

Date: Sept. 19, 2022

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Item H: Director's Report (Informational)
Sept. 22-23, 2022, EQC meeting

1. Director's Office

1.1. Diversity, equity and inclusion

This fall, DEQ's DEI Council, Leadership Team, affinity groups and other key teams will undergo training on anti-racist frameworks, conducted by the team of consultants at Engage to Change: Kasia Rutledge, Rakeem Washington and Roberta Phillip-Robbins. Engage to Change is a Portland-based anti-racist consulting firm that has been contracted to support DEQ in the areas of facilitation, training and consulting through March 2023. This training will increase organizational readiness and created a shared a language for the upcoming organizational assessment. This organizational assessment, also conducted by Engage to Change, will identify the key challenges and opportunities around DEI for the agency, through a combination of listening sessions with staff, analysis of organizational documents, policies and procedures, and observations from Engage to Change in various meeting spaces around DEQ, including the DEI Council meetings and the Strategic Planning steering committee meetings. The organizational assessment will include key recommendations for DEQ, including recommendations for an agency-wide training plan.

Recommendations generated from the organizational assessment will inform the goals and strategies listed in DEQ's 2023-2025 Affirmative Action plan. A draft of Affirmative Action plan will be submitted to DAS on Sept. 16, 2022. A major highlight on the progress since the last biennium Affirmative Action plan (2021-2023) includes the establishment of four internal staff affinity groups (DEQ Pride; BIPOC; Veterans and Armed Services; and Allies for Racial Justice). Approximately 10 percent of DEQ staff currently participate in at least one affinity group.

2. Air Quality

2.1. Advanced Clean Cars

On Aug. 25, 2022, the California Air Resources Board approved the Advanced Clean Cars II rule. Oregon along with many other states, has followed California's automobile emissions standards for many years, as authorized under federal law. The latest California standards require auto manufacturers to produce increasing percentages of zero emissions vehicles (ZEVs) as a percentage of its overall in-state sales, culminating in a 100% ZEV requirement by 2035. The California standards include assurance measures ensuring mileage and reliability, as well as credits for incentives for lower-income households. Finally, the standards also ensures that gasoline vehicles that continue to be sold will meet more stringent emissions controls.

DEQ is in rulemaking now for the commission to consider whether Oregon should continue to follow the California standards. We expect this question to come before the EQC for its consideration in December 2022.

2.2 Diesel Emission Mitigation

Oregon Department of Environmental Quality recently announced recipients of nearly \$7.5 million in funding for projects designed to reduce diesel emissions across the state and among vulnerable populations. Under the Diesel Emissions Mitigation Grant Program, eight selected projects will help eliminate air contaminants affecting public health and climate by retrofitting or replacing older medium- and heavy-duty diesel equipment with new, cleaner alternatives.

DEQ's Air Quality Program staff reviewed 61 grant applications, totaling \$42 million in requested funds. Using a point system, DEQ applied [specific criteria](#) from the Oregon Legislature and related administrative rules to evaluate proposed projects. The review included an evaluation of DEQ's [vulnerable population map](#) and considered how proposed projects would improve air quality in areas with the highest diesel emissions, most vulnerable populations and highest population densities.

The selected projects will remove more than 38 tons of harmful air pollution, including nitrogen oxide and fine particulate matter, from Oregon's air. Projects range from retiring an old diesel transit trolley and purchasing a new, all-electric one in Wilsonville to replacing two diesel refuse trucks with one all-electric and one compressed natural gas hauler in Athena, to installing diesel particulate filters and replacing medium- and heavy-duty diesel trucks with zero-emission transportation in the Portland Metro area and across the state.

