



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission meeting

398th regular meeting

May 10 and 11, 2018

The Dalles

Ft. Dalles Readiness Center (Columbia Gorge Community College)

402 E. Scenic Drive

Thursday, May 10, 2018. 9 a.m. to 4:30 p.m., evening town hall 5 to 6:30 p.m.

Commissioner George, presiding for the meeting, convened the commission at 9:05 a.m.

- Present: Commissioner Kathleen George, Commissioner Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby

A. Informational item: Tour introduction

Director Whitman introduced this item and the co-presenters provided brief introductions of themselves and their roles.

- Shilah Olson, Wasco County Soil and Water Conservation District manager
- Ryan Bessette, Wasco County Soil and Water Conservation District
- Gene Foster, DEQ Watershed Program manager
- Stephanie Page, Oregon Department of Agriculture Natural Resources Program Area manager
- John Byers, Oregon Department of Agriculture Agricultural Water Quality Program manager
- Courtney Shaff, Oregon Watershed Enhancement Board Capacity Programs coordinator

Shilah Olson presented an overview of the Wasco County watershed, and local programs for water quality improvement and protections. Ryan Bessette described some local actions taken by landowners in the region's Strategic Implementation Areas.

Gene Foster described DEQ's regulatory role and the agency's nonpoint source control program. He gave an overview of the ways DEQ implements watershed management plans, or TMDLs, and explained the ways that DEQ uses regulatory and cooperative non-regulatory mechanisms to meet water quality standards across the state.

Stephanie Page noted that the Wasco County model is very successful, and a great example of partnership among federal, state, local and private entities. John Byers provided background information about ODA's water quality management program for agricultural uses.

Courtney Shaff described the ways that OWEB works with landowners in Strategic Implementation Areas and the ways that OWEB and partners work together in these areas.

The commissioners asked clarifying and informational questions about the presentation.

This section of the agenda was off-site. There is no audio recording nor detailed notes for this item

B. Tour

The commission, DEQ staff and project partners visited two sites near The Dalles to see the implementation of the programs as discussed in item A.

- Mill Creek: Bacteria from urban and agricultural sources
- Threemile Creek: Temperature and sediment

Working lunch and executive session

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch. This executive session was held under the authority of ORS 192.660(2)(h).

C. Discussion item: Tour debrief and next steps

The commission reconvened at 1:30 p.m. Director Whitman provided an overview of the discussion item and opened the debrief session for the commissioners.

Stephanie Page and John Byers provided some perspective on the agricultural water quality program, and why it is successful in The Dalles. Byers stressed that monitoring, in the long-term, will be very important to see long-term positive outcomes.

Gene Foster discussed the ways DEQ's data collection helps the local implementation of projects for water quality improvements. Foster showed some of the reports DEQ creates for watersheds, and they ways that the data collection can improve the state's understanding of the water quality across the state. Jennifer Wigal, Water Quality Program deputy administrator, provided additional context on the ways DEQ's data collections systems connect to other researchers in state and academic agencies in Oregon.

The presenters discussed how Oregon's agricultural water quality programs relate to similar programs in California and Washington. Director Whitman discussed the implications of climate change for Oregon's water quality on forestlands, as supported by new research. Commissioners provided their reflections on the tour, asked clarifying and informational questions and discussed their feedback on the day.

Director Whitman provided a handout of a recent update to a report showing the water quality trends across the state. He discussed that waters in Oregon, generally, are getting better. He noted that land use strongly influences water quality, with urban areas contributing to significant impairments and water quality challenges. The commissioners discussed their initial takes on the report, and noted opportunities for deeper engagement at the July EQC meeting with additional partners.

D. Action item: Underground Storage Tanks proposed rules

David Livengood, Hazardous Waste and Tanks Program manager, and Mitch Scheel, Tanks Program senior policy analyst, presented proposed rule revisions, including fee changes, for the Underground Storage Tank program. Livengood provided the background for the proposed rule changes, including federal changes and legislative approval of the proposed increased fees. Scheel described the proposed changes and discussed DEQ's engagement and public comment process. Commissioners asked clarifying and informational questions about the Tanks program and proposed rule revisions. Livengood noted the national trends for tanks cleanup and remediation, and affirmed that Oregon is similar to many other states in the scope and scale of its Tanks program.

