


**Date:** July 23, 2010  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Director   
**Subject:** Agenda item D, Informational item: Combined sewage overflows in Astoria  
August 18-19, 2010 EQC meeting

**Purpose of item** This item will inform the commission of proposed amendments to the stipulation and final order between the city of Astoria and the Oregon Environmental Quality Commission regarding combined sewage overflows to Alderbrook Lagoon, Young's Bay and the Columbia River.

**Why this is important** The current order requires the city of Astoria to reduce the volume of combined sewage overflows by 99.6 percent, at a cost of approximately \$50 million. A proposed amendment to the order would allow the city to reduce the volume of combined sewage overflows by 96 percent, at a cost of approximately \$39 million. The original order allowed a provision for amendment by mutual agreement, and DEQ plans to recommend an amendment for commission consideration in October 2010.

**Background** The city of Astoria entered into a stipulation and final order with the commission in 1993. The order requires the city, on a specified schedule, to undertake the necessary planning and implementation of corrective measures to significantly reduce the discharge of untreated sanitary sewage to Alderbrook Lagoon, Young's Bay and the Columbia River from the city's combined sanitary sewage-storm runoff sewer system. The order establishes stringent requirements for combined sewage overflows reduction. In the summer months, May 22 through October 14, all discharges that violate applicable water quality standards must be eliminated except those resulting from violent storms with a ten-year return frequency or larger. In winter, October 15 through May 21, all discharges that violate applicable water quality standards must be eliminated except those resulting from storms with a five-year return frequency or larger. As such, the order requires a reduction of 99.6 percent of the discharges that have historically occurred.

At the time of the original order, the city and DEQ did not have sufficient data to characterize all discharges, and the data was insufficient to determine the facilities and costs needed to meet the level of reduction required. The order required the city to prepare a facilities plan that

includes a characterization of the overflows and identifies the types and cost of facilities needed to meet the required level of reduction. In 1998, the city finalized a facilities plan and list of control options with costs. The city accepted the plan and recommendations, and presented the amendments to DEQ in 2001. DEQ did not bring the amendment for commission consideration because of a lack of evidence that the city had taken action to limit overflows.

In 2009, after much investment and three phases of work by the city to control and reduce overflows, DEQ agreed to review the amended order and updated facilities plan. Astoria has reached 99 percent reduction of overflows to Young's Bay and Alderbrook Lagoons, and a 35 percent reduction of overflows to the Columbia River. This represents the removal of an estimated 349.9 million gallons of overflow per year, for an overall reduction of 83 percent. To date, the City of Astoria has spent \$17 million, with another \$22 million planned, for approximately 96 percent reduction in combined sewage overflow volume. The original level of control would require an additional \$10-15 million more, for a total of around \$50 million, in order to achieve three percent more capture.

**Effects of proposed changes**

The most important proposed substantive change to the order would be to allow the required level of overflow control for discharges to the Columbia River to be less stringent, from a 99 percent reduction to a 96 percent reduction in overflow volume. The proposed changes are in accordance with EPA's "Presumption Approach" where water quality discharges are presumed to meet water quality standards unless monitoring shows otherwise. The presumption approach allows for no more than an average of six overflows per year and treatment of 85 percent of collected combined sewer flow volume. The approach also requires water quality monitoring to ensure the presumption of meeting water quality standards by the enacted level of control is correct.

The amended order would allow up to six overflow events per year and reduce an estimated 96 percent of combined sewerage volume collected. Water quality monitoring is in place to assess the current effectiveness of the control practices. A long-term, post construction monitoring plan will be developed to show compliance with the water quality standards.

The additional cost of achieving 99 percent reduction in volume as compared to 96 percent is disproportionately large at approximately \$10-\$15 million. The improvements in water quality improvements for the three percent difference may not be measurable.

**Commission authority**

Paragraph 10 of the order provides for the amendment by mutual agreement of the parties, subject to notice and opportunity for public comment. DEQ held a public hearing June 17, 2010, and did not receive

any comments.

