

OREGON ENVIRONMENTAL JUSTICE TASK FORCE

June 29, 2012

11am-4pm

**Oregon State Office Building
800 NE Oregon St, Portland
Conference Room 1B**

June 29, 2012 – Portland, OR:

In attendance: Jen Coleman, Ben Duncan, Jon Ostar

Via phone: Robin Morris Collin, Will Collin, Jack Johnson, Julie Samples

Governor's office & Agency reps: Brett Brownscombe, Christine Svetkovich (DEQ), Janet Fults (Dept. of Ag), Jevra Brown (Department of state lands), Ruben Ochoa (OWRD), Jim ODOT, Curt Melcher (Fish and Wildlife), Jae Douglas (OHA)

ACTION ITEMS:

All EJTF members: Richard Whitman requests that the EJ Task Force provide a representative at late July meetings on agency budgets to give EJ perspective on funding priorities. Brett will get email out with late July meeting dates and other opportunities for engagement

EJTF: Convene a strategy discussion about how to do this budget advocacy work effectively and make sure people who are not lobbyists and government are involved.

EJTF: Follow up on public comment regarding storage of dredged waste from Portland Harbor; use research around volatilization of PCBs to develop a perspective on what cleanup should consider for community health.

EJTF: If you have comments on the Annual report, send them to Ben by **July 13**

Ben: Reach out to Terry and Mariahm to clarify the status of their service (does Terry wish to resign; does Mariahm wish to be re-appointed).

Ben: By July 13, circulate a letter for the Task Force to review and sign requesting that the Governor fully consider a health impact analysis before proceeding with permits for coal exports.

Agency representatives: Please share with agency directors the task force's work on recommendations for incorporating EJ considerations into hiring, training and performance review, and request that they

implement. It is duly noted that agencies would require additional funding in order to implement.

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UPDATES
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Toxics tour update: Ben attended a bus tour of West Eugene with Beyond Toxics. Others in attendance included city council and county commission members and the mayor. Eugene was looking at zoning for residential areas in those communities. After the tour, there has been a recommendation to change zoning to move residential development to East Eugene—a credit to beyond toxics community organizers in shifting policy.

Ben has agreed to help facilitate an Environmental Justice training for city staff. DEQ has a model for training to share down there. There will be in September a chance for Beyond Toxics to address the EJ Task Force and talk about pesticide right to know, etc.

Brett: The governor’s office met with Beyond Toxics about their legislative concepts for the 2013 session.

Christine from DEQ: Beyond Toxics recently met with DEQ and Christine. Christine let them know that DEQ does not regulate Lane County air; they have to work with the regional regulators or with EPA.

Rulemaking committee update: Will: At our last meeting, Will was appointed to DSL rulemaking committee as environmental justice technical advisor. Jevre notes that DSL has extended the rulemaking process – we will work on consensus in the next two meetings. Will is going to be at the next meeting in Salem in July. We need to make clear –and the task force can help with public outreach – we need to separate DEQ’s remedy agreements from our authorization to do that remedy on our land. It’s all about how we’re going to authorize that work to be done, and how much are we going to charge for that activity. Public concern is that the agreement between industry and DEQ –what will the remedy be to clean up superfund or

DSL update: They have requested facilitation for an environmental justice panel for DSL staff this Fall.–“We are recreating a smaller version of last year’s SEIU EJ conference for our diversity training.” We have been working with Rose from Department of Agriculture. Also extended the invitation to the EJ advocates within natural resource agencies. The training is Sept 18-19 and we are trying to solidify the schedule.

West Hayden Island: Jon: The state case is proceeding against beneficial use for West Hayden Island. One of the likely outcomes is guidance for what the public participation statute means, and whether there are obligations for the agency to do some evaluation – “consideration” of environmental justice issues, and what that means.

Columbia River Crossing: Residents of Hayden Island are filing litigation on Monday

in federal court challenging the environmental impact statement. Crag law firm is engaged to represent plaintiffs. Brett: there is other news and issues related to CRC, including other plaintiffs challenging on ESA and fish impact (CLF) and other community groups. For Hayden Island, the challenge is to the air quality analysis for construction and other health/livability concerns.

Julie: we are publishing an article about farmworker advisory committees - -the types of input we've received and how that is shaping policy.

