
Date: Jan. 17, 2020
To: Environmental Quality Commission
From: Richard Whitman, Director
Subject: Item G: Director's report (Informational)
Jan. 23-24, 2020, EQC meeting

1. Agency Management

1.1 EPA State Review Framework

Every three to four years, the federal Environmental Protection Agency (EPA) reviews state environmental agencies' compliance and enforcement work under the federal Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act. This process, known as the State Review Framework, assesses delegated programs against a set of nationwide metrics including data, inspections, violations, enforcement and penalties.

Following its review, EPA provides states with a set of draft findings that fall into three categories:

- Meets or exceeds expectations;
- Areas for attention; and
- Areas for improvement, which come with draft EPA-recommended actions to improve program performance.

DEQ received EPA's draft State Review Framework report December 12, 2019. EPA found that DEQ's air, land and water quality DEQ programs "meet or exceed expectations" for a number of metrics, including formal enforcement which results in a return to compliance, and assessment of penalties. Areas for improvement include the accuracy of compliance and enforcement data reported to EPA for all three programs.

DEQ's written response to EPA's draft report is due February 10, 2020. The response will include DEQ's actions for how it will address areas for improvement over time. EPA's final report will be published on EPA's website, expected early spring 2020. DEQ will track and report to EPA on how it implemented actions for improvement.

1.2 Environmental Data Management System (EDMS)

Since November 2019, EDMS and program staff have continued to meet with project vendor enfoTech and work to complete specifications for functional requirements, discuss system configuration and consult with the agency's subject matter experts. The first wave of agency

programs will begin to use the new system by fall 2020, with all programs scheduled to use the system over the next 18 months. The project timeline and anticipated waves of program implementation are shown below.



Wave 1: End of third quarter, 2020	Wave 2: First quarter, 2021	Wave 3: End of second quarter, 2021
<p>Air</p> <ul style="list-style-type: none"> - Gasoline Transporter Certification - Asbestos Program - Greenhouse Gas Reporting for electric and natural gas <p>Water</p> <ul style="list-style-type: none"> - Industrial and Construction Stormwater - Underground Injection Control - 401 Certification <p>Land</p> <ul style="list-style-type: none"> - Hazardous Waste <p>Related Data, Invoicing and Compliance</p>	<p>Land</p> <ul style="list-style-type: none"> - Environmental Cleanup - Solid Waste Permits - Underground Storage Tanks - Service Provider and Supervisor Licensing for Underground Storage Tanks and Heating Oil Tanks <p>Water</p> <ul style="list-style-type: none"> - WPCF Onsite Installer and Maintenance Provider Certification - Wastewater Operator Certification - Onsite Septic Sewage Disposal Service - WPCF Onsite Permits - NPDES and WPCF General Permit - NPDES and WPCF Individual Permits <p>Related Data, Invoicing and Compliance</p>	<p>Air</p> <ul style="list-style-type: none"> - Greenhouse Gas Reporting for permitted sources - Air Contaminant Discharge Permits - Title V Permit Program - Area Source Registration Permits - Emissions Inventory Reporting <p>Agency-wide services</p> <ul style="list-style-type: none"> - Complaints System <p>Related Data, Invoicing and Compliance</p>

2. Air Quality Division

2.1 Cleaner Air Oregon permits

Two new facilities have completed the Cleaner Air Oregon process as part of their applications for new air quality permits. Genentech is opening a pharmaceutical manufacturing facility in Hillsboro and has applied for a Simple Air Contaminant Discharge Permit. The facility proposes to operate natural gas-fired boilers, emergency generators and a fire water pump engine. DEQ held a public hearing Jan. 6, 2020, at the request of the facility. The public comment period closed Jan. 13, 2020, with one comment submitted. DEQ issued the permit Jan. 15, 2020.

