

Notes of the 378th regular meeting of the Oregon Environmental Quality Commission

June 18-19, 2014
The Dalles, Oregon
Ft. Dalles Community Readiness Center
402 East Scenic Drive, The Dalles

The notes reflect the order in which the commission heard the items. Some times were changed at the commission's discretion.

Wednesday, June 18 – 8:30 a.m. to 5:30 p.m.

A. Tour: Bonneville Dam

Prior to the start of the meeting, commissioners and some DEQ staff attended a tour of Bonneville Dam. Due to federal security limits, this tour was not open to the public. No commission business was conducted during the tour.

The commission's tour, travel and lunch took place between 8:30 a.m. and 1 p.m. Chair O'Keeffe convened the meeting at 1:20 p.m.

Present: Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Rider

B. Action item: Draft meeting minutes from March 2014

The commission reviewed and take action on meeting minutes from the March 19-20, 2014, EQC meeting.

Action: Approve the meeting minutes as presented

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the March 19-20, 2014, meeting minutes as presented

C. Informational item: Commissioner reports

Commissioners will provided verbal updates on their activities and other items of interest.

Commissioner Johnson reported out on a visit to the Hinkle Creek Paired Watershed research area in April, a tour of the Medford-area WISE project in May and her work as the official liaison to the Water Resources Commission.

Commissioner Rider discussed changes to the work of the Oregon Watershed Enhancement Board, on which she serves as the EQC representative. She noted that she attended the Community Forest Forum in early May and that forum covered many topics of forest and environmental health.

Vice-chair Armstrong discussed his work as the commission's liaison to the Board of Forestry. He recognized Gary Spring, Board of Forestry member and liaison to the commission from that

body, attending the EQC meeting. Vice-chair Armstrong described the meeting content and preparations for the 2014 wildfire season. He also presented to the Small Woodland Owners Association on water quality and other forestry concerns.

Chair O’Keeffe stated that she attended the April Board of Forestry meeting and expressed her appreciation for the board and commission learning more about each others’ work.

Commissioner Eden noted that she will attend a meeting in July in Walla Walla regarding pesticides.

D. Informational item: Toxics reduction and Pesticide Stewardship Partnership update

Kevin Masterson and Lori Pillsbury, DEQ, presented an update on the agency’s Toxics Reduction Strategy. Masterson noted that guest panelists will present after DEQ on their experience and work with the Pesticide Stewardship Partnership. Masterson presented a brief overview of the strategy and Pillsbury described the water quality toxics program at the lab. She described the program’s approach to water quality monitoring and sampling over the past six years since its start in 2008. The commissioners asked informational questions about the strategy and DEQ’s monitoring program.

Masterson discussed the short-term priority actions in the DEQ Toxics Reduction Strategy and described the 2012 Executive Order for green chemistry and toxics reduction. He presented some example information from the Pesticide Stewardship Partnership and discussed the reductions in pesticides found in Oregon waterways as an outcome of the partnership with the agricultural community and other using pesticides in the state.

Ken Bailey, orchardist, discussed his work in the Pesticide Stewardship Partnership and the improvements he’s made to practices and the related efficiencies and successes. He noted that the program does need additional monitoring resources and funding to continue the program’s success.

Mike Omeg, cherry orchardist in The Dalles, described his involvement with the partnership in The Dalles. He expressed his support for the monitoring data being the basis of the program and explained how the weather station network, now funded by growers, provides very important data for the use and application of pesticides in a targeted and safe way.

Kevin Scribner, Salmon-Safe, described the Salmon-Safe program and its certification. He showed several of the tools and materials the program provides to growers and land managers interested in practices that are safer for salmon across the state. Scribner showed examples of the agricultural and urban producers and land managers certified as Salmon-Safe.

Dianne Barton, Columbia River Inter-Tribal Fish Commission, welcomed the commission to Celilio and presented on the CRITFC’s work to reduce toxics locally and at the national scale. She discussed the tribal actions and priorities for toxics reduction, and those connections to DEQ’s Toxics Reduction Strategy. Barton noted that a regional, not state-specific, fish consumption rate would best protect water quality and the health of all.