2.3. Clean Vehicle Rebate Program

As of September 1, the Oregon Clean Vehicle Rebate Program has issued nearly 23,000 rebates equaling over \$56 million in distributed funding. Of that \$56 million, 86% have been issued as Standard rebates and 14% as Charge Ahead rebates for low- and moderate-income households. Program participation has increased annually, with 2022 participation showing to be about 45% higher than it was in 2021. During 2022 Oregon legislative session, DEQ was granted an additional \$15 million for the program. Even with this additional funding, the department is projecting the program is likely to reach the \$6 million threshold that triggers DEQ to reevaluate the Standard Rebate amount to ensure the Program meets the goal of 20% of funding being allocated to Charge Ahead rebates-by November 2022. If triggered, DEQ would be bringing a temporary rule to the EQC for its consideration at its November meeting, likely to decrease the amount of the standard rebate and preserve funding for Charge Ahead rebates.

2.4. Dairy Air Rulemaking Petition

On Aug. 17, 2022, the EQC and DEQ received a formal petition to begin rulemaking on Dairy Air Regulations. DEQ is in the process of evaluating the petition and preparing recommendations for the commission's consideration in November.

2.5 Air Toxics Emission Inventory

The 2020 calendar year air toxics emissions reporting process is completed. Individual, facility-wide emissions reports, which were submitted in September 2021, are now available through the DEQ Air Quality Permit Data Search page. This was the first reporting to be conducted under OAR 340-245-0040 Subpart 2(a) approved by the commission in November 2018 as part of the CAO rules package.

The available Air Toxics Emissions reports have been reviewed by DEQ and, in many cases, facilities were contacted to clarify content, provide more information, or submit a revised and corrected report. If, upon further assessment, DEQ requires additional revisions from a facility, the individual report may be re-posted.

The available emissions reports provide a snapshot of estimated facility emissions. Emissions from routine processes are summed with emissions resulting from material usage (product ingredients). Across the facilities, the wide variation in emissions reflects the size and complexity of sources, equipment and fuel type, control device usage and efficiency, as well as availability for supporting data.

This recurring, three-year periodic state-wide air toxics emissions inventory allows DEQ to establish and maintain long-term trends of air toxics emissions in our communities and to report to EPA the best available information for our state. A GovDelivery notice was sent out to the air toxics interested parties list.

3. Water Quality

3.1. Aquatic Life Use Updates Rulemaking

DEQ has initiated a rulemaking to update and clarify Oregon's Aquatic Life Use designations based on best available scientific data and information.

The objective of this rulemaking is to update and clarify Oregon's aquatic life use designations associated with the water quality standards for temperature and dissolved oxygen. The aquatic life use designations determine when and where the criteria in Oregon's temperature and dissolved oxygen standards apply to protect aquatic life. The current use subcategory designation maps associated with the temperature criteria in the Oregon administrative rules will be updated based on up-to-date data. Maps of the use subcategories associated with the dissolved oxygen criteria will be designated in the administrative rules for the first time. These updates make use of the best available scientific information about habitat distribution and life stage timing of sensitive species for waterbodies across the state.

DEQ consulted with an expert technical workgroup to identify the best available data sources and their utilization to meet the objectives of this rulemaking. DEQ relied primarily on fish habitat and distribution data compiled by the Oregon Department of Fish & Wildlife, with supplemental data from U.S. Fish and Wildlife Service; and water temperature data compiled by the U.S. Forest Service and DEQ.

DEQ convened a Rulemaking Advisory Committee and conducted five Advisory Committee meetings from January to August 2022 to seek input on the policy issues and fiscal impacts related to the proposed rules. As this is a rulemaking with statewide scope that affects many waters across the state, DEQ appointed members from organizations that could represent and coordinate among the interests of multiple communities likely to be affected by the rule.

DEQ plans to publish the proposed rule for public comment in October 2022 and present the recommended rule amendments to the EQC in March 2023.

3.2. EPA Permits for the U.S. Army Corps Four Mainstem Lower Columbia Dams

On Friday, September 16th, EPA issued notice that it is seeking public comment on proposed conditions on its permits for the US Army Corp's operations of these facilities to ensure compliance with Oregon's water quality requirements for temperature and to address Oregon DEQ's objection to the permits under Clean Water Act Section 401(a)(2). The public notice, draft permits, and fact sheet for the permits are available at: <https://www.epa.gov/npdes-permits/proposed-discharge-permits-federal-hydroelectric-projects-lower-columbia-river>. The public comment period will run through October 17th. More information is available from EPA.