Biodynamics of Oregon has proposed to operate an alfalfa and wood pellet manufacturing plant in Hines and has applied for a Standard Air Contaminant Discharge Permit. The facility proposes to operate a wood fired boiler, a belt dryer, and pelletizing equipment to process either green or pre-dried alfalfa into alfalfa pellets for livestock feed. When not processing alfalfa, the plant will be capable of processing chopped green wood into wood pellets for fuel combustion. DEQ is preparing to issue a public notice and schedule a public hearing for this permitting action.

3. Water Quality Division

3.1 Annual report for permit backlog progress

DEQ provided the 2019 Annual Report on Oregon's Water Quality National Pollutant Discharge Elimination System (NPDES) permit program to the commission earlier this year. The report is part of a program accountability effort related to a long-term backlog of permit in the NPDES program. As of December 1, 2019, DEQ has 334 active NPDES permits, which must be renewed every five years. Of that total, 92 were current, and the remainder administratively-extended beyond their five-year term. The administrative extension allows the permits to remain in effect until they are reviewed and updated to include the most current science to remain protection of human health and the environment. Of the 242 that are administratively extended, about half (119) have been extended for less than five years. A small number, 13, have been out-of-date for more than 15 years due to external factors such as litigation, the availability of current data to support amendments and other external challenges. The chart, below, shows the distribution of permit status as of December 1, 2019.

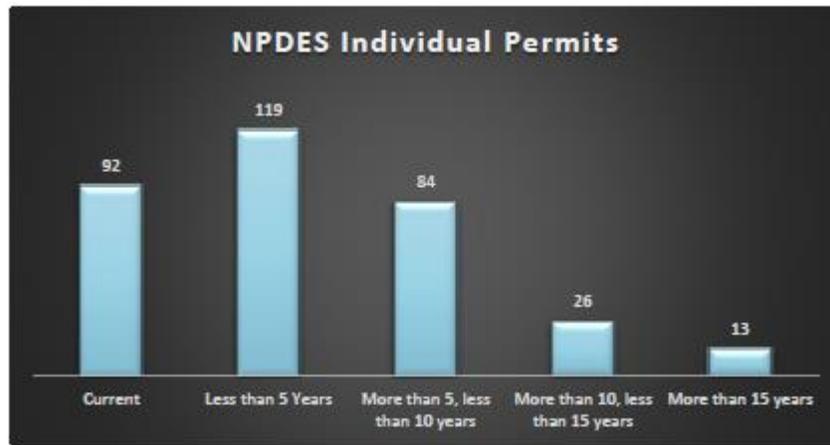


Figure 1

4. Eastern Region

4.1 Calico Grassy Mountain Proposed Gold Mine (Malheur County)

Calico has restarted its consolidated permit application for the proposed Grassy Mountain gold mine in Malheur County. Calico Resources USA Corporation is proposing to construct an underground gold mine; an indoor, closed loop, cyanide processing facility; a tailings storage and disposal facility; and an access road in Malheur County, about 23 miles southeast of Vale. DEQ's role, as part of a coordinated permitting process specific to chemical mining, is to ensure any potential mining activities adhere to environmental statutes and rules that are in place to protect the health of Oregon's people and environment.

The Oregon Department of Geology and Mineral Industries (DOGAMI) is managing the multi-agency permitting process for the proposed mine. DEQ is part of this permitting process, anticipates reviewing five permit applications: an industrial solid waste landfill permit, a water pollution control facility permit, an air contaminant discharge permit that will also require a Cleaner Air Oregon risk analysis, an industrial stormwater permit, and an onsite septic system permit.

Calico submitted the consolidated permit application on November 15, 2019. The agencies have 90 days, until February 19, 2020, to determine the completeness of the consolidated application. Should the determination be that the consolidated permit application is incomplete, the company will go back to work on its application and resubmit a revised consolidated permit application initiating a new 90-day round of review for completeness.