The commissioners asked questions about the program funding sources, opportunities for data collection and information sharing and other details of the program.

E. Informational item: Port of The Dalles

Linda Hayes-Gorman, DEQ's Eastern Region Division administrator, introduced the item and co-presenter, Andrea Klaas, Executive Director of the Port of The Dalles. Klaas presented a brief history of the Port, its functions for the region and community and economic development the Port has done since 1986. She noted that the Regional Solutions Teams have been excellent resources and tools for the Port of The Dalles to create region-specific projects.

F. Action item: Contested case hearing

This item was deferred until the August 2014 EQC meeting

G. Informational item: U.S. Army Corps of Engineers' spill waiver application

Gene Foster, Water Quality Program manager, introduced the item and noted that the current waiver expires in 2014 and DEQ intends to bring a new five-year waiver and agreement for commission review and action at the August 2014 EQC meeting. Paula Calvert, DEQ Columbia River Coordinator, presented information about the fish passage waiver and the proposed waiver renewal for the U.S. Army Corps of Engineers operation of fish spill activities at the four mid- and lower-Columbia dams. Calvert described gas bubble trauma, sometimes caused when fish migrate over dams, and the management of gas bubble trauma through standards for total dissolved gas in Oregon's water quality standards. The waiver for the Corps is an exception to those standards.

The commission asked informational questions about the waiver and its use by the Corps. Commissioner Eden asked for the legal background on the waiver's application. Gary Vrooman, commission legal counsel, noted that the waiver is an administrative action, and the commission could request that DEQ provide additional information or analysis of the application as part of the record for consideration and commission action. Commissioner Eden noted her concern with taking action on the waiver proposal without the annual report and additional data. Commissioner Johnson suggested that alternatives to the five-year schedule might be possible. Director Pedersen noted that DEQ will provide additional information and data for the commissioners to consider prior to any request for action and will consider timing the action for November, instead of August.

Chair O'Keeffe recessed the commission at 4:30 p.m. until 8 a.m. on Thursday, June 19. Commissioners and some DEQ staff held an informal meet-and-greet session with staff and members of the Columbia River Gorge Commission from 5 to 6 p.m. on Wednesday evening, but no commission business was conducted during the session.

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

Thursday, June 19 – 8 a.m. to 5:30 p.m.

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

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

This item taken out of order

Q. Informational item: EQC Key Performance Measure

Greg Aldrich, Office of Policy and Analysis manager, presented a review of the existing Key Performance Measure, and related survey, for the commission’s required annual self-evaluation. Aldrich asked the commissioners for their feedback on the survey’s content, questions and methods as preparation for the 2014 survey.

The commissioners provided feedback on their preferred design for the 2014 survey, of the 2013 meeting year.

- An opportunity to provide narrative or qualitative answers to each questions with a essay box and not just quantitative answers
- Reminders or other mechanisms to ensure all five commissioners complete the survey for best data collection.

Aldrich explained that DEQ intends to issue the annual survey in early 2014, following any revisions requested by the commissioners, and will bring the final analysis for discussion at the August 2014 EQC meeting.

H. Public forum

The commission opened public forum at 8:15 a.m. People were able to present comment in-person in The Dalles or via conference call at the Portland (headquarters), Bend, Eugene, Medford and Pendleton DEQ offices.

Twelve people submitted forms to present in The Dalles.

1. Jim James, Oregon Small Woodlands Association, asked the commission to consider the data presented by the Watersheds Research Cooperative. He provided a handout with a copy of his testimony.
2. Chris Jarmer, Oregon Forest Industries Council, presented comment in support of James’ comments and the Watershed Research Cooperative.
3. Heath Curtiss, Oregon Forest Industries Council, presented comment regarding water quality standards. He provided a handout with copies of the water quality standards for the commission’s reference and asked the commission to consider a standard that does not apply one blanket requirement for all waterbodies for the Protecting Cold Water Criterion.
4. Dale Feik, Washington Citizens Action Committee, presented comment regarding environmental quality concerns associated with the Intel facilities in Hillsboro. He explained that DEQ must hold Intel to a very stringent standard for its permit applications, and require the most protective equipment for its facilities.