4.0. Eastern Region

4.1. Port of Morrow wastewater permit modification– second comment period

DEQ opened a second public comment period for the Port of Morrow's proposed wastewater permit modification on Sept. 1, 2022. The permit allows the port to manage industrial wastewater from the industrial park in Boardman in evaporative lagoons and to land apply the wastewater for crop uptake. Public comments are due by 5 p.m. on Oct. 3, 2022.

DEQ requested a first round of comments on this proposed permit modification in April 2022 and received significant comments. Changes since the first comment period include an updated compliance schedule and as well as the additional land application areas to manage wastewater in accordance with the permit.

The compliance schedule requires that the three-unit anaerobic digester treatment system be brought online more quickly in 2023. The permit also now requires completion of both a secondary treatment system to further reduce nitrogen loading in 2025 and requires the facility to add winter storage via lined lagoons in 2026. Both options are necessary to establish compliance for the facility. The result will be cessation of the winter irrigation disposal program of untreated wastewater and reduced nitrogen loading across the expanded land application network to bring the facility into compliance.

4.2. Klamath Dam removal project moves forward

On August 26, the Federal Energy Regulatory Commission released a Final Environmental Impact Statement (FEIS) that [recommends approval to remove four dams on the Klamath River](#). The recommendation by FERC staff is another key milestone in progress toward restoring the Klamath to its former free-flowing condition, work that has been undertaken collectively by PacifiCorp, which owns the dams, Oregon, California and the Klamath River Renewal Corporation. FERC is likely to make a final decision later this fall.

4.3. PGE Carty air quality permit modification issuance (Morrow County)

After considering and responding to public comments, DEQ issued an air quality permit modification Sept. 7, 2022, for PGE's electricity generating facility near Boardman. The permit is called a Prevention of Significant Deterioration Air Contaminant Discharge Permit.

DEQ issued the permit modification because it meets all state and federal air quality laws and regulations.

The modification adjusts emissions limits for the facility because of new information about natural gas equipment and the closure of the coal plant. It removes emissions allotted for operation of the coal-fired power plant, which closed in October 2020, and incorporates new manufacturer information for the Carty plant's natural gas turbine start-up emissions. The modification does not change how much natural gas the PGE Carty plant uses or change the hours the plant can run.

DEQ hosted a public hearing on Nov. 9, 2021, to provide information, answer questions, and accept verbal public comments on the proposed modification. Forty-six community members attended the hearing. DEQ also accepted written comments. DEQ received public comments from more than 2,000 people before the comment deadline.

In response to public comments, DEQ decreased the Best Available Control Technology limit for VOC from 1.5 ppm to 1.0 ppm based on a 2018 determination made in Michigan for a similar make and model of turbine and confirmed by tests on that turbine.

Find more information on [DEQ's PGE Boardman webpage](#).

5.0. Northwestern Region

5.1. Bradford Island

Bradford Island was added to the National Priorities List, or Superfund, after DEQ, Washington Ecology and the Yakama Nation wrote joint messages in 2019 and 2021 to the EPA seeking to have the site placed on the National Priorities List. The agencies, Yakama Nation and others worked for years with the Army Corps to clean up the site, but without adequate progress in a timely manner. Listing Bradford Island as a Superfund site will help provide consistent federal funding, clear deadlines and outline the process for coordinating with Tribes, other regulatory agencies and the community.

DEQ is participating in federal facility agreement discussions with the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers and Washington State Department of Ecology as the next step in the Superfund listing for Bradford Island. EPA uses this type of agreement when the responsible party is a federal agency. DEQ continues to be an active participant in its role to protect human health and the environment.

Columbia Riverkeeper is hosting a webinar on Sept. 29, 2022, about the site, called: "Restoring the River: What a new Superfund site on the Columbia means for public health and clean water." Participants include EPA, Army Corps and Yakama Nation project managers.