**Attachments**

- A. Draft proposed amended stipulation and final order
- B. January 13, 1993, Stipulation and Final Order WQMW-NWR92-247
- C. Map, City of Astoria's combined sewage overflow phases

Approved:

Division: \_\_\_\_\_

Section: \_\_\_\_\_

Report prepared by: Mike Pinney  
Phone: (503) 229-5310

1                                   BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
2   OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY, ) AMENDED STIPULATION AND  
4 OF THE STATE OF OREGON, ) FINAL ORDER  
5 ) No. WQMW-NWR-92-247  
6 ) CLATSOP COUNTY  
7 Department, )  
8 v. )  
9 CITY OF ASTORIA )  
10 Respondent. )

11  
12   WHEREAS:

13       1.       On January 13, 1993, the Department of Environmental Quality (Department or DEQ)  
14 issued National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit  
15 Number 101028 (Permit) to the City of Astoria (Respondent), pursuant to Oregon Revised  
16 Statutes (ORS) 468B.050 and the Federal Water Pollution Control Act Amendments of 1972,  
17 P.L. 92-500 as amended. The Permit authorizes the Respondent to construct, install, modify or  
18 operate wastewater treatment control and disposal facilities (facilities) and discharge adequately  
19 treated wastewaters into the Columbia River and Young's Bay, waters of the state, in  
20 conformance with the requirements, limitations and conditions set forth in the Permit.

21       2.       Respondent's sewage collection system is comprised in part of combined sewers  
22 designed to collect both sanitary sewage and storm runoff water. The combined sewer system is  
23 designed and intended to collect and transport all sanitary sewage to Respondent's sewage  
24 treatment plant during periods of dry weather; however, during some periods of wet weather, the  
25 combined sanitary sewage and storm runoff entering the system exceeds the system's capacity to  
26 collect and transport sewage to the sewage treatment plant. At such times, the excess combined  
27 sanitary sewage and storm runoff are discharged through Combined Sewer Overflows directly to  
28 the Columbia River or to Young's Bay, waters of the state, without treatment. Respondent's  
29 system includes 38 Combined Sewer Overflows discharge points. The discharges of combined  
30 sanitary sewage and storm runoff from the Combined Sewer Overflows (discharges or CSOs)  
31 may cause violations of Oregon's water quality standards for fecal coliform bacteria, visible

1 solids and floatable material, and possibly other parameters in the Columbia River and Young's  
2 Bay.

3 3. On January 7, 1993, Stipulation and Final Order No. WQMW-NWR-92-247 (Order)  
4 came into effect. The Order requires Respondent to carry out the necessary studies, planning and  
5 corrective actions to eliminate all discharges from CSOs that violate applicable water quality  
6 standards up to a five year return winter storm and a ten year return summer storm.

7 4. Respondent has completed the studies and planning activities required by the Order,  
8 and on September 30, 1998 submitted a CSO Facilities Plan to the Department. The Facilities  
9 Plan analyzes Respondent's combined sewer system; characterizes the CSOs with respect to  
10 volume, frequency and duration of discharges; and identifies the facilities and costs necessary for  
11 various levels of CSO control and reduction, including the level specified in the Order.

12 5. As described in the Facilities Plan, Respondent has determined that the facilities needed  
13 to meet the level of CSO control required by the Order would cost approximately \$50 million.  
14 This level of control would reduce the current volume of CSO discharges by roughly 98% in a  
15 typical rainfall year. Alternatively, Respondent has determined that it would cost approximately  
16 \$39 million for the facilities needed to meet the level of control required by the Order at the CSO  
17 discharge points on Youngs Bay and the embayment area adjacent to the Alderbrook residential  
18 neighborhood, while achieving a 2 year return summer storm/six-in-one-year return winter storm  
19 level of control at the CSO discharge points to the Columbia River shipping channel. This level  
20 of CSO control would reduce the current volume of CSO discharges by 96% in a typical rainfall  
21 year. Based on this analysis, Respondent has concluded that expenditures beyond the level of  
22 control achievable at a cost of \$39 million rise sharply to achieve only small increments in  
23 additional control and water quality improvement, and are not cost effective. Respondent has  
24 therefore proposed that the Order be amended to establish this most cost effective level of  
25 control as the requirement.

