal counsel, explained that DEQ would like to update delegation documents for filing rules, and asked the commission to take action that delegates limited rulemaking authority to the current rules coordinator.

Action: Authorize Meyer Goldstein to sign filing documents and file rules with the Secretary of State on behalf of the Oregon Environmental Quality Commission
Move: Commissioner Eden
Second: Commissioner Johnson

The commission unanimously approved the action

Chair O’Keeffe recessed the commission at 10:45 until 11:45 a.m. at which time the commission would meet for lunch and executive session and return to the meeting at 1 p.m. The commission, legal counsel and some staff met for an executive session and working lunch from 11:45 a.m. to 1 p.m. This executive session was held in accordance with state public meeting laws.

L. Informational item: Minto Island

Keith Andersen, Western Region Division administrator, introduced the item. Don Hanson, Tanks and Cleanup Program hydrogeologist, presented information about DEQ’s Cleanup Program generally and specific work at the Minto-Brown Island. He noted that the site in the City of Salem that is a former industrial site and is now used as a nature preserve and recreational lands. Peter Fernandez, City of Salem Public Works Director, and Annie Gorski, City of Salem Urban Development Department Project Manager, described the city’s past, present and future plans for the site and other brownfield redevelopment opportunities.

Chair O’Keeffe adjourned the public meeting at 1:30 p.m.

M. Tour: Minto Island

Commissioners, some DEQ staff and project partners from the City of Salem took an afternoon tour of Minto Island and related project sites.

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2015 EQC meeting dates

August 12-13: Regular meeting, Astoria
October 14-15: Regular meeting, Klamath Falls
November 5: Special joint meeting with the Board of Forestry, location TBD
December 9-10: Regular meeting, Portland area