



State of Oregon Department of Environmental Quality

# Minutes: Oregon Environmental Quality Commission meeting

419<sup>th</sup> regular meeting: April 6-7, 2022

**Wednesday, April 6, 2022: Noon to 4:30 p.m.**

## Meeting open and welcome

Chair George convened the regular meeting at 12:05 p.m.

- Present: Chair Kathleen George Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Amy Schlusser

## A. Draft meeting minutes (Action)

Commissioners reviewed the Feb. 2-3, 2022, EQC meeting minutes.

**Action:** Approve the Feb. 2-3, 2022, EQC meeting minutes as presented

**Move:** Commissioner Kile

**Second:** Commissioner Addington

*The commission approved the action unanimously*

## B. Commissioner reports (Informational/discussion)

Commissioner Kile discussed her role as chair of the Internal Audit Committee and asked that Director Whitman bring update to the commission for the committee in his Director's Report. She discussed the upcoming OWEB meeting, in late April, and that the agenda would include discussion on many types of water-related funding, including septic and residential well testing and protections.

Commissioner Addington affirmed that he will step into the role as EQC liaison to OWEB, coordinating with Commissioner Kile for the transition and to discuss questions he has regarding the role of EQC and OWEB with respect to groundwater protections statewide.

Commissioner Schlusser provided updates on her role as liaison to the Board of Forestry.

Chair George noted that she is participating, in her role as Grand Ronde Tribal Council Member, in state-convened workshops for regional water planning and investments.

## C. TMDLs by rule (Informational)

Jennifer Wigal, Water Quality Division Administrator, introduced the item and summarized the general development process for TMDLs, also known as watershed management plans. Gene Foster, Watershed Management Section Manager, described the elements of a TMDL in detail, and Director

Whitman added clarifying information about DEQ's priorities for TMDL development and issuance over the next several years.

Foster described some of the analytical details, including data sources consulted and used by DEQ, in the development of a TMDL. Wigal summarized next steps for the commission and agency. Commissioners asked clarifying and informational questions throughout the presentation.

#### **D. Delegation of 2022 Water Quality Fee Rulemaking (Action)**

Jennifer Wigal, Water Quality Division Administrator, introduced the item. Director Whitman noted that the proposed delegation is related to the commission's decision at the February 2022 meeting to delegate a designated set of routine rulemaking actions to the director, rather than by commission vote. Geoff Rabinowitz, Water Quality Permit and Program Development Manager, described which permits would be included in the fee increase proposal and noted the relevant legislative authorization for the fee increases.

**Action:** Delegate the 2022 Water Quality Fee Increase rulemaking to the DEQ Director for a decision.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission approved the action unanimously*

#### **E. Air Quality definitions rulemaking (Action)**

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided an overview of the proposal. Dan DeFehr, Air Quality Operations Analyst, described the relevant federal regulations and noted the process DEQ and EPS follow for periodic review and updates to the agency's rules based on revisions to federal rules and statutes. DeFehr noted that the proposal makes no substantive changes to the application of state or federal regulations, and ensures clarity of wording for regulated entities. Commissioners asked clarifying and informational questions throughout the presentation.

**Action:** Adopt the proposed rules as seen on pages 20 through 42 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules.

**Move:** Commissioner Schlusser

**Second:** Commissioner Kile

*The commission approved the action unanimously*

#### **Break**

Chair George recessed the commission from approximately 1:45 to 2 p.m.

#### **F. Deschutes Basin Water Quality and Fisheries (Informational panel)**

Jennifer Wigal, Water Quality Division Administrator, introduced the item and provided an overview of the presentation's structure.

- Smita Mehta, DEQ Water Quality Basin Coordinator, summarized DEQ's work in the Deschutes Basin and its overall general status. Mehta noted successful projects in the basin, and areas of continued challenges as DEQ works to protect and improve water quality in the Deschutes area.
- Mike Harrington, Oregon Department of Fish and Wildlife, described the geography of the basin and ODFW's efforts to improve overall basin health for healthy fish populations.
- Megan Hill, Portland General Electric, discussed the operations of the Pelton Round Butte Dam complex and related fish studies done by the dam's operators.
- Kate Fitzpatrick, Deschutes River Conservancy, discussed restoration efforts in the basin and provided detail on area projects completed in the past 20 years.
- Ben Kirsch, Deschutes River Alliance, discussed conditions in the lower Deschutes River and proposed paths forward for better outcomes for the river quality, fish health and overall ecological improvements in the basin.

Commissioners and panelists discussed the information presented and general basin information. Wigal and Director Whitman provided additional information about next steps for DEQ programs working in and in relationship to the Deschutes Basin.

#### **G. Public forum**

Chair George opened the public forum at 3:40 p.m. and Stephanie Caldera, commission assistant, provided verbal and on-screen directions for attendees who wished to sign up to present comment. Chair George departed the meeting at 4 p.m., as an excused absence, and Vice-chair Baraso presided over the remainder of Wednesday's meeting.

Eighteen people presented comment. Their names, affiliations if provided, and a short summary of comments is presented below.