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Richard Whitman on budget:
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The Governor wants to move to outcome-based budget and a clear picture of where the state wants to go. State programs have been divided into 5 program areas. One is healthy environment – that's the one I have staffed. There is also jobs and economy, safety, healthy people, education. Most state natural resource programs are in the "healthy environment" budget area. Others are in jobs and economy a few in safety and healthy people. The product of this process will be governor's recommended budget that we hope reflects broader input into the process. For each team, there is a group outside state government to provide feedback and prioritize the budget in that area. Also associate with that effort is a policy vision.

That's what I want to talk about today, the vision for what the state should be developing. Five broad areas of outcomes for healthy environment: improving air and water quality in the state; improving the health of our watersheds and forests; reducing exposure of Oregonians to toxics; and building healthy and vibrant communities across the state. The last piece is process: coordinating state plans and more effective service delivery in state government. There is a strong vision statement and outside team providing input.

How you can provide input: the way the budget process works is that agencies prepare agency request budgets, proposals to the governor on what they want money for. Agencies are going through that process now. Some have public involvement and some have not much: most have at least a hearing before the policy board or commission.

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ACTION ITEM: In late July, Richard will convene a meeting of broad interests to talk about some of the broad trends for funding and programmatic challenges to get input into those agency request budgets. He would like to have a representative from the EJ task force to sit in that discussion. I leave it to you to work that out. (Jon notes that more than one representative might be a good idea) (Richard notes: But most directly, you need to be in there advocating for DEQ OHA and ODFW programs for resources to be continued or for new resources reallocated to those places. That is part of the discussion we are going to have.)
Note: Interim session for legislature is Sept 12-14 Robin: in order for the new budget process to work in a way that brings in new voices and

adjust priorities, we need a way to get that information outside of government. We need to let people on budget team know what priorities are important for EJ.

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Brett: My next steps is to get email out to you with late July meeting date and EJTF member at the table. Also leg dates, other stuff for engagement. Also will find info on the program funding teams and get that out after this meeting.

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Richard: Think about the September interim meeting – you might want to, earlier in September, prepare to go to Salem and have sit-downs with key legislators on ways and means and other legislators particularly interested in issues that you are concerned about. Robin: I can volunteer to do whatever legwork in Salem will facilitate getting EJ message across, but we need to strategize in task force about how to do this work effectively and make sure people who are not lobbyists and government are involved.

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SB766 (Richard): The notion is that there is up to 15 areas designated in the state—designated by state agencies – where there would be restrictions on local governments to re-zone for something other than industrial. One designated by state, it can't be converted, for example, to retail, by local govt. The other piece, which is your concern, is changes in the process for review of local land use. Once designations are made, land use applications for industrial use would go into a fast-track process. At the local level you would have the same notice and opportunity to be heard –but once local decision is made, opportunities for appeal are limited.

The other side of the bill has to do with permits both state and local for significant industrial employment opportunities. The notion there is that these are projects that will create significant new jobs in relationship to the area they are proposed in. If someone comes to the state and says we want to be in this fast-track process, there is a review by agencies and local governments – local governments need to agree up front to do the fast track. If state agrees, it goes into the process—review gets kicked up to state level by EERC – same notice, same opportunity to be heard by local folks – but again, once decision is made by EERC, opportunity for appeal is limited. That is what the bill has done.

Nobody has used this yet – there have been informal inquiries – but nobody has come into it.

Christine: in policy framework, language says that the agency team making the recommendation will consider EJ and should be discussed. If there is an unresolved EJ issue, that will be part of the agency's decision to recommend or not. So there is express language as a screening criteria.

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AGENCY UPDATES

Jim from ODOT: Least cost planning update – this effort came out in 2009 jobs and transportation act (ORS 184.653) – a process of comparing costs to meet goals and intent is to identify most cost effective mix of options. We are halfway through the process, we have a web resource for decision-making process to evaluate social environmental costs of transportation planning. 9 categories and indicators for each: they include mobility, accessibility, economics, environment, safety, funding, land use, growth management, quality of life and livability, and equity.

That is identifying costs and benefits by geography, group, users and nonusers. Each category has separate indicators, each used to guide through that process. Decisions and proposals go to transportation commission for approval. We spend 2010-2011 to develop those categories. We are looking towards stage 3 – implementation – when approved by commission in sept 2012.