5.2. Columbia Steel Casting Co.

On Aug. 25, 2022, Columbia Steel Casting Co. announced in a letter to its employees that it would be shutting down its facility, beginning with substantial layoffs in October.

DEQ staff in the Air Quality, Cleaner Air Oregon, Materials Management and Cleanup programs have reached out to the facility to understand its plans, timing and what closure means for the future of its operations, permits or other commitments to DEQ to ensure public health and environmental protection.

At this time Columbia Steel has an existing air quality permit in effect that could transfer to a new property owner conducting the same operations on the site, and the facility is close to the final stage of the Cleaner Air Oregon process. Columbia Steel is also wrapping up source control work under the Cleanup Program to address historical sources of contamination emanating from the upland site, some of which are not related to steel manufacturing.

Additionally, under the Materials Management Program, Columbia Steel and DEQ have a mutually agreed upon order requiring Columbia Steel to remove the solid waste that was illegally disposed of on the Columbia Steel property over a 10-year time period. Given the news of pending closure, DEQ contacted Columbia Steel's attorney regarding ongoing compliance with the order if the facility shuts down. To date, the facility has met annual commitments for removal of the sand, slag and baghouse wastes.

5.3. NEXT Renewable Fuel, Clatskanie

NEXT Renewable Fuels, Inc. is proposing to construct a renewable diesel, renewable naphtha, and renewable jet fuel manufacturing facility at the Port of Columbia County's Port Westward Industrial Park in Clatskanie.

The proposed facility will receive and process recycled organic materials and raw oil feedstocks including used cooking oil, vegetable oils and animal fats to produce renewable fuel products that work just like their petroleum-based equivalents. NEXT Renewable Fuels expects to produce 1.58 million gallons a day at start-up, and anticipate growing to more than 2.1 million gallons a day at full capacity. Renewable fuel products will be shipped offsite via pipelines, trucks, and railcars, pending market conditions.

Air quality permit

On Aug. 30, 2022, DEQ approved and issued NEXT Renewables' air quality permit. DEQ made several revisions to the permit based on public comment. The air quality permit, review report and response to comments are all available on DEQ's project webpage at www.ordeq.org/next-renewables.

Water quality permit

On Oct. 8, 2021, DEQ received NEXT's request for a 401 water quality certification as part of the U.S. Army Corps of Engineers 404 permitting process per the 2020 EPA 401 Rule. Since that time, DEQ received a variety of application materials and provided comments and feedback on the materials received to date to help further the review process. However, due to insufficient information, DEQ issued a denial without prejudice decision on Sept. 6, 2022.

5.4. Ross Island Lagoon Reclamation

Ross Island is located about one mile south of downtown Portland on the Willamette River at river mile 15. The island was mined by Ross Island Sand and Gravel Company starting in 1926 and ending in 2001. These operations resulted in a lagoon surrounded by several islands. In order to return the island to a more natural state, the Department of State Lands requires reclamation of upland, in-water and wetland areas previously mined through the placement of fill in the lagoon. DSL regulates placement of reclamation fill within the island complex. Fill operations are also covered by the federal Clean Water Act section 404 permit process administered by the U.S. Army Corps of Engineers and certified through the state's CWA 401 water quality program to ensure certain in-water activities will not violate water quality standards.

DEQ coordinates with these agencies and supports reclamation efforts by establishing procedures and screening criteria for determining if fill is suitable for in-water placement within the lagoon. DEQ recently updated the 2007 screening criteria for "Class A" in-water criteria with the goal of improving clarity in the fill evaluation process and ensuring the evaluations are based on the best available science. Placement of fill must be carefully considered because of the impact it may have on fish and wildlife in the river and the communities that eat the fish.

DEQ's updated in-water screening criteria are included in Ross Island Sand & Gravel Company's application to modify the existing DSL removal-fill permit for reclamation of Ross Island Lagoon. DSL is seeking comments on this application though a public comment period open until Thursday, Sept. 22, 2022. DEQ participated in DSL's public information session about the proposed modification on Sept. 8, 2022.