1. Mary Anne Cooper, Oregon Farm Bureau, discussed water quality concerns regarding monitoring and reporting systems, and recent media coverage that mischaracterized many of Oregon's waters.
2. Kendra Kimbirauskas, farmer near Scio, commented in opposition to three large chicken farming and processing operations proposed for the Scio area.
3. Rick Hafele commented on Deschutes River water quality and fish health.
4. Dr. Liz Perkin commented on Deschutes River water quality and fish health.
5. Mia Sheppard, Little Creek Outfitters and a resident of Maupin, commented on Deschutes River water quality and degraded fish health.
6. Doug Quirke commented on Deschutes River water quality and fish health.
7. Bill Bakke commented on Deschutes River water quality, including increased stream temperatures and fish loss over time.
8. Dale Feik, Washington County Citizen Action Network chair, commented about DEI work at DEQ and general comments on TMDLs

9. Mike Eliason, Oregon Forest and Industry Council, seconded the earlier comments of Mary Anne Cooper regarding water quality and reporting.
10. Forrest Foxworthy, fishing guide on the Lower Deschutes, commented on Deschutes River water quality and fish health.
11. Art Poulos, farmer in Scio, expressed concern for air and water quality related to three large chicken farming and processing operations proposed for the Scio area.
12. Amy Hazel, Maupin resident and fly-fishing guide, commented on Deschutes River water quality and fish health.
13. Greg Fitz, Wild Steelhead Coalition, commented on Deschutes River water quality and fish health and need for DEQ to enforce established water quality standards in the basin.
14. Steven Pribl, former ODFW fish biologist and board member of Deschutes River Alliance, commented on Deschutes River water quality and fish health.
15. Starla Becker-Tillinghast, farmer, commented on air and water quality concerns related to three large chicken farming and processing operations proposed for the Scio area.
16. Julie Rauch, Marion County resident, expressed concern for public and environmental health associated with three large chicken farming and processing operations proposed for the Scio area.
17. Sarah Cloud, Deschutes River Alliance executive director, commented on Deschutes River water quality and fish health and seconded the earlier comments regarding DEQ's enforcement of water quality standards in the basin.
18. Mitch Willis, Deschutes River user, commented on Deschutes River water quality and fish health.

**Recess**

Vice-chair Baraso recessed the regular meeting at approximately 4:45 p.m. until 9:15 a.m. on Thursday, April 7, 2022.

**Thursday, April 7, 2022: Executive session 8:30 to 9:15 a.m., regular meeting 9:15 a.m. to 12:30 p.m.**

**Executive session**

The commission held an Executive Session from 8:30 to 9:15 a.m. pursuant to ORS 192.660(2)(f) and (h). Commissioners, representatives from the Oregon Department of Justice and some DEQ staff attended the session.

**Meeting open and welcome**

Chair George reconvened the regular meeting at 9:20 a.m. Director Whitman introduced Chandra Ferrari, Board of Forestry member and liaison from that board to EQC.

- Present: Chair Kathleen George Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Amy Schlusser

## **H. Water-related infrastructure and planning (Informational)**

Jennifer Wigal, Water Quality Division Administrator, introduced the item and provided an overview of the presentation content and structure. Rian Hooff, Water Quality Senior Policy Analyst, described recent funding provided by state and federal sources for water infrastructure, planning and grants. Deb Mailander, Onsite Septic System Program Manager, discussed the Onsite Loan Program and Onsite Financial Aid Program, and described DEQ's priorities within the programs. Hooff described the details of the federal Bipartisan Infrastructure Law, which included approximately \$57 billion, nationally, for water-related projects and programs over the next five years. Lynn Barlow, Clean Water State Revolving Fund Program Manager, described specific updates for that program, noting that DEQ will propose rule updates for EQC action in the coming year to align Oregon's programs with federal directives. Wigal summarized key program priorities, challenges and opportunities for program implementation.

Commissioners asked clarifying and informational questions throughout the presentation and offered feedback on agency priorities and next steps.

## **Break**

Chair George recessed the commission from approximately 10:30 to 10:40 a.m. Commissioner Addington noted his departure would occur during the break, as an excused absence for the remainder of the meeting.

## **I. 2022 Oregon Legislative Session outcomes (Informational)**

Nancy Bennett, Policy and External Relations Manager, introduced the item and noted her appreciation to her staff, Abby Boudouris, Rian Hooff and Gerik Kransky, for their work during an extremely busy and productive 2022 Legislative Session. Bennett summarized key outcomes from the Session, including policy and budget updates and legislative directives.

Director Whitman added clarifying and contextual information, and the commissioners asked questions throughout the presentation. Bennett noted that DEQ is in the initial phases of developing the 2023-25 Agency Request Budget, and will be providing updates to the commission later this year as DEQ develops draft policy and budget information.

## **J. Director's report (Informational)**

Director Whitman address some comments presented during the public forum, including:

- Concerns about environmental and public health effects of three large poultry operations planned for the Scio area
- Deschutes River water quality and fish health
- Recent media coverage of Oregon's water quality, including the relationship to the Coastal Zone Area Reauthorization Act (CZARA)

He also provided verbal highlights of items in the written report for this item, including:

- DEQ's Internal Audit Committee
- Upcoming rulemakings
- Environmental justice and equity mapping, as a future informational item
- Klamath Basin updates regarding dam removal
- NEXT Renewables, a renewable diesel production facility planned for the Clatskanie area
- Sampling for contaminants in the Trainsong neighborhood, and area parks, associated with operations at the JH Baxter plant in Eugene

Director Whitman and the commissioners discussed the updates and noted a potential for some in-person elements in the next EQC meeting, including a recognition event for former Commissioner Wade Mosby.

### **Adjourn**

Chair George adjourned the meeting at 12:25 p.m.