26 6. Paragraph 10 of the Order allows for its amendment by mutual agreement of the  
27 Department and Respondent.

28 7. The Department agrees that the level of CSO control proposed by  
29 Respondent in the Facilities Plan is appropriate because it is cost effective and will be highly  
30 protective of water quality and the beneficial uses of the Columbia River and Youngs Bay in the  
31 vicinity of Astoria, especially during the summer when most of the contact recreational use of

1 these waters occurs. The Department and Respondent are in agreement that the Order should be  
2 amended to be consistent with the CSO control program proposed in the Facilities Plan.

3 8. DEQ and Respondent recognize that until new or modified facilities are constructed  
4 and put into full operation, Respondent may cause violations of water quality standards at times  
5 when discharges from the Combined Sewer Overflows occur.

6 9. The Department and Respondent recognize that the Commission has the power to  
7 impose a civil penalty and to issue an abatement order for violations of conditions of the Permit.  
8 Therefore, pursuant to ORS 183.415(5), the Department and Respondent wish to limit and  
9 resolve the future violations referred to in Paragraph 8 in advance by this Amended Stipulation  
10 and Final Order (ASFO).

11 10. This ASFO is not intended to limit, in any way, the Department's right to proceed  
12 against Respondent in any forum for any past or future violations not expressly settled herein.

13  
14

15 NOW THEREFORE, it is stipulated and agreed that:

16 11. The Environmental Quality Commission hereby issues a final order:

17 [Note: The NPDES Permit CSO discharge point  
18 identification numbers are used in this ASFO]

19 a. Requiring respondent to eliminate all untreated CSO discharges from discharge  
20 points 001 through 004 inclusive and 034 through 038 inclusive from October 15 through  
21 May 21 except during storms greater than or equal to a 24 hour duration storm with a five  
22 year return frequency and from May 22 through October 14 except during storms greater  
23 than or equal to a 24 hour duration storm with a ten year return frequency; and requiring  
24 Respondent to eliminate all untreated CSO discharges from all other discharge points from  
25 October 15 through May 21 except during storms greater than or equal to a 24 hour duration  
26 storm with a six-in-a-year return frequency and from May 22 through October 14 except  
27 during storms greater than or equal to a 24 hour duration storm with a 2 year return  
28 frequency, as soon as reasonably practicable, but no later than the following schedule:

29 (1) By December 1, 2003, Respondent shall eliminate untreated CSO discharges,  
30 subject to the storm return frequencies specified in Paragraph 11.a. of the ASFO, at  
31 discharge points 001, 002, 004, and 034 through 38 inclusive, consistent with the

1 facilities plan approved by the Department;

2 (2) By December 1, 2003, the Respondent shall submit final engineering plans and  
3 specifications for construction work required to comply with Paragraph 11.a.(4);

4 (3) By May 1, 2005, Respondent shall begin construction required to comply with  
5 Paragraph 11.a.(4);

6 (4) By December 1, 2007, Respondent shall eliminate untreated CSO discharges,  
7 subject to the storm return frequencies specified in Paragraph 11.a. of this ASFO, at  
8 eleven (11) of the remaining CSO discharge points, consistent with the facilities plan  
9 approved by the Department;

10 (5) By December 1, 2007 the Respondent shall submit final engineering plans and  
11 specifications for construction work required to comply with Paragraph 11.a.(7);

12 (6) By May 1, 2009, Respondent shall begin construction required to comply with  
13 Paragraph 11.a.(7);

14 (7) By December 1, 2011, Respondent shall eliminate untreated CSO discharges,  
15 subject to the storm return frequencies specified in Paragraph 11.a. of this ASFO, at  
16 seven (7) of the remaining CSO discharge points, including 003, consistent with the  
17 facilities plan approved by the Department;

18 (8) By December 1, 2011, Respondent shall submit final engineering plans and  
19 specifications for construction work required to comply with Paragraph 11.a.(10);

20 (9) By May 1, 2013 Respondent shall begin construction required to comply with  
21 Paragraph 11.a.(10);