5. Dan Bloom, environmental activist, presented comment in opposition to ongoing construction and emissions at Intel facilities in Hillsboro. He submitted a document for the commission's reference.

6. Rex Storm, Associated Oregon Loggers, presented comment and asked the commission to consider the water quality research and data to modernize and revise the Protecting Cold Water criterion of the water quality temperature standards and give broad deference to the Board of Forestry for interpretation of that standard and criteria. He submitted a copy of his testimony for the commission's reference.

7. John Zoloznik presented comment regarding onsite septic system fees and the need for more support from DEQ for the local operation of the program. He also presented comment on water quality issues in Wasco County and ongoing contract issues with the PaintCare program. He urged the commission to find ways to support the counties and their work to improve access to recycling options in rural areas.

The commission and Director Pedersen provided feedback and asked informational questions for this presenter.

8. Lauren Goldberg, Columbia Riverkeeper, presented comments on three main topics of interest to the organization: coal export through the Columbia River, the influx of oil-related projects along the Columbia River and the pressure to create new oil storage terminals and EQC's ongoing support for water quality standards to protect human health. She asked the commission to provide support and comment for the State of Washington to finalize its standards in the same manner and to the same protections.

9. Mary Scurlock, Scurlock and Associates, presented comment regarding the commission's items N and O regarding water quality standards on forested lands. She noted her comments were on behalf of several environmental groups and coalitions and expressed concern with the preliminary data from several paired-watershed studies being used as definitive at this time as part of the review and development of water quality standards.

10. Dave Berger presented comments and concerns about air quality. He expressed support for the comments presented by Goldberg and Columbia Riverkeeper and noted that DEQ and others need more data on the air quality concerns associated with the transport of coal. He noted that emergency planning for coal and oil transport are insufficient and must be improved. He also explained that the AmeriTies West facility in The Dalles is negatively affecting the air quality in the area and is emitting toxics.

11. Peter Cornelison, Friends of the Columbia Gorge, presented comments regarding proposed coal export and transport through the Gorge, air quality concerns associated with the AmeriTies West facility in The Dalles and oil trains moving through the Gorge.

12. David Michaelk presented comments regarding proposed coal export and transport through the Gorge. He noted that he lives in the Gorge and appreciates the work of the commission to protect its air and water quality. He asked the commission to consider the full scope of emissions and pollution for any coal or oil transport and export permits and projects.

Following the close of public forum, Commissioner Johnson officially introduced Jeanne

LeJeune, the Water Resources Commission liaison to EQC.

I. Informational item: Budget and legislative update

Jim Roys, Financial Services manager, and Greg Aldrich, Office of Policy and Analysis manager, presented updates on DEQ's current budget status and development of 2015-17 budget and legislative materials. Roys noted that the full financial report and operating budget detail will be sent to the commission for review in early July, and staff will return for the August meeting to review that plan and resolve any questions prior to final approval by the commission chair and submittal to the Department of Administrative Services by Sept. 1, 2014.

Roys provided an update on the current, 2013-15, operating budget status for DEQ. Aldrich provided an overview of DEQ's policy option packages and legislative concepts, still under development. The commission discussed the proposed information and asked clarifying and informational questions about the materials. Director Pedersen noted that DEQ can provide a very comprehensive budget discussion for better commission understanding of the budgeting subprograms and their funding delineations. The commission agreed to hold a special meeting in July to discuss budget information in-depth prior to when the final materials are proposed for certification by the commission chair.

Aldrich also provided a brief update on the follow-up from the 2014 Oregon Legislative session.

J. Action item: Director Pedersen's 2013 transactions

Jim Roys, Financial Services manager, presented Director Pedersen's 2013 transactions for review and approval. The review is required by state and agency accounting practices and policies. Roys noted that boards and commissions are required to review their director's transactions each year. Vice-chair Armstrong noted that the monthly costs are very low considering the Director's commitment to providing a DEQ presence in all parts of Oregon.