Action: Approve the rules as seen on pages 23 through 101 and the appendices as seen on pages 163 through 168 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules, with the proposed rules to take effect on June 1, 2018.

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the action as presented.

E. Informational item: Meeting planning

Nancy Bennett, Office of Policy and External Affairs manager, provided an update on DEQ planning for future EQC meetings. Commissioners provided their feedback on the schedule, proposed content and other planning details for upcoming meetings.

This item taken out of order

I. Informational item: Director's report

Director Whitman presented written and verbal updates on agency activities and other state and federal items of interest for the commissioners. Director Whitman noted that he would present some of the items on Friday, as previously scheduled. Commissioners asked clarifying and informational questions throughout Director Whitman's presentation. Topics presented included:

- An update on the NPDES process improvement work
- Information about a proposal for water quality fee updates later this year
- Current state and next steps for the EDMS project
- A summary of reorganization efforts, to be discussed in detail as part of item J

The commission recessed at approximately 4:30 p.m. until 9 a.m. on Friday, May 11, 2018.

G. Evening town hall

The commission held a town hall session from 5 to 6:30 p.m. to hear from the public on environmental issues. The town hall was not audio-recorded, and was an informal session with commissioners, staff and the public.

Commissioners and staff attended an informal dinner on Thursday evening. No commission business was held at dinner.

Friday, May 11, 2018: 9 a.m. to 4:30 p.m.

Commissioner George reconvened the meeting at 9 a.m.

- Present: Commissioner Kathleen George, Commissioner Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby

H. Action item: Meeting minutes

Commissioners reviewed and took action on the proposed draft minutes from the March 21-22, 2018, EQC meeting.

Action: Approve the March 21-22, 2018, meeting minutes as presented

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the motion as presented.

This item taken out of order

F. Informational item: Commissioner reports

The commissioners provided verbal updates on their recent activities of interest to the commission.

- Commissioner Mosby noted that he attended recent meetings regarding tolling in the Portland metro area and asked if, or how, DEQ is working with ODOT on the discussions for tolling due to the connection to emissions reduction.
 - Director Whitman responded to Commissioner Mosby's inquiry.
- Commissioner Kile discussed a meeting she will be attending in Burns next week regarding water quality sampling for arsenic and other pollutants.
- Commissioner George noted that she met with the EPA Region 10 administrator recently, with a portion of the meeting focused on the definitions of "waters of the state" and the federal obligations for formal consultation with tribal nations. She also described her recent speaking engagement at a meeting of Oregon's tribal nations to discuss her role as a commissioner and feedback she received from other Tribal government leaders, particularly about safety concerns for oil-by-rail transport and the proposed Jordan Cove LNG project.

This item taken out of order

J. Informational item: Introduction of new Leadership Team members

Director Whitman introduced several new members of the DEQ Leadership Team. He described the role of each person introduced and brought each person up to provide brief remarks.

- Donnie Oliveira, Communications manager
- Justin Green, Water Quality Division administrator
- Jennifer Wigal, Water Quality Division deputy administrator

- Ali Mirzakhilili, Air Quality Division administrator

Director Whitman also introduced that Lauri Aunan, who was not able to attend the meeting, serves as the Implementation administrator, as a link between the headquarters-based media programs and the regional administrators. Director Whitman noted that Travis Lucky is the new Chief Information Officer for DEQ, and will start later this spring. Commissioners offered their thanks and support for the new Leadership Team.