22 (10) By December 1, 2015 Respondent shall eliminate untreated CSO discharges,  
23 subject to the storm return frequencies specified in Paragraph 11.a. of this ASFO, at  
24 ten (10) of the remaining CSO discharge points consistent with the facilities plan  
25 approved by the Department;

26 (11) By December 1, 2015 Respondent shall submit final engineering plans and  
27 specifications for construction work required to comply with Paragraph 11.a.(13);

28 (12) By May 1, 2018 Respondent shall begin construction required to comply with  
29 Paragraph 11.a.(13);

30 (13) By December 1, 2022 Respondent shall eliminate untreated CSO discharges,  
31 subject to the storm return frequencies specified in Paragraph 11.a. of this ASFO, at all

1 remaining CSO discharge points, consistent with the facilities plan approved by the  
2 Department;

3 (14) By September 1 of each year that this ASFO is in effect, Respondent shall  
4 submit to the Department an annual progress report on efforts to meet the requirements  
5 of this ASFO. These annual reports shall include at a minimum work completed in the  
6 previous fiscal year and work scheduled to be completed in the current fiscal year.

7 b. Requiring Respondent, within twelve months of the scheduled date when  
8 compliance is required in Paragraph 11.a., to demonstrate by a means approved by the  
9 Department that at each discharge point untreated CSO discharges have been eliminated, subject  
10 to the storm return frequencies specified in Paragraph 11.a. The demonstration shall be reported  
11 to the Department within the twelve month period in a document called CSO Outfall Control  
12 Compliance Report: Outfall(s) Number--.

13 c. Requiring Respondent to take corrective action for each discharge point for  
14 which elimination of untreated CSO discharges cannot be demonstrated as specified in Paragraph  
15 11.b, as follows:

16 (1) Within three months of the end of the demonstration period specified in  
17 Paragraph 11.b, Respondent shall submit for Department review and approval for each  
18 discharge point or group of discharge points having the same compliance schedule in  
19 Paragraph 11.a., a Corrective Action Plan that analyzes the causes of the failure to  
20 achieve elimination of untreated CSO discharges, subject to the storm return  
21 frequencies specified in Paragraph 11.a, and proposes facilities required to comply  
22 with Paragraph 11.c.(4);

23 (2) Within three months of Department approval of the Corrective Action Plan  
24 Respondent shall submit for Department review and approval final engineering plans  
25 and specifications required to comply with Paragraph 11.c.(4) notwithstanding any  
26 exemption from plan submittal Respondent may have under OAR 340-052-0045;

27 (3) Within three months of Department approval of the plans and specifications  
28 specified in Paragraph 11.c.(2) Respondent shall begin construction required to  
29 comply with Paragraph 11.c.(4);

30 (4) Within fifteen months of Department approval of the plans and specifications  
31 specified in Paragraph 11.c. (2) Respondent shall eliminate untreated CSO discharges,

1 subject to the applicable storm return frequencies specified in Paragraph 11.a. for the  
2 subject discharge point(s);

3 (5) Within twenty seven months of Department approval of the plans and  
4 specifications specified in Paragraph 11.c.(2) Respondent shall demonstrate by a  
5 means approved by the Department but which at a minimum includes 10 months of  
6 continuous monitoring of overflow time, duration and volume for each subject  
7 discharge point, that untreated CSO discharges have been eliminated subject to the  
8 applicable storm return frequencies specified in Paragraph 11.a. The demonstration  
9 shall be reported to the Department within the twelve month period in a document  
10 called Corrective Action Evaluation Report: Outfall(s) Number-- .

11 d. Requiring Respondent to take additional corrective action for each discharge  
12 point for which elimination of untreated discharges cannot be demonstrated as specified in  
13 Paragraph 11.c.(5) until elimination of untreated discharges, subject to the storm return  
14 frequencies specified in Paragraph 11.a., can be demonstrated. Respondent shall  
15 continuously monitor discharge points subject to this paragraph and shall report within five  
16 days of occurrence all untreated discharges from each discharge point that result from storms  
17 smaller than the applicable storm return frequency.

