Oregon Department of Environmental Quality and U.S. EPA Region 10 Performance Partnership Agreement for July 1, 2016, to June 30, 2018

Response to Comments Received

DEQ made the draft Performance Partnership Agreement (PPA) available for public comment June 14-July 6, 2016. Following are summaries of comments received during the public comment period and DEQ's response. A compilation of all comments received is attached at the end of this document.

Environmental Justice and Tribal Relations

Commenter stated that this draft is significantly improved from previous drafts. Commenter requested that DEQ provide a direct link to actions or tasks related to federal funding, and include low income rural communities as communities with Environmental Justice concerns. (Robert Collin)

> DEQ response: Thank you for acknowledging the improvements made to the PPA and PPG regarding Environmental Justice. These improvements reflect thoughtful input DEQ received from Oregon's Environmental Justice Task Force, and we look forward to similar collaborative and constructive discussions in the future. DEQ appreciates the suggestion to consider environmental justice concerns in rural communities. The final document explicitly identifies rural communities as traditionally underrepresented communities that DEQ is committed to serving.

Commenter provided historical context for tribal relations in Oregon, and expressed that many people - both tribal and not - hold cultural and spiritual values about rivers. Stated that the 9 federally recognized tribes do not adequately represent individuals with affiliations to 360 tribes. Commenter shared experience of DEQ and EPA performing inconsistent public involvement with the general public, EJ communities, and federally recognized tribes. Suggested reaching out to the community to learn from individuals who are the experts in specific communities. (Jeri Jimenez)

> DEQ response: Thank you for sharing this perspective. DEQ is working to build capacity within the agency to better understand and address concerns of all community members. Specifically, we are working to increase cultural competency and improve understanding of implicit bias. We are also partnering with EPA to identify ways to learn from, and incorporate expertise of, community members. DEQ expects to incorporate these learnings into our regulatory work.

PPA is not adequate

Nine commenters stated that the draft PPA between DEQ and EPA is not adequate to protect the public health, and requested a better agreement on the part of DEQ. (Mary Lou Putman, Nora Grod, Terri Walker, Michelle Elhard, Rachel Najjar, Bonnie Ingersoll, JB Young, and Albert Zayha)

> DEQ response: Thank you for using this opportunity to share input with DEQ. The Performance Partnership agreement is a document that memorializes collaboration between EPA and DEQ, and articulates shared priorities between the two agencies. DEQ's priorities are set in consultation with the Governor's Office and the Environmental Quality Commission, DEQ's governing body. Some, but not all, of the priorities are reflected in this agreement. There are many opportunities for the public to participate in DEQ activities, and we encourage you to share specific feedback during those comment periods. Public notices are posted regularly on DEQ's webpage https://www.oregon.gov/deq/Pages/publicnotice.aspx.

Concerns about Amerities

Commenter expressed concern about health impacts from air pollution in The Dalles, and confusion about how air quality permit programs are funded. Commenter urged DEQ and EPA to work together to protect the environment. (Rachel Najjar)

DEQ response: Thank you for the comment. DEQ and EPA are aware of air quality concerns in The Dalles, and are addressing those outside of the PPA process.

Delay air quality permit renewals

Commenter requested that DEQ wait to renew permits and revoke any permits that emit toxic chemicals harmful to human health.

DEQ response: DEQ is aware of this request, and it will be addressed through the state's Cleaner Air Oregon initiative. More information about Cleaner Air Oregon is available online at http://cleanerair.oregon.gov.

Improve performance of water quality program

Commenter provided several observations and suggestions for improving efficiencies and reducing duplication between EPA and DEQ. (Association of Clean Water Agencies (ACWA))

DEQ response: Thank you for the comments. The work you identified for DEQ is important, and we share your sense of priority. While DEQ does not plan to make any changes to the PPA based on these comments, we encourage ACWA to remain engaged in DEQ's other priority-setting activities.