Note: Portions of this item were presented on Thursday, May 10, 2018

I. Informational item: Director's report

Director Whitman continued his presentation of verbal and written updates to the commission. The updates included information about:

- Cleaner Air Oregon process updates, including a discussion of the commission's role in appointing members to the Hazard Index Advisory Committee
 - Keith Johnson, special advisor for Cleaner Air Oregon, and Gabriela Goldfarb, Environmental Public Health Division manager at the Oregon Health Authority, provided additional comments for this item
- Highlights from DEQ's Eastern, Northwest and Western regions
 - Recent enforcement actions at Lost Valley Farm, near Boardman
 - Potential permit modifications for PGE's Carty Plant, also near Boardman
 - Monitoring information, environmental and health data related to AmeriTies, in The Dalles
 - Follow up to and community engagement about a scrapyards fire at NW Metals, in northeast Portland
 - Odor concerns at Grimm's Composting, in Tualatin
 - Process updates about Jordan Cove, near Coos Bay
 - Wastewater treatment system funding concerns for the City of Powers

Commissioners asked clarifying and informational questions throughout the presentation.

K. Action item: Air Toxics Benchmark proposals

Jeffrey Stocum, Air Quality Planning manager, introduced this item. Sue MacMillan, Air Toxics Science and Policy analyst, presented proposed updates to existing and new Ambient Benchmark Concentrations used for the agency's air toxics program. She described the content of the proposed rules and comments received during the comment period. Commissioners asked clarifying and informational questions throughout the presentation.

Action: Adopt the proposed rules as seen on pages 63 through 82 of the report for this item as part of Chapter 340 of the Oregon Administrative Rules and approve incorporating into OAR 340-346-009

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the motion as presented

L. Action item: Zero Emission and Electric Vehicle Rebate Program proposed rules

Michael Orman, Air Quality Planning Section manager, introduced the item. Rachel Sakata, Air Quality Planning specialist, presented proposed rules for the Zero Emission and Electric Vehicle Rebate Program. She described the engagement and outreach process DEQ used for the proposed rules, and summarized the comments received during the comment period. Director Whitman provided additional content for some portions of the proposed rule items. Commissioners asked clarifying and informational questions throughout the item.

Action: Adopt the proposed rules as seen on pages 54 through 59 of the report for this item as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Baraso

Second: Commissioner Kile

The commission approved the motion as presented with three members in support and one member abstaining, with none in opposition

- *Yes: Commissioners George, Baraso and Kile*
- *Abstain: Commissioner Mosby*

***M. Public forum**

The commission opened public forum early, at 11:30 a.m., for any in-person attendees who wished to present comment at this time. One person presented comment regarding wastewater infrastructure needs in the state, including obligations for sewage and stormwater planning in small and medium-sized communities.

Following the one comment, the commission recessed until noon to re-open the public comment opportunity. When presenting comment, either in person or by phone, all people were asked to state their name for official record-keeping purposes and limit comments to three minutes or less. People were able to listen in or present comments during this item using a toll-free telephone conference line.

Three people presented comment in-person and six people presented comment by phone. The comments included:

- Concerns about the Air Toxics Benchmark review process, and the values used for that process for multiple compounds and revisions
- The need for science-based standards for the Forest Practices Act, and the importance of establishing best management practices in that Act to protect Oregon's waters.
- The need for fair labor standards associated with Oregon's electric vehicles program, to support innovative green technologies and high-quality jobs
- Concerns about the AmeriTies plant in The Dalles
 - Threats from the active Superfund site at the AmeriTies tie plant, including water pollution and air pollution from the plant

- Questions and concerns about pollution, and the human health effects, from creosote and other chemicals emitted from the AmeriTies plant, and questions about the safety plans in place in case of emergency
- A need for additional sampling, and a review of synergistic effects of multiple compounds, related to the AmeriTies plant in The Dalles
- Concerns about the economic limits associated with pollution from AmeriTies, when The Dalles is in a period of economic growth and commercial interest
- A summary of comments received during the public comment period for a proposed permit modification for the PGE Carty natural gas plant
- Concerns about the safety and emergency response for spills or crashes associated with transporting oil by rail, and urging the commission to make oil train spill emergency planning and response a priority in the 2019 Legislative Session.

The commission closed the public forum at approximately 12:35 p.m.

Working lunch and executive session

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch from approximately 12:35 to 2 p.m. This executive session was held under the authority of ORS 192.660(2)(f) and (h).