Action: Accept Director Pedersen's approved financial transactions for 2013, as seen in attachment A of the item.

Move: Commissioner Johnson

Second: Commissioner Eden

The commission unanimously approved the Director's 2013 approved financial transactions.

K. Action item: Proposed fee increase for Air Contaminant Discharge Permits

Uri Papish, interim Air Quality Program manager, introduced the item and explained that the proposed permanent rules were approved in October 2013 as temporary rules for that year's invoice cycle. Gregg Dahman, air quality staff, described the proposed rule changes and fee increases for Air Contaminant Discharge Permits. He noted that the proposed increase of 20 percent would also correct the calculation for greenhouse gas permit fees and change the calculation of time period for reporting from a rolling 12-month year to a set calendar year. The commission asked clarifying and informational questions about the proposed fee increase.

Action: Adopt the proposed rules in Attachment A as part of chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the proposed rules and fee increase for Air Contaminant Discharge Permits.

L. Action item: Smoke Management Program rule revisions

Uri Papish, interim Air Quality Program manager, introduced the item and noted that the item is a two-part action item for changes to the Oregon Smoke Management Plan and incorporating those changes into the state's Clean Air State Implementation Plan. Brian Finner, air quality planner, noted that an addendum handed out today included the full redline version of the rule changes, which was not included in the formal attachment provided to the commission. The commission did receive a summary of the changes and rule language in their packet, and the addendum is a procedural, rather than substantive, change.

Finneran presented background on the Oregon Smoke Management Plan and program and described the proposed changes. The commission asked clarifying and informational questions about the proposed changes.

Action: Adopt the proposed rules in attachment A, with the Department of Forestry addendum as provided at the meeting, as changes to the Oregon Smoke Management Plan under ORS 477.013 as part of chapter 340 of the Oregon Administrative Rules and incorporate the approved rules into the Oregon Clean Air State Implementation Plan.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the motion.

M. Action item: Clean Fuels Program Phase 1 permanent rule revisions

Uri Papish, interim Air Quality Program manager, presented proposed permanent rules for the reporting phase, known as Phase 1, of the Clean Fuels Program. He noted that the proposed rules would make permanent changes the commission approved in December 2013 as a temporary rule action. The commissioners asked clarifying and informational questions.

Action: Adopt the proposed rules in attachment A as part of chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Rider

Second: Vice-chair Armstrong

The commission unanimously approved the rules as presented.

This item was taken out of order

R. 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 written report included updates about:

- New rules under development by EPA related to Clean Air Act section 111d, related to regulation of existing power plants
- The start of the next phase of the Clean Fuels Program, to help Oregon meet emission reduction goals.
- Awards from EPA to several Oregon communities for brownfield assessments, cleanups and redevelopment.

- Public process for a revised Title V permit application from Intel for its facilities in Hillsboro.
- Onsite program changes for Curry and Coos County and the return of the program from county to DEQ control.
- Proposed updates to air quality permit rules, including proposed changes that affect boilers commonly used in the wood product industry.
- Ballast water violations in May in the lower Willamette River and the protection of Oregon's water from invasive species in ballast water.
- Rulemaking updates, as provided in the report attachment.

In addition to the items in the written report, Director Pedersen provided several verbal updates, including information about:

- A request from the Department of Agriculture for commissioners to attend a Board of Agriculture tour and meeting in Enterprise in late September
- The departure of Phil Ward, former director of the Water Resources Department, to a new position. The deputy director is acting as interim director until a new one is appointed by Governor Kitzhaber.
- His work as president of ECOS and upcoming meetings with state and federal agencies and entities.

The commissioners asked clarifying and informational questions about the items presented. Director Pedersen and other staff present provided additional clarification of several items.

Lunch and executive session

Chair O'Keefe recessed the commission for lunch and executive session from 12:15 to 1:30 p.m. Staff from the Oregon Department of Justice presented updates about litigation, in-process and pending, during the executive session with the commission and some DEQ staff over a working lunch.