Include audit by Secretary of State

Commenter expressed concern about lack of transparency at DEQ and recommended a performance audit by the Secretary of State's audit division be written into the PPA. Commenter provided several examples to support this recommendation. (Deschutes County Citizen's Action Group)

DEQ response: DEQ agrees that transparency is important and is committed to clear public communication in all its programs statewide. The Secretary of State evaluated a similar request from this commenter in 2012. After the investigation, the Secretary of State determined that additional audits were not a good use of state resources given other audit functions in place.

DEQ's mission

Commenter suggested that DEQ's mission should prioritize protecting public health above any other goal or mission. (Cecilia Y. Youngs)

DEQ response: DEQ agrees that public health is an important priority.

Focus and improve air quality program

Commenter stated that DEQ should focus its expertise and equipment to focus on emissions from industrial point sources, increase and improve enforcement actions, and communicate about air quality benchmark levels consistently. (Cecilia Y. Youngs)

DEQ response: DEQ is addressing industrial point sources as part of the state's Cleaner Air Oregon initiative.

Make public records more accessible

Commenter requested that DEQ allow easy and affordable access to public records. (Cecilia Y. Youngs)

DEQ response: DEQ is committed to ensuring public records are made available. We are reviewing and improving systems that will ensure a good customer service, even when the agency receives a high volume of requests.

Improve communications

Commenter requested that DEQ provide clear and understandable public communications. (Cecilia Y. Youngs)

DEQ response: Thank you for the comment. DEQ is contemplating ways to improve its external communications in all programs statewide.

Oregon Department of Environmental Quality and U.S. EPA Region 10 Performance Partnership Agreement for July 1, 2016, to June 30, 2018

Comments Received

Environmental Justice

Thu 6/16/2016 1:00 PM

I have parsed the PPA draft. My comments are as follows.
This draft is significantly improved and addressed some of our major concerns about Title VI and EO 12898. We applaud the enhanced specificity of air toxics, usable TMDLs and enhanced relationships with health and industrial emissions. I also applaud a more defined role for EJTF, and the opportunities for enhanced cooperation and collaboration it provides.

There are some suggestions regarding EJTF that are statutory in our legislation and that will increase our accountability and lay the groundwork for collaboration. EJTF and the natural resource agencies are required to submit an annual report on EJ activities, signed by the respective agency director. When we have done so USEPA recognized us with an award for our collective collaborative efforts.
We are given pause about the examples of EJ selected but defer to OR DEQ to speak for itself on these matters in this draft document.

Two larger concerns underscore the accountability of some other aspects of this document.
1. Of particular concern is the language the "...DEQ does not outline actions or tasks related to environmental justice that are specific to direct federal or other funding". Without this direct link Title VI and EO 12898 are difficult to account for and enforce.
2. The inclusion of non traditional EJ communities such as rural communities. Many EJ communities are characterized by disenfranchisement, marginialization, and lack of organization. Without specific efforts at inclusion many low income rural communities continue to be on the end receiving environmental burdens without environmental benefits.

Thank you for time and consideration.
Respectfully submitted
Robert Collin
Member OR Environmental Justice Task Force

Tribal Relations

Wed 7/6/2016 4:15 PM

My name is Jeri Jimenez and I am an enrolled member of the Klamath tribes. Our tribe was terminated by the Federal Government in 1954 and reinstated in 1986. During the termination, a large percentage of the tribal families were economically forced to move into other areas in Oregon, many into the mid-Willamette valley. The enrollment, the termination, blood quantum and other relocation policies were designed to rob us of our homeland and assimilate us into the white race. None of these policies, were traditional to any of the US indigenous people in this county. Because of many of the policies created by the US Government, tribal members from across this land were scattered to the four winds, not by choice but by force. The idea from the Federal Government that they are only mandated to work with federally recognized tribes leaves out the majority of Native people in this country. The movement of people through oppression and starvation neatly took away the Governments need to address ALL of

