



Oregon

Kate Brown, Governor

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December 22, 2016

Dennis McLerran, Regional Administrator
U. S. Environmental Protection Agency Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

RE: State Concurrence with EPA's Record of Decision for the Portland Harbor Superfund Site

Dear Mr. McLerran:

The Oregon Department of Environmental Quality (DEQ), on behalf of the State of Oregon (State), has reviewed the United States Environmental Protection Agency (EPA) Record of Decision (ROD) for the Portland Harbor Superfund Site (the Harbor) located in Portland, Oregon to determine whether to concur with the ROD. EPA's decision comes after 16 years of work to identify contamination, assess risks to people and the environment, and develop cleanup options for this important stretch of the lower Willamette River.

The State believes strongly that it is time for action. The risks to human health are too great for further delay in issuing the ROD and work must begin to protect people from exposure to contamination in resident fish and sediment in the lower Willamette River. Further, with every year of delay, the Portland metropolitan region loses opportunities for economic, social and cultural revitalization in this key part of the region.

EPA's ROD selects a modified version of the "preferred" alternative described in EPA's Proposed Plan that was issued earlier this year. EPA received thousands of public comments on the Proposed Plan during the 90-day public comment period. The overwhelming majority of the comments raised concerns about whether the Proposed Plan would meet cleanup objectives within a reasonable timeframe. Many comments requested that EPA select a remedy that more aggressively targets the primary risk drivers – polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), pesticides and dioxins/furans – through active remediation instead of relying so heavily on monitored natural recovery. Other comments provided suggestions concerning ways to ensure that the remedy is cost-effective and that it is feasible to implement. Based on all of these comments, EPA has developed a modified version of Alternative F as its selected remedy for the Harbor.

The selected remedy applies Alternative B remedial action levels (RALs) in the federal navigation channel, Alternative F RALs landward of the navigation channel, and actively remediates all Principal Threat Waste (PTW) through capping or dredging. The selected remedy more aggressively targets contamination in nearshore areas of the Harbor where fish and other ecological receptors are more likely to feed and reside, where bioaccumulation is more likely to occur, and where people are more likely to encounter contaminated sediments. The ROD requires that all excavated wastes be disposed of offsite and eliminates the option for waste to be disposed of at an onsite confined disposal facility. The ROD also provides greater flexibility in applying cleanup technologies during remedial design, states a preference

for transport of wastes by barge or rail instead of trucking, and encourages use of offsite landfills with the shortest haul distance from the Site.

In order to help ensure successful implementation of the selected remedy, DEQ and EPA have memorialized key expectations in a letter from EPA dated December 7, 2016. These expectations are important to the State in its decision regarding whether to concur with EPA's ROD. Several of these key expectations are described below.

- Controlling sources of contamination to the river will remain a priority for DEQ. EPA acknowledges the significant progress that the DEQ Source Control Program has made in removing or otherwise controlling upland and upriver sources of contamination, including implementation of removal and control measures at most upland sites, abatement of combined sewer overflows, comprehensive stormwater evaluation and treatment, and in-river sediment cleanup in the Downtown Reach. Final achievement of the remedial action objectives identified in the ROD relies upon timely and successful completion of upland and upstream source control actions. The State recognizes that EPA retains the discretion to use its federal authorities to complete those actions.
- EPA and DEQ are committed to developing a comprehensive strategy for identifying and addressing additional sources of toxics within the Willamette River watershed, upstream of the Harbor. This approach is intended to build upon existing, ongoing efforts to achieve broader environmental improvements beyond the actions specified in the ROD. EPA and DEQ will engage the Tribes and other key stakeholders in compiling watershed data, identifying data gaps, and identifying new strategies to reduce contaminant loading in the watershed. Our goal is to work together with EPA to prepare and implement a program for the Willamette Basin that is modeled on EPA's toxics reduction effort in the Columbia Basin (the Columbia River Basin Toxics Reduction Action Plan). DEQ and EPA will continue cross-program coordination between our agencies to ensure the success of these efforts.
- EPA anticipates managing the in-river cleanup by dividing the Harbor into work areas for purposes of design and construction activities based on factors such as prioritization of significant source areas, logistics, and efficiency. Additionally, in order to maximize resources and achieve cleanup as soon as possible, DEQ may perform certain oversight functions, in coordination with EPA, at specified areas of the in-river portion of the Site. Any oversight functions performed, whether performed by EPA or DEQ, will comply with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Contingency Plan (NCP), the ROD, any CERCLA agreements reached between the agencies and performing parties, and EPA policy and guidance regarding CERCLA cleanup actions.

DEQ and the State readily acknowledge that implementation of the selected remedy presents financial, technical, and administrative challenges. To minimize delays in getting cleanup actions underway, EPA should provide legal and administrative incentives to encourage potentially responsible parties to promptly enter into performance agreements consistent with CERCLA, the NCP, and EPA policy and guidance. EPA must also support innovative engineering solutions and flexibility during remedy design and construction. A comprehensive long-term monitoring plan and data management system will be necessary to assess remedy effectiveness, which may not be measureable for some time. Recognizing that people are at risk now and that it may take many decades before all remedial action objectives are achieved, EPA must implement a comprehensive (updated) fish advisory and community outreach program immediately following issuance of the ROD.

The remedy will be implemented in large part on land held by the State in trust for the public. It is the State's expectation that EPA will recognize and uphold the State's proprietary land management authority and responsibilities and further recognize the importance of protecting public trust values and public infrastructure improvements in the Harbor, to the greatest extent possible, during remedy implementation.

Implementing this complex remedy will require significant Federal and State agency resources and close coordination with Tribal governments, key stakeholders, and the community in order to meet the construction schedule, efficiently manage project costs, and secure support of all actions taken consistent with the remedy.

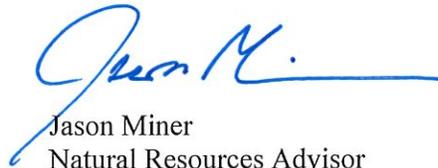
The State, on behalf of the citizens of Oregon and as a performing party, intends to work closely with EPA and other partners to identify and implement time-critical elements of the ROD. These may include developing the long-term performance monitoring plan, evaluating potential infrastructure needs such as transload or local disposal facilities, and initiating remedial design at one or more work areas within the Harbor.

With these understandings, the State of Oregon concurs with EPA's selected remedy for the Harbor. We look forward to a continued partnership with EPA in addressing the risks to people and the environment, and restoring the Harbor to its fullest potential.

Sincerely,



Richard Whitman
Interim Director
Oregon Department of Environmental Quality



Jason Miner
Natural Resources Advisor
Office of Governor Kate Brown