N. Informational item: Watershed studies

Mike Cloughesy, Oregon Forest Research Institute, introduced the item and his co-presenters, Arne Skaugset, OSU College of Forestry, and Mary Reiter, Weyerhaeuser. Cloughesy discussed the three paired-watershed studies and summarized the information collected from those studies over the past 10 years. He provided a brief overview of the three studies, their designs and some study findings.

Skaugset discussed the impacts to stream temperature in response to forestry operations in the paired-watershed studies. Reiter discussed the impacts of forestry practices on aquatic ecosystems in the Trask watershed, and she noted that the information is preliminary and the study is ongoing. She presented key findings on the fish conditions related to forestry activities. The presenters urged the commission to consider more site-specific standards to reflect the variability of waterbodies.

Commissioners asked clarifying and informational questions about the studies and information presented at the meeting.

O. Informational item: Water quality management approach for temperature

Gene Foster, DEQ Watershed Program manager, introduced the item and explained that the material is intended to provide an overview of the data and information used by DEQ and others

for water quality standards development. Josh Seeds, DEQ water quality staff, discussed the impacts of shade on controlling stream temperature and how changes in shade, from forestry activities or natural events, affect temperature and aquatic life.

Dave Jepsen, Oregon Department of Fish and Wildlife fish biologist, discussed the importance of the water temperature for the success of various aquatic species. Seeds noted that DEQ's water quality standards are made of several criteria, one of which is the Protecting Cold Water criterion that is designed to protect the natural temperature conditions of streams.

Foster described DEQ's watershed management plans, known as Total Maximum Daily Loads or TMDLs. He explained that differences in streamside vegetation can vary by land ownership and use, which DEQ can assess and then prioritize improvements to get the greatest improvements for Oregon's streams. Seeds provided an overview of the standards in Washington and California that correlate to Oregon's Protecting Cold Water Criterion.

Anthony Barber, John Palmer and Alan Henning, all from EPA, presented on the importance of preserving cold water in Oregon's streams, and noted EPA's support for the ongoing scientific approach used by DEQ to develop its water quality standards. Palmer described the process used to develop EPA's 2003 temperature guidance and discussed the federal standards and guidelines for water quality. Palmer stressed the necessity of Oregon's Protecting Cold Water Criterion as part of the overall water quality standards to remain approvable under federal guidelines.

The commissioners asked clarifying and informational questions about the presentation and water quality temperature standards, generally.

P. Informational item: Local environmental concerns and opportunities

Linda Hayes-Gorman, DEQ's Eastern Region Division administrator, introduced this item. She explained that the item is a combination of different topics under the umbrella of communication and coordination among state and local entities.

Sheree Stewart, DEQ's Drinking Water Protection program coordinator, described DEQ's authorities and role for protecting drinking water under the Clean Water Act. Dave Anderson, City of The Dalles Public Works director, described a 2013 fire in The Dalles watershed, and the drinking water concerns associated with the aftermath of the fire and its suppression. Anderson described the importance of the existing state and local relationships for ensuring the rapid response to the fire event and the ongoing need for the relationships to rehabilitate the landscape.

Lisa Hanson, Oregon Department of Agriculture deputy director, and John Byers, ODA Water Quality Program manager, described ODA's Agricultural Water Quality Program, its connections to DEQ and collaboration with state, federal and local partners. Byers explained that Oregon is divided into 38 regions for agricultural water quality management, based on the topography and specifics of various landscapes and agricultural needs. He highlighted the Wasco County Strategic Implementation Area, one of two in the state, and ODA's innovative compliance program for agricultural water quality in these areas. Hanson noted that the compliance evaluation tools help ODA identify issues, prioritize solutions and work in close partnership with other state agencies, local soil and water conservation districts and the agricultural community.

Draft _____
Approved as presented x
Approved with changes _____

The commissioners agreed to a tentative special meeting date for Thursday, Aug. 7, 2014, to discuss the DEQ budget information in-depth as discussed at this meeting.

Chair O’Keeffe adjourned the meeting at 5 p.m.

2014 EQC meetings – revised dates and locations

August 27-28: Medford area
November 5-6: Portland area
Jan. 7-8, 2015: Portland area