the unmet needs from a very large population of people. While Portland, Oregon is currently in crisis from toxic air, land and the Willamette river Superfund site, we are also the ninth largest population of Native Americans in the country representing over 360 tribes.What I want you to recognize it that even beyond the large amount of tribal people you leave out of your work around our community that many,many people carry that same relationship to the river both in cultural and spiritual ways.
In your plan you describe:
Tribal Government Relations Oregon DEQ consults and coordinates with the nine federally-recognized tribal nations in Oregon on air quality, water quality and land quality issues. DEQ works with tribes on a government-to-government basis to understand and address tribal interests related to DEQ's environmental initiatives, policy and program development, and proposed legislation. DEQ partners with tribal nations to increase our collective ability to protect and enhance Oregon's environment and people's health. DEQ's internal tribal relations activities are focused on improving consultation and communication between agency and tribal managers and staff, as well as providing training to DEQ employees on tribal government, sovereignty and issues of interest to tribal nations. DEQ developed a Tribal Government-to-Government Relations Program in 1996 following Governor Kitzhaber's signing of Executive Order (EO) 96-30. In 2001, the Oregon Legislature approved Senate Bill 770 which institutionalized the executive order into law. Under this law, State agencies are directed to improve their working relationships with the nine federally recognized Tribes in Oregon. DEQ's official response to the directives of SB 770 is contained in our tribal relations policy. The Statement expresses DEQ's commitment to maximize inter-governmental relations between the agency and the nine tribes. Measures include: • Maintain a Tribal Liaison responsibility in the Director's Office • Provide periodic training and educational opportunities to staff on tribal sovereignty and related issues • institutionalize the consideration of tribal interests and issues in planning and decision-making activities • Establish a familiar day-to-day working relationships between agency staff and tribal environmental staff. DEQ's Tribal Liaison meets regularly with individual tribal nations and participates in tribal-state workgroups focused on natural resource management and protection of tribal cultural resources. DEQ's Tribal Liaison also facilitates leadership-level meetings between tribal and agency officials, provides tribal relations training to DEQ employees and other groups, and advises DEQ managers and staff on opportunities for strengthening relationships with tribal nations. Christine Svetkovich serves as DEQ's Tribal Liaison, and she can be reached at 503-229-6991.

What you are saying in your plan is that you only plan to work with members (Staff) of the 9 federally recognized tribes of Oregon, which are recognized by you. You are saying that out of the Governments' public involvement plan you plan to Include 9/360 tribal affiliations in your work ,which includes a very tiny piece about Environmental Justice which is on pages 5-7, you state:
Environmental Justice Oregon DEQ is committed to the principles of Environmental Justice and strives to ensure that the agency's actions address the interests of Oregon communities, including minority, low-income and other traditionally underrepresented communities. DEQ's environmental justice efforts are guided by state and federal laws. Federal laws include Title VI of the 1964 Civil Rights Act and Federal Executive Order 12898. With implementation of Oregon's Environmental Justice law (Oregon Revised Statutes 182.535-182.550) in January 2008, Oregon DEQ and other state agencies became subject to new environmental justice requirements. The law requires agencies to consider environmental justice when determining whether and how to act, providing greater public participation to all people affected by decisions, and creating a citizen advocate position to support this work.

As a native Oregonian, Urban, person of color, tribal member, EJ activist since 1994 in Portland Oregon, I can say I have observed your Agencies performing both good and horrendously horrific public involvement with the general public, EJ communities, and federally recognized tribes. You need to admit

when you don't know something and reach out to the community you are in to get trained, you need to stop hiring one or two people of color as window dressing and you need to STOP hiding information from the people. You also need to stop being afraid of the community , stop letting industry (the fox) guard the henhouse(our land , air , water) by allowing them to self-report their own emissions. You need balance, with people coming from all fields of expertise in your agencies, not because of the color of their skin but because we are the experts of our communities and you need to recognize how you are discriminating against all Urban Indians who have been displaced or relocation through your own history of racist Government policy.
Thank You,
Jeri Jimenez- currently choking every night from toxic air near Hayden Island.
910 N. Harbour Dr., Portland, Oregon 97217 #Save my lungs #before it's too late #weareidlenomore.