Ross Island Sand and Gravel is also required to obtain a water quality certification from DEQ to place the Class A clean fill in the lagoon. This certification will reference the removal-fill permit to determine what is allowable clean fill in order to protect water quality. The public comment period for this certification is currently open and closes Friday, Sept. 23, 2022.

5.5. Clean Water Services

On August 17, DEQ issued the public notice for the Clean Water Services' draft water quality permit. Officially called the National Pollutant Discharge Elimination System, authorizes the discharge of treated wastewater to the Tualatin River from four Clean Water Services' water resources recovery facilities. These facilities are Durham, Rock Creek, Hillsboro and Forest

Grove. In addition, the permit regulates water quality trading for thermal impacts, allocation of oxygen demanding parameters between facilities, the use of recycled water for irrigation, the application of biosolids to approved land sites, the use of recycled water for highly purified water, pretreatment and the operation of a Municipal Separate Storm Sewer System for the urbanized area of Washington County.

Each facility collects and treats industrial and municipal wastewater as required by its current permit, which DEQ last issued in April 2016. All four facilities discharge treated wastewater to the Tualatin River.

The draft permit renewal includes two changes: (1) more stringent limits for ammonia at each facility and (2) more stringent mass load limits for total suspended solids, based on updated calculations to resolve an error in the permit.

DEQ will hold a virtual public hearing via Zoom on Thursday, September 22 and the public comment period will close on Monday, October 3. The public notice is available in English and Spanish and Spanish speakers may request interpretation services when signing up for the public hearing. The public notice is available at www.ordeq.org/publicnotices.

6. Western Region

6.1. GP Toledo – Proposed Landfill Expansion

Earlier this year GP Toledo applied to DEQ for a landfill permit to expand their landfill to dispose of the sludge from their wastewater treatment ponds/lagoons/wetlands. GP also applied to DSL for a fill/removal permit, to convert a portion of the lagoon into a landfill cell, which ran into delays. DSL has just issued that permit, and now the landfill expansion permitting process will re-commence. This landfill expansion may generate interest from various stakeholders given its location on the Yaquina River.

6.2. Hollingsworth and Vose (Corvallis) ACDP Permit Renewal

Public comment has closed, and staff are working on a response to comment. Once that response to comment is complete, we anticipate issuing the renewed ACDP very shortly. This will start the clock on a required Title V air quality permit application. DEQ discovered in 2018 that emissions from the facility were greater than expected, and the facility subsequently confirmed emissions indicating that the appropriate regulatory tool is a title V permit. There will be additional public participation opportunities relating to the Title V permitting process and the impending Cleaner Air Oregon process.

6.3. JH Baxter Plant in Eugene

DEQ is requiring J.H. Baxter & Co., owner of a wood treatment facility in Eugene, to collect soil samples in nearby residential yards to determine if contaminants from the company's plant have accumulated in the neighborhood. Due to the time needed to obtain access agreements with property owners and sampling sequencing, this event is expected to take place between September and November 2021. DEQ has formed a technical team that includes the Lane Regional Air Protection Agency, the Oregon Health Authority, Oregon State University and the City of Eugene. The technical team will investigate the sources and extent of the contamination and any potential health risks to the community. When the soil sampling analysis is complete, DEQ will share the results with the residents whose yards were sampled. DEQ will inform residents if sampling results indicate the need for soil cleanup. There will also be a public meeting to share the investigation results and any follow-up actions with the public.

Additional sampling relating to the cleanup of residential properties resulted in additional properties being designated for cleanup, and in determining that some of the contamination is deeper than expected. DEQ plans to delay removal activities until we can delineate more carefully the areas to be removed, and locate additional clean fill to rebuild yards. We hope to complete those tasks in time to move forward with cleanup in late spring or early summer of 2023. We have coordinated with the affected homeowners to confirm that no children (the most sensitive case in our risk assessment) reside in those homes.