***N. Informational item: Smoke Management Plan updates**

DEQ, with Oregon Department of Forestry and Oregon Health Authority co-presenters, provided an update on the Oregon Smoke Management Plan update.

Michael Orman, Air Quality manager, described the overview of the presentation and introduced the item. Orman described the roles and responsibilities of the agencies and boards engaged in the Smoke Management Plan development and updates. Doug Grafe, Oregon Department of Forestry Division Chief Fire Protection, described the current use of prescribed burns on forestlands across the state and provided a brief history of the program in the past decade. Orman discussed the updated criteria in the Smoke Management Plan. Gabriela Goldfarb, Oregon Health Authority Environmental Public Health Division manager, provided contextual information about the role of the Oregon Health Authority in evaluating revisions to the Smoke Management Plan. She noted procedural changes after the Pole Creek Fire that provide more immediate health effect information and coordination across agencies and jurisdictions in response to smoke intrusions from any sources.

Grafe and Orman described the agency recommendations and next steps for the Smoke Management Plan and updates. Commissioners asked clarifying and informational questions throughout the presentation.

Following the staff presentation, the commission welcomed public comment specific to the information presented. Three people signed up to present comment.

Comments included:

- Encouragement for the commission to approve the Smoke Management Plan updates
- Opposition to the use of a one-hour average for PM2.5 as part of the Plan revisions
- The need for clear and consistent communications related to the Smoke Management Plan, and in the event of fire incidents
- Support for the use of prescribed burns to mitigate the effects of wildfires

***O. Action item: Proposed Policy Option Packages for 2019 Session**

Nancy Bennett, Policy and External Affairs manager, introduced this item. Bennett provided a brief summary of past information about the DEQ budgeting process, including the development of Policy Option Packages. Matt Davis, Air Quality Division policy analyst, Abby Boudouris, Land Quality Division policy analyst, Karen Tarnow, Water Quality Division policy analyst, and Annalisa Grunwald, legislative analyst, co-presented this item. Director Whitman provided additional context and information during the presentation.

Davis described the proposals related to the Air Quality Division. Boudouris described the proposals related to the Land Quality Division. Grunwald described the proposals for the agency management functions of the agency. Tarnow described the proposals related to the Water Quality Division. Commissioners asked clarifying and informational questions throughout the presentation and provided their feedback on the materials.

Following the staff presentation, the commission welcomed public comment specific to the information presented. One person signed up to present comment. Comments included:

- An ongoing willingness to work with DEQ and the commission
- An interest in knowing the connections between the costs to fee payers and the regulatory outcomes, across all media
- Encouragement for all parties to understand the budgeting process for businesses, which is not aligned with the state agency budgeting process and timelines that can result in budget strains due to large fee increases

Following the public comment, the commissioners took action on the materials presented.

Action: Approve the continued development of the DEQ Policy Option Packages for 2019-21 as seen in attachment B of the report for this item.

Move: Commissioner Baraso

Second: Commissioner Mosby

The commission unanimously approved the action as presented

The commission adjourned at 4:22 p.m.

PUBLIC TESTIMONY: The Environmental Quality Commission places great value on information received from the public. In addition to a formal public comment time scheduled at each meeting, the commission accepts both oral and written comments on some agenda items, as shown on the agenda with an asterisk (*).

People wishing to testify or present information to the commission are encouraged to:

- Provide written summaries of lengthy, detailed information
- Recognize that substance, not length, determines the value of testimony or written information
- Endorse rather than repeat the testimony of others

Written comments can be submitted before or during the meeting. Please bring 10 copies of any written comments and provide them to the commission assistant to distribute to the commissioners during your comments.

If you wish to provide comment or testimony to the commission, you must sign-up on the specific sheet provided at the information table, located near the meeting room's entrance with other meeting materials. People are asked to limit their comments to three minutes or less, and the commission may shorten or extend any item, including the comment opportunities, at its discretion.

2018 EQC meetings

- July 12-13: Portland
- September 13-14: Location to be determined
- November 15-16: Portland

For questions about the agenda or any commission matters, please contact Stephanie Caldera, EQC assistant: Caldera.Stephanie@deq.state.or.us or 503-229-5301.