PPA is not adequate

Wed 7/6/2016 3:20 PM

Re Performance Partnership Agreement: the proposed PPA between DEQ and EPA is not adequate to protect the public health. We want a better agreement on the part of DEQ.
Thanks Cheryl.
Mary Lou Putman
206-551-3111

Wed 7/6/2016 3:36 PM

My husband and I love 2 blocks from Bullseye Glass with my daughter who is 6 years old. We have been here since she was 2 years old. We, of course, are very concerned with the air toxics being emitted from Bullseye. I personally know many people who live in very close proximity to Bullseye, many of whom are parents of young children.

Please consider my comment on the Performance Partnership Agreement. I do not it is not adequate to protect public health and you want a better agreement for the safety of my family and community.

Thank you for your time and consideration.
Sincerely,
Nora Grod

Wed 7/6/2016 3:48 PM

Dear Cheryl,
I believe the PPA is not adequate to protect public health and I would like to see a better agreement on the part of DEQ.
Thank you.
Susan Novelli

Wed 7/6/2016 3:55 PM

We want a better agreement on the part of DEQ.
Terri Walker

Wed 7/6/2016 4:03 PM

I am writing a simple message to say the the PPA is simply not adequate to protect the health of the public. We must have a better agreement on the part of DEQ.

Sincerely,
Michelle Elhard
SE Portland Resident FAR too close to Bullseye Glass

Wed 7/6/2016 4:11 PM

I want to first thank you for the chance to have a voice in this process. Oregonians have been in the dark about air pollution for a long time. I would have never known about it, if it weren't for my husband moving us to The Dalles. People are dying here, I don't think I have met a person that hasn't been effected by cancer or an upper-respiratory illness. My own family has suffered potentially fatal side effects from the active superfund site here, Amerities.

It doesn't seem logical to me that there can even be a superfund site with the knowledge that we have about pollution these days. I have tried to get people to listen, but the regulators seem to continue to side with polluters. Please change this. Money is not more important than life. Both DEQ need to unite to protect the environment, isn't that what your getting paid for? Please wait to renew permits and revoke any permits that emit toxic chemicals harmful to human health. Please get your money from creating strict environmentally, human health protective rules to gain permits and harsh fines for breaking this contract. I refuse to continue to pay for their mistakes with my health.

Thank you,
Rachel Najjar

Wed 7/6/2016 4:19 PM

PPA is not adequate to protect public health and I want a better agreement on the part of DEQ.
Thanks,
Bonnie Ingersoll

Wed 7/6/2016 4:34 PM

The PPA is not adequate to protect citizens' health. I want a better agreement on the DEQ's part.
JB Young

Fri 7/8/2016 5:06 PM

The PPA is not adequate to protect public health and we want a better agreement on the part of DEQ. The residents of Oregon need better guidelines so that we can really be proud of the "green" state we live in.
Thank you,
Albert Zayha

Attached Comments

- Association of Clean Water Agencies (ACWA)
- Deschutes County Citizen's Action Group
- Cecilia Youngs

Working with more than 95 community wastewater treatment and stormwater management agencies to protect Oregon's water
107 SE Washington, Suite 242
Portland, Oregon 97214
(503) 236-6722 www.oracwa.org Fax (503) 236-6719

July 6, 2016

Cheryl Grabham
Oregon DEQ
811 SW Sixth Avenue
Portland, OR 97204

Re: Draft EPA/DEQ Performance Partnership
Submitted by e-mail to: grabham.cheryl@deq.state.or.us

Dear Cheryl:

The Oregon Association of Clean Water Agencies is a private, not-for-profit professional organization of Oregon's wastewater treatment and stormwater management agencies. Our members are dedicated to protecting and enhancing Oregon's water quality. Our 125+ statewide members provide sewer and stormwater management services to 2.4 million Oregonians, serving 63% of Oregon's homes and businesses.