18 e. Requiring Respondent to inform the Department in writing of each CSO  
19 discharge point that is converted to a storm sewer only discharge within six months of  
20 conversion.

21 f. Requiring Respondent, upon receipt of a written Penalty Demand notice from  
22 the Department, to pay the following civil penalties:

23 (1) five hundred dollars (\$500) for each day of each violation of each provision of  
24 the compliance schedule set forth in Paragraph 11.a.;

25 (2) five hundred dollars (\$500) per CSO discharge point per day for failure to  
26 submit a CSO Outfall Control Compliance Report as specified in Paragraph  
27 11.b;

28 (3) two thousand five hundred dollars (\$2,500) for each discharge point requiring a  
29 Corrective Action Plan as specified in Paragraph 11.c;

30 (4) one thousand dollars (\$1,000) per discharge point per day for each violation of  
31 each provision of the compliance schedule in Paragraph 11.c;

1 (5) one thousand dollars (\$1,000) per discharge point per day for each overflow  
2 reported as specified in Paragraph 11.d;

3 (6) two-hundred fifty dollars (\$250) for each day of each violation of any other  
4 requirement of this ASFO.

5 g. Allowing respondent to violate water quality standards as a result of each  
6 combined sewer overflow discharge until the schedule and terms of Paragraph 11.a for each  
7 CSO discharge point (001 through 038 inclusive) are met. (However, this paragraph is not  
8 applicable to the wastewater treatment plant outfall (039) and nothing in this paragraph  
9 relieves Respondent of the requirement to comply with all other terms, schedules and  
10 conditions of the NPDES Permit or of any other NPDES waste discharge permit issued to  
11 Respondent while this ASFO is in effect.)

12 12. If any event occurs that is beyond Respondent's reasonable control and that causes or  
13 may cause a delay or deviation in performance of the requirements of this ASFO, Respondent  
14 shall immediately notify the Department verbally of the cause of delay or deviation and its  
15 anticipated duration, the measures that have been or will be taken to prevent or minimize the  
16 delay or deviation, and the timetable by which Respondent proposes to carry out such measures.  
17 Respondent shall confirm in writing this information within five (5) working days of the onset of  
18 the event. It is Respondent's responsibility in the written notification to demonstrate to the  
19 Department's satisfaction that the delay or deviation has been or will be caused by circumstances  
20 beyond the control and despite due diligence of Respondent. If Respondent so demonstrates, the  
21 Department shall extend times of performance of related activities under this ASFO as  
22 appropriate. Circumstances or events beyond Respondent's control include, but are not limited  
23 to, acts of nature, unforeseen strikes, work stoppages, fires, explosion, riot, sabotage, or war.  
24 Increased cost of performance or consultant's failure to provide timely reports shall not be  
25 considered circumstances beyond Respondent's control.

26 13. Respondent and the Department hereby waive any and all of their rights to any and all  
27 notices, hearing, judicial review, and to service of a copy of this ASFO. The Department reserves  
28 the right to enforce this ASFO through appropriate administrative and judicial proceedings.

29 14. Regarding the schedules set forth in Paragraph 11., Respondent agrees to diligently  
30 pursue federal and state grant funds to facilitate implementation of its CSO control program, but  
31 acknowledges that Respondent is responsible for complying with that schedule regardless of the

1 availability of any federal or state grant monies.

2 15. The terms of this ASFO may be amended by the mutual agreement of the Department  
3 and Respondent. The storm return frequencies as defined in Paragraph 11.a. above may be  
4 amended based on future determinations, regarding combined sewer systems, made by the  
5 Environmental Quality Commission.

6 16. Respondent acknowledges that it has actual notice of the contents and requirements of  
7 the ASFO and that failure to fulfill any of the requirements hereof would constitute a violation of  
8 this ASFO and subject Respondent to payment of civil penalties pursuant to Paragraph 11.f  
9 above.

10 17. Any stipulated civil penalty imposed pursuant to Paragraph 11.f shall be due upon  
11 written demand. Stipulated civil penalties shall be paid by check or money order made payable to  
12 the "State Treasurer, State of Oregon" and sent to: Business Office, Department of  
13 Environmental Quality 811 S.W. Sixth Avenue, Portland, OR 97204. Within 21 days of receipt  
14 of a "Demand for Payment of Stipulated Civil Penalty" Notice from the Department, Respondent  
15 may request a hearing to contest the Demand Notice. At any such hearing, the issue shall be  
16 limited to Respondent's compliance or non-compliance with this ASFO. The amount of each  
17 stipulated civil penalty for each violation and/or day of violation is established in advance by this  
18 ASFO and shall not be a contestable issue.

19 18. Providing Respondent has paid in full all stipulated civil penalties pursuant to  
20 Paragraph 17 above, this ASFO shall terminate 60 days after respondent demonstrates full  
21 compliance with the requirements of the schedules set forth in Paragraph 11. above.

22

1

RESPONDENT

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Name) Willis L. Van Dusen (Title) Mayor

DEPARTMENT OF ENVIRONMENTAL QUALITY

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nina DeConcini, Administrator, Northwest Region

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nina DeConcini, Administrator, Northwest Region

Department of Environmental Quality

Pursuant to OAR 340-11-136(1)

ATTACHMENT - 1

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

|   |  |                             |
|---|--|-----------------------------|
| 3 | DEPARTMENT OF ENVIRONMENTAL QUALITY, ) | STIPULATION AND FINAL ORDER |
| 4 | OF THE STATE OF OREGON, )              | No. WQMW-NWR-92-247         |
| 5 | Department, )                          | CLATSOP COUNTY              |
| 6 | v. )                                   |                             |
| 7 | CITY OF ASTORIA )                      |                             |
| 8 | Respondent. )                          |                             |

WHEREAS:

10 1. On January 13, 1993, the Department of Environmental Quality  
11 (Department or DEQ) issued National Pollutant Discharge Elimination  
12 System (NPDES) Waste Discharge Permit Number 101028 (Permit) to the  
13 City of Astoria (Respondent), pursuant to Oregon Revised Statutes  
14 (ORS) 468B.050 and the Federal Water Pollution Control Act  
15 Amendments of 1972, P.L. 92-500 as amended. The Permit authorizes  
16 the Respondent to construct, install, modify or operate wastewater  
17 treatment control and disposal facilities (facilities) and discharge  
18 adequately treated wastewaters into the Columbia River and Young's  
19 Bay, waters of the state, in conformance with the requirements,  
20 limitations and conditions set forth in the Permit.

21 2. Respondent's sewage collection system is comprised in  
22 part of combined sewers designed to collect both sanitary sewage  
23 and storm runoff water. The combined sewer system is designed  
24 and intended to collect and transport all sanitary sewage to  
25 Respondent's sewage treatment plant during periods of dry  
26 weather; however, during some periods of wet weather, the

1 combined sanitary sewage and storm runoff entering the system  
2 exceeds the system's capacity to collect and transport sewage to  
3 the sewage treatment plant. At such times, the excess combined  
4 sanitary sewage and storm runoff are discharged through Combined  
5 Sewer Overflows directly to the Columbia River or to Young's Bay,  
6 waters of the state, without treatment. Respondent's system  
7 includes 38 Combined Sewer Overflows. The discharges of combined  
8 sanitary sewage and storm runoff from the Combined Sewer Overflows  
9 (Discharges or CSOs) may cause violations of Oregon's water quality  
10 standards for fecal coliform bacteria, visible solids and floatable  
11 material, and possibly other parameters in the Columbia River and  
12 Young's Bay.

13 3. DEQ and the Respondent recognize that until new or modified  
14 facilities are constructed and put into full operation, Respondent  
15 may cause violations of the water quality standards at times when  
16 discharges from the Combined Sewer Overflows occur.

17 4. The Department and Respondent recognize that the Commission  
18 has the power to impose a civil penalty and to issue an abatement  
19 order for violations of conditions of the Permit.

20 Therefore, pursuant to ORS 183.415(5), the Department and Respondent  
21 wish to limit and resolve the future violations referred to in  
22 Paragraph 4 in advance by this Stipulation and Final Order (SFO).

23 5. This SFO is not intended to limit, in any way