Jae: The public health division of OHA as of July 1 is reorganizing. We have been in 6 offices, we will now be in 3 centers. Gail Shibley is now part of center for health protection, including research and education, drinking water and food, health care licensing and medical marijuana. Gail will administer the center. She is also the senior advisor for toxics. How that will evolve is under assessment. Other two centers are center for prevention and health promotion (that includes HPCADIP - - which works with environmental health in community design and built environment.) Also as part of reorg there is a series of goals and emphasis areas that includes health impact assessment of policy. One of the first things we did is meet with ODOT at senior levels of leadership to talk about building bridges between state public health and department of transportation on design issues. HIA isn't the only tool for getting health actively considered. More to come on that. Third is center for public health practice (WIC, lab, immunization, and working with local health jurisdictions). (Tricia Tillman's group is office of equity and inclusion). DHS is separate from OHA – the “centers” are Public Health Division, a part of OHA.

Christine DEQ: Sent out to the group the draft DEQ performance partnership agreement with EPA—including EJ commitments – that document is final and goes into effect July 1 and will be online next week. Ask if you want a copy. Two important things in there: we are committed to LEP (limited English proficiency guidance for when to translate docs). The other thing is a list of what we would do on EJ if we had more money. We will see what happens – it was important to highlight that there are a lot of EJ needs at DEQ we should do, and don't have the capacity to do. This is the short list – it stayed. We have a number of cleanups going on statewide if you want to hear about it. And one upcoming rulemaking – DEQ is moving forward on a legislative concept related to clean fuels program – requiring cleaner fuels to reduce emissions – this is linked to DOE action plan and DOT transportation plan – there are stakeholders lining up against us. But rulemaking

prior to session will happen - -but legislation continues the program – this is about removing the sunset of the clean fuels program.

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Janet Department of Ag: DEQ has a pesticide stewardship partnership program – Dept. of Agriculture has proposed, with DEQ program option packages to try to get general fund money to continue this sampling of these watersheds - -we are both requesting \$200k pass through from DEQ – if it doesn’t go through as general fund, there is a serious threat to how it can be sustained. One of the great things about it is that DEQ does monitoring of pesticides – if the high levels are found, there is discussion about reducing those levels. The results are amazing. Voluntary actions. What I’ve heard is that growers can save money when they make a change. It is a well-supported and successful program and AHS documentation to back that up. We’ve gone into formal MOUs for DOA and Department of Forestry and OHA and US extension to have a water quality pesticide management team to meet and review data, see if we can identify trends or commonalities, and what actions can be taken. Right now it is a very small program. We would love to see PSP expanded to other watersheds. They have been prioritized for potential highest risk. It would be interesting to see if we could fund it. It is now grant funded.

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Jevra, Department of State Lands: With Remedial Rules Advisory Committee – one thing advised to include is community contact guide with a list of community contacts – I would appreciate having contacts for port areas and other places where we can do better outreach for the rulemaking process. I am encouraging that group to do extensive outreach for the rulemaking process so we can educate about rulemaking and about remedy versus re for easement – would appreciate help with that.

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Curt, Fish and Wildlife: we just recently completed post-award civil rights review with federal government and office of civil rights --

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PUBLIC COMMENT

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Doris Weller: From the Portland Harbor Community Action Group and Northwest Toxics Community Coalition – also the Linton Neighborhood Association Board member (we have been vetted as an EJ community.): EJ as pertains to combined disposal facility at harbor slip 1 terminal 4 – a place for cleanup of superfund. Proposed to hold 940,000 yards of toxic sediment, an earthen berm in front of the slip, and sludge held in that containment area. The CDF will remain open for 10 years. It is vulnerable to floods. The sludge will evaporate (volatize) and then be capped. It will be unlined (potential for leaching). In 2005, EPA distributed Analysis on early action cleanup for public comment. 89 submitted, majority were concerned about safety of the neighborhood. The decision was released before we knew about Cascadia subduction zone earthquake. At a recent CAG meeting, an engineer said that the berm should withstand an 8 earthquake 60 miles away (at the coast). The engineer also said the berm would be built on solid sand. Liquefaction

happens in sandy areas. Concern for exposure: EPA says that the wet materials don't pose a danger, but a report in 1999 says that contaminants when placed can volatilize. PCB's readily volatilize. The site needs to be designed with lining and barriers. Sturgeon hangs out right there - they will then eat the clams from that area - the timeline for the CDF is 450 years - not temporary - contaminants transfer liability to the future. This should be temporary - not 150 years. PCB's are the primary contaminant. Basically, I want you to make sure that our communities are being listened to - EPA marginalizes volatilization - so basically, our community's health concerns are the PCBs concentrated in this area, vulnerable to earthquake and flood - St. Johns and Linton are always the dump sites. Region 10, Daniel, is not listening to our concerns.