ACWA appreciates the opportunity to provide input on the draft EPA/DEQ Performance Partnership Agreement. Improving efficiencies and reducing duplication between EPA and DEQ is an important factor in improving the performance of the overall Oregon DEQ water quality program, in our opinion.

We have a few observations and suggestions:

- The information in the draft PPA is not specific enough to know if the State is committing to EPA for actions and activities that are beyond the level of federal support. Oregon DEQ should not be committing to EPA for environmental performance actions or activities that exceed the federal dollar support.
- It appears that DEQ and EPA are committing to revising the Oregon temperature standard. Additional NPDES permitting strategies should be developed as the bridge between the remaining Oregon temperature standard and the anticipated revised standard.
- The migration to NetDMR for electronic DMR reporting is a large undertaking. Additional resources and technical assistance will be needed from both EPA and DEQf or this transition. DEQ submitting a plan to EPA on 12/21/16 for how permitting sources will start filing electronic DMRs starting in January is inadequate.

Michelle Cahill, Chair Jennifer Belknap Williamson, Vice Chair
Amy Pepper, Secretary/Treasurer

- The challenges of writing effective, achievable NPDES permits with Oregon's current and proposed water quality standards is evident. Additional resources at both the federal and state level are needed to develop workable, legal compliance strategies around challenging standards including the human health criteria and copper.
- Additional work is needed to make the Integrated Report and resulting 303(d) list accurate, complete, and science-based.
- Toxics reduction efforts should be emphasized and prioritized for both EPA and DEQ. We suggest that EPA commit to routine compliance inspections for large PCB users in Oregon, such as the federal dam facilities, and to developing regulatory tools to regulate PCBs in concentrations below 50 ppm. Oregon's water quality standards for PCBs are dramatically below the 50 ppm threshold and additional regulatory tools are needed under the Toxic Substances Control Act.

Thank you for the opportunity to provide comments on the draft PPA. Please let me know if you have any questions regarding our comments.

Very truly yours,

Janet A. Gillaspie
Executive Director

cc: ACWA Board

DESCHUTES COUNTY CITIZEN'S ACTION GROUP

POST OFFICE BOX 493, LA PINE OREGON 97739

7/6/2016

Pete Shepherd
Interim Director
Oregon Department of Environmental Quality
State of Oregon
811 SW 6th Avenue
Portland 97204-1390

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

Subject: Draft Performance Partnership Agreement Between the Oregon DEQ and the U.S. EPA – Region 10

Dear Sirs:

Thank you for the opportunity to comment on the proposed partnership agreement. The Deschutes County Citizen's Action Group (CAG) take this opportunity to point out that the Oregon Department of Environmental Quality (DEQ) has a less than stellar relationship with the communities they serve. We've also found that DEQ lacks transparency – at times appearing to be dishonest or contradictory in their dealings with us. With those cautions in mind, we view the draft performance partnership agreement with considerable misgiving.

Our greatest concern is a lack of performance monitoring by anyone outside the DEQ. In Oregon, the Oregon Secretary of State is charged, by state constitution, with audit responsibilities for all state agencies. We strongly recommend that a performance audit by the Secretary of State's audit division be written into the partnership agreement.