4.2 Easterday Farms CAFO - Former Lost Valley Farm (Boardman)

The Oregon Department of Agriculture (ODA) issued the notice of satisfaction to the trustee of the former Lost Valley Farm on December 30, 2019, for the required cleanup of the site. Easterday Farms purchased the Lost Valley Farm Dairy in February 2019, and applied for a new

CAFO permit in July 2019. The dairy had closed in 2018 after ODA cited it for over 200 wastewater violations and moved to revoke its permit. ODA is the primary regulator of Confined Animal Feeding Operations, or CAFOs, in Oregon. DEQ reviews and jointly issues these permits to ensure they meet water quality protection requirements.

ODA and DEQ are developing an Individual NPDES CAFO Permit to cover the Easterday Farms' proposed 28,000 animal CAFO operation. This is an ongoing multi-agency coordination activity with ODA, DEQ and Oregon Water Resources Department. The agencies are coordinating with tribal governments that have expressed interest in the proposal and will conduct broad community outreach when the permit application is ready for public comment, potentially as early as mid-2020.

4.3 PFAS disposal unit at Chemical Waste Management (Arlington)

Chemical Waste Management of the Northwest plans to submit a permit modification application to DEQ this spring to build a new unit in its hazardous waste landfill to dispose of waste with per- and polyfluoroalkyl substances, known as PFAS, which includes PFOA and PFOS. The disposal unit would be designed to exceed current hazardous waste landfill requirements.

PFAS are emerging chemicals of concern, due to their persistence in the environment and broad spectrum of consumer products in which they are found. They are not currently regulated under federal hazardous waste laws, and no federal requirements currently exist to track or sample for this class of chemicals. However, regulatory programs at state and national levels are currently considering how to regulate these chemicals. Because these chemicals are largely unregulated, it's likely that landfills in Oregon and across the country currently accept and dispose of waste containing PFAS in solid waste landfills.

The anticipated request for a permit modification would presume that PFAS will be designated as a hazardous substance in the future, so that the disposal unit at Chemical Waste Management could continue operating without interruption since it would be built to hazardous waste requirements. DEQ anticipates that the company will request that the unit be constructed under a temporary authorization while the permit modification is pending.

DEQ also expects Chemical Waste Management to submit a hazardous waste permit renewal application in 2020 for its existing operations. The permit renewal will include the existing treatment, storage and disposal units already operating at the site, the new PFAS disposal unit, and possibly a new thermal treatment unit designed to treat contaminated sediment from the Portland Harbor Superfund site.

4.4 Prairie City Landfill to make improvements thanks to Solid Waste Orphan Site Account (Grant County)

An old landfill outside Prairie City will receive necessary upgrades this year, thanks to funding from DEQ's Solid Waste Orphan Site Account. DEQ will reimburse the city of Prairie City up to \$100,000 for improvements to the closed landfill. Prairie City will use the funds to reinforce

the landfill's soil cover and reconstruct drainage ditches to prevent stormwater from flowing over the site and eroding the cover. These improvements will protect people and wildlife in the area from the health risks of coming into contact with waste in the landfill. The Oregon legislature created the Solid Waste Orphan Site Account in 1989. A fee of 13 cents per ton on tipping rates for solid waste disposed in Oregon funds the Solid Waste Orphan Site Account.

5. Northwest Region

5.1 Harbor of Hope Navigation Center

In September 2018, DEQ approved a cleanup workplan for a property owned by Prosper Portland to be temporarily used as a location for a facility to provide services to houseless people. Winkler Development Corporation filed a complaint relating to DEQ's approval for the remedial action plan at the Northwest Portland site and Marion County Court granted Oregon Department of Justice (DOJ)/DEQ's motion to dismiss the complaint. Subsequently, Winkler Development filed a second complaint.

During December 2019, DEQ and Winkler Development successfully concluded settlement negotiations on this second complaint. Under the terms of the settlement, Winkler Development has released DEQ from all claims and dismissed the lawsuit. Oregon DEQ agrees that after July 2023, Winkler Development may submit a letter notifying DEQ that the five-year period of approval envisioned by the 2018 workplan is about to expire. Subsequently, DEQ would transmit a letter to Oregon Harbor of Hope, requesting that they submit a new temporary plan and risk assessment, or a plan that meets the requirements of the 1998 Record of Decision. DEQ further agrees to submit the plan and any future DEQ determination for public comment. DEQ has invoiced the legal costs of approximately \$49,500 to Prosper Portland, and is awaiting payment.