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The proposal and feasibility study just came out in March - there is time for public comment before they decide what will happen. Jon: we will continue to be engaged in this process, and we have EPA's ear. Ben: maybe we need to talk to EPA and set the standard.

Response from the Task Force: Please send us your research around volatilization. We will use that as we develop our perspective on what the cleanup needs to look like.

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UPDATE ON INVOLVING COMMISSIONS

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Ben attended joint commission meeting to remind them of positions on EJTF and to ask them about being intentional about sharing info. So membership is on their radar. Kathleen Tom, an appointment from commission on Indian services (she is sick today) - but reminded her that her exec appointment form isn't complete. She is a viable and good candidate and will fill that role. Miriam is still recognized for commission on women. Ben will continue to work with chairs of commissions. They are also working through members asked to resign. Periodically there is question about their role - we can create relationships to support their intentions, and they ours. There is ongoing work to make sure they understand our relevance. They are working on their own environmental quality work. I also proposed we do a joint meeting once a year. It would be great to get Trish Tillman there too. I will commit to this in my role as chair, create ongoing structures so relationships can continue Brett: In my job, staffing boards and commissions, this is not on my plate but the lines aren't hard and fast. The statute calls out membership on commission, so if there are things I can do, let's do it. Jon: It is up to us to recruit. Brett: I sent Ben and Jon - we have interest forms from the task force from people.

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TASK FORCE MEMBERSHIP

There are applications for new members. Starting with our current appointments and roster – We have Jen Coleman June 2014; Will Collin and Robin Collin and Jon Ostar will be reappointed (expired June 2011); Ben is appointed to 2014; Jack through 2013; Marcela Mendoza resigned from Hispanic affairs – other folks are interested; Julie is good through 2013; Mariahm Stephenson ended in 2011 (she could represent the Commission on Women (Ben will send a personal reminder asking her to acknowledge that she wants to be reappointed); Khalid expired 2013 and resigned so we need someone from Asian Affairs (Jon made a plug to APANO); Terry Whitt was on to 2014 but is now retired (Ben will reach out and confirm that he resigned). We need to fill all 4 commission seats (Kathleen Tom, plus representatives from Asian, Black and Hispanic affairs). Sean Cruz is applying to be appointed by the commission on Hispanic affairs. Next steps: clarify with Terry and Mariahm. BRETT: Commissions are supposed to designate their own member.

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Annual report: If you have things to add, comments by July 6 to Ben. Agencies are free to send their reports after that. We should re-submit 2010, Brett will do the cover letter, working with Jon. Ben will find Ruben's report, which isn't in the draft report – Ruben will re-send his report to Ben. Will be done July 13, submitted July 16

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Jae from OHA on engaging people in toxics issues: We are funded through EPA and CDC, and with those dollars come guidance, support, and expectations for engaging people...talking about how we do it is a part of the project. Let's not miss for the task force a way to get involved. I would say we need to help facilitate active engagement of lay audiences in conversations related to sustainable chemical policy, broad toxics policy – from air toxics to pesticide use – Ben: I think that is one of the efforts that we need to talk about – like, for example, air toxics and the clean air act. Jae: for example, we were working on Linton project and now in Cully. We took a group of people through a process of understanding just that site – what it means to characterize the contamination, the resources for cleanup – and in that process, some people are nodding and with you about policy - -we want to identify those people in community projects, and bring them along to the next level of understanding...BEN: as you do that work and identify those folks, when agencies see those people they can cultivate them – EJTF can do the same thing to create mentoring and navigation of the process, based in real-work experience of their own lives.

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Point of order – the annual report will be from the office of public health from DHS, not the entire DHS.