There is extensive history to support our conclusions:

1. DEQ is not successful in managing scientific studies that satisfy scientific rigor or contribute to good community relationships. DEQ failed to exercise proper oversight for the La Pine National Demonstration Project, resulting in huge laboratory cost overruns, improper sampling of wells, combining private water wells with septic system monitoring wells and contributing to community distrust in DEQ and the county.
2. DEQ gives the appearance of wanting to control and manipulate information to meet DEQ's agenda. There were numerous complaints about DEQ's involvement with their own advisory committee, the South Deschutes and North Klamath Groundwater Protection Committee. Committee members complained that DEQ refused to allow some expert testimony, that DEQ intimidated some industry experts and that DEQ wrote the final report, making subtle changes to the wording, such as "forming" a sanitary authority, rather than "exploring" a sanitary authority.
3. DEQ has not demonstrated good governance. Septic system installers informed us that only one company, Orenco Systems, Inc. of Roseburg, Oregon, is approved for alternative treatment technology (ATT) septic systems for South Deschutes and North Klamath Counties, providing a life-throttling monopoly on local residents. Such systems often run double or triple the cost of a standard system and many times more than a repair to a drain field. How any agency can be so asleep at the wheel as to allow one company to obtain a monopoly screams poor governance on the part of DEQ.
4. DEQ presents a controlling, turf-conscious atmosphere that contributes to community distrust and delays data-driven solutions. CAG proposed a budget request in the 2015 legislative session, exclusive of DEQ's

budget, to fund research through the Oregon State University's Institute of Water and Watersheds. DEQ opposed our request and instead proposed an underfunded alternative under DEQ's control. One wonders why DEQ is so concerned, that independent, rigorous scientific research might reveal?

5. DEQ demonstrates little interest in solutions that are cost-effective or least burdensome to the homeowner. During the 2013 legislative session, CAG, through the bipartisan efforts of several legislators and House Minority Leader Mike McLane, successfully required in a budget note that DEQ poll other states to find out what those states did to help disadvantaged homeowners when septic repairs, upgrades or sewering was required.
    a. In the negotiations, then Director Pedersen informed the CAG leadership team in the presence of Rep. McLane that DEQ was pursuing a moratorium (suspension of the rules), with no strings attached, on ATT systems for five years as "we had plenty of time." In 2015 at a Deschutes County Planning Commission hearing, local DEQ administrator, Eric Nigg flatly contradicted Director Pederson's statement and said no rule suspension unless there was first a goal 11 exception, allowing sewers.
    b. DEQ failed to obtain the required report on what other states were doing to help disadvantaged homeowners until CAG and Rep. McLane agreed to extend the deadline.
    c. DEQ's report to the legislature claimed that other states who DEQ polled were doing about what Oregon was doing to help disadvantaged homeowners. CAG, however, had conducted their own poll of all 50 states and some Canadian provinces. We found 18 states doing more than Oregon to help disadvantaged homeowners.
6. DEQ lacks transparency in dealing with the public:
    a. CAG made multiple requests for the criteria regarding the requirement of ATT systems (estimated at around 90% of all new systems and major repairs). Such requests were stonewalled by the DEQ representative Bill Mason.
    b. CAG, in 2013, also proposed legislation to address the lack of transparency and allegations of a near monopoly situation with ATT systems – DEQ also opposed that legislation.
    c. In 2012, CAG proposed a rule change petition to provide transparency when ATT systems were required. At the recommendation of DEQ, the EQC denied the petition.

In conclusion, we strongly believe that the only way for DEQ to meet the goals in the draft performance agreement is through the intervention of the Oregon Secretary of State's Audit Division. We just do not believe that DEQ has the will or the ability to meet these goals without outside assistance. We also do not believe that the EPA, while an excellent partner in other ways, is the proper agency to enforce change regarding the concerns we raise.