5.2 Bradford Island cleanup

The U.S. Army Corps of Engineers budget for Fiscal Year 2019-20 included no funding for ongoing work at this Columbia River site contaminated with PCBs, and the Corps discontinued its longstanding voluntary agreement with DEQ's Cleanup Program. In September 2019, DEQ submitted a joint letter, with the Yakama Nation and Washington State Department of Ecology, to EPA Region X, requesting rulemaking to list the site on the National Priorities List. EPA Region X responded in early November 2019, stating that the request would be formally considered in January 2020 and potentially proposed for rulemaking - necessary for a formal listing later in 2020. This listing, if it occurs, would allow EPA to assume the role of lead regulator and is intended to facilitate a more rapid pace of cleanup at the Bradford Island site. Meanwhile, DEQ continues to submit invoices for reimbursement of DEQ oversight costs as required under federal and state law. It is unclear if the Corps will pay these invoices.

5.3 Bullseye Glass - Cost Recovery

In 2019, DEQ considered and rejected settlement demands from the Bullseye Glass Company pertaining to its lawsuit against DEQ. On November 22, 2019, Bullseye voluntarily dismissed

the case. Now that litigation has concluded, the DEQ cleanup program is working with Oregon DOJ on an approach to recover costs associated with 2016 soil sampling at the facility. These costs, in excess of \$138,000, were necessary to document trace metal concentrations in soil in Southeast Portland in the vicinity of the Bullseye facility.

DEQ held the public hearing for Bullseye's Title V air quality permit December 17, 2019. DEQ also met with members of the Eastside Portland Air Coalition to discuss the permit further and responded to questions from reporters. The public comment period closed January 10, 2020. DEQ is now in the process of reviewing comments. The permit decision is an agency, rather than commission, action.

5.4 Portland Harbor cleanup

On December 9, 2019, EPA issued an Explanation of Significant Differences, which documents changes to the cleanup plan for the Portland Harbor Superfund Site. The changes are based on an assessment issued by EPA's Integrated Risk Information System that lowers the toxicity for the chemical benzo(a)pyrene, a polycyclic aromatic hydrocarbon, or PAH, found at the site. DEQ agreed with the technical changes and issued a letter to EPA concurring with the ESD.

In November 2019, EPA entered into an agreement with the State of Oregon, City of Portland and Port of Portland to design the in-water cleanup at Willamette Cove. EPA entered into a separate agreement in December 2019 with the State of Oregon and City of Portland to conduct a needs assessment to inform development of a site-wide Information Management Plan and Institutional Controls Implementation and Assurance Plan.

6. Western Region

6.1 Pembina/Jordan Cove Update

The Federal Energy Regulatory Commission (FERC) issued the final Environmental Impact Statement (EIS) on November 15, 2019. DEQ is preparing comments on the final EIS related to DEQ's permitting authority. FERC's next step is to issue a Record of Decision and a Certificate of Public Convenience and Necessity for Interstate Natural Gas Pipelines. That decision is scheduled to occur in mid-February. DEQ anticipates the certificate will be conditional for Jordan Cove to obtain DEQ's water and air quality permits, including the Section 401 Water Quality certification.

DEQ has been meeting with Jordan Cove and its consultants since June 2019 on the Section 401 Water Quality Certification application. Jordan Cove had committed to submit an application by January 14, 2020, but now has indicated that it will take longer to complete an application. More recently, the company has again asked (informally) that DEQ consider not requiring full analyses of potential water quality impacts of the project. DEQ will continue to treat the proposed project in the same way it treats other similar large-scale projects.

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In early January, DEQ received a NPDES Permit Wastewater Treatment renewal application for the facilities on the North Spit. Jordan Cove is seeking a modification to a current permit to include waste streams from the proposed LNG facility, safety center and office building.