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Cultural competency/EJ recommendations for Agency

practices: Ben met with folks from DAS—they said that unless the Governor gives a directive, it is not their responsibility to incorporate these principles into hiring practices (because this is only natural resource agencies, not all agencies across the board). The task force asks agency representatives to take this to your agency directors and recommend that they implement this (training, review, etc.). It is duly noted that agencies would require additional funding in order to implement.

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PATSAAC: Multnomah County is exploring some ways to take that info and address it in ways it is not fully resourced at DEQ. Ken: our patsac effort devolved into vague recommendations, but there is supposed to be a follow-up committee to formulate formal recommendations? Christine says no. **That is a question for Nina: is there another opportunity to see how these recommendations get implemented. Christine will give update of what EQC says in August.**

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EQC, from Brett: Ben and Khalid Wahib both applied for open roles in EQC. They were competitive, but not appointed. There is now another open seat – we have a unique opportunity. This is a 5 member commission so there is a lot of consideration around geography, area of expertise, critical issues that the department is facing and people who can provide expertise on that, and help relationship with constituents and with legislature (tied to the agencies budget and support for that). There are a lot of constituents who watchdog the process. When we weren't successful in advancing Khalid, we had to choose others to advance. Christine: next year, Blosser's seat expires in June. Brett: the public health issue is one of the attractive backgrounds for an EQC candidate. **Robin: I would welcome a conversation about this problem of well qualified people of color who cannot win approval despite the merits. Maybe the best place to have that conversation offline.** There are great people in the community who can't get put forward. Brett: I think there is interest in the governor's office and commitment to diversification of boards and commissions, and making sure that people who can be great commissioners—we are committed to that – we also heard plenty from industry interests that they felt we didn't forward people from industry

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PUBLIC COMMENT: COAL EXPORTS.
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Martin Donahue (with Regna Merritt): I speak a concerned Oregon, physician, and advocate – at PSR, we are concerned about coal export proposals in general, and particularly on vulnerable populations. PSR has submitted a letter advocating for review of a health impact assessment before any agency gives any approval. We request that the task force consider sending a letter to the governor as well, requesting that all health impacts be fully studied and considered before any decisions are made.

Jack comment: I think there is more coal than 150 million tons – that seems low – Regna says that is based on the governor’s letter and port of Morrow quoted in NYT.

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The data comes from a document put together by the Wasco County docks literature review. Jack: at the coal plant here in eastern Oregon, there are trains that come through on a regular basis. It just doesn’t seem near high enough.

Jae Douglas: We have the resources to do a health impact assessment, in 2012-2013. But if the decision is to be made in September, we don’t have the resources to do something of that magnitude in less than a year. We need decision-makers to delay until we can get that done. We also need agreement about whether this is where we want to put these resources. Ben: Multnomah County Chair Cogen and Commissioner Kafoury are looking at doing an HIA – Regna: perhaps Oregon could review Washington’s HIA –we want the Governor to make a decision after we have HIA information – but it does not have to be conducted by Oregon agencies.

Jevra: Unfortunately, we have little input. To me this is a glaring place where process is broken. With our applications, we can only grant a permit or not based on our statutes and authority. So when that application came in, if it were for dredging of the port or whatever – our permitting would be based on one activity alone. I will attach that and provide my minutes to our director and I will include that in our summary.

Brett: Governor is working with DSL and is well aware of the issue. The Governor sent a letter to Corps of Engineers, and received a response. Now EJ are thinking of next steps. Governor feels that the Corps should be doing an EIS.

Christine from DEQ: We have a regulatory role in the project at Port of Morrow. We are only certain that a construction storm water permit

will be needed. They haven't requested a water quality certification – because the Corps has decided that there will not be a discharge. We are getting requests from legislators and state folks regarding air quality – our challenge is that we only know anything about Port of Morrow—we know nothing about other projects. Anything that happens, we have a regulatory role – just not sure where or when.

Ben: I will send this around to TF members to write a letter about our concerns. Date: by July 9 week, Ben will circulate a letter for the Task Force to review

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Janet: Department of Ag doesn't have a role here, but I see impact on agriculture and related entities, especially those in the Gorge. They go through high-value crops. They run right through those orchards.

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That much particulate matter going on to fruit being consumed etc. – it may adversely affect exports, agriculture marketability, etc. That is something to take into consideration. These communities also have a high population of farm workers.

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ADJOURNED: 4pm
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