Respectfully Submitted,

John Huddle, EdD
President
Deschutes County Citizen's Action Group

CECILIA Y. YOUNGS, ATTORNEY AT LAW
9725 SE 36th Street, Ste. 404
Mercer Island, WA 98040
206-799-3608

June 29, 2016

Dennis McLerran, EPA Administrator
U.S. EPA, Region 10
1200 6th Ave., Suite 900
Seattle, WA 98101

Pete Shepherd, DEQ Director
811 SW Sixth Avenue
Portland, OR 97204-1390

RE: Public Comment Performance Partnership Agreement

Dear Administrator McLerran and Director Shepherd:

Thank you for the opportunity to comment on the Performance Partnership Agreement (PPA). My comments focus on the agreement in relation to industrial air toxics. I am disappointed in this agreement because it highlights the conflicts between the agencies. It should more closely reflect the shared missions and goals. The stated EPA mission is to protect public health and the environment. DEQ's stated mission relegates protection of the public to a less important position, and, impliedly, places protection of industry into the matrix. Given the cultural change that appears to be occurring, DEQ should move the issue of public health to the top of its lists. In order for the PPA to reflect a true, harmonious relationship, changes must be made as follows:

Protecting public health is more important than any other goal or mission. Clean air leads to a healthy public, and a healthy public leads to more employment and a better economy, *not vice versa; c*lean air also encourages more industries to locate in Oregon. As the air we breathe is the underpinning of our existence, clean air also leads, naturally, to a clean environment. Protecting public health must be part of DEQ's responsibility, and it must not be delegated, either directly or indirectly, to Oregon Health Authority; OHA is not a party to this agreement. OHA's role should be similar to CDC/ATSDR. DEQ must truly emphasize the protection of public health in this agreement and in its mission.

Industrial air toxics should be the focus of a clean air program. Now that there is additional money for the diesel emissions program, DEQ must focus its expertise and equipment on determining what toxic is being emitted and who is emitting it. This is not a job for the public to perform, this requires the equipment and expertise of the agency. DEQ should require each industrial emitter to have emission controls in place. It should also require monitoring by the facility, both at the stack and at the fence line. If there is not enough money for the state to perform this function, the emitter must pay for it. To allow emissions to continue as they have been, or at a "healthy level," simply does not protect public health.

Enforcement must commence in a more timely manner and should be initiated by public complaint, surprise inspections, and analysis of reports. Self-reporting or air monitoring are not adequate to initiate enforcement because self-reporting is subject to misrepresentation and air monitoring does not indicate what is being emitted or who is doing it; DEQ does not know where to even place monitors until a report is made. However, air monitoring is an important tool to use once enforcement has begun. DEQ must also engage in all forms of enforcement: formal and informal and criminal and civil enforcement. It must also budget for litigation expenses. If there is no money or budget for litigation, the polluter must pay for litigation, whether they win or lose, and this must be stated in the permit. The public should not have to perform the job of enforcement; this is a job that requires the equipment and expertise of the governmental agency. The simple answer to the budgetary problems is to require the emitter both to install emission controls and to fund stack monitoring.

DEQ should publish a complete table of the different benchmark levels and use them in a consistent manner. These tables should show the origins of each bench mark level, whether state or federal, and any new data collected should be shown alongside of the benchmark levels. DEQ must be consistent with the use of the level of measurement and not jump between averages and spikes or between long-term or short term effects. There should also be a recognition that the cumulative effects over a 70 year period could be incorrect or might be affected by another dose of toxics somewhere else and at some other time. This is confusing, at best, to the public.

DEQ must pledge to allow easy access to records and not charge exorbitant fees for access or stall a records request. If changes are not made in the DEQ policy, it is certain that the public will begin making FOIA requests so that the burden is shifted to EPA. DEQ should place all of their records online and if there are no funds, a grant request should be made to one of the many foundations that focus on the environment.

Currently, DEQ's communications are vague and difficult to understand. This leads to misunderstanding by the public or the parties. When a Press Report is released by the agency, it is not clear what is being said. This allows waffling on the part of DEQ. This must be cleared up or it will lead to continued mistrust by the public.

Again, thank you for this opportunity to comment. I would like to see public health protected, the environment protected, and this partnership succeed. You are the Trustees of the Public Trust and you must protect the air for future generations.

Sincerely,

/s/

Cecilia Y. Youngs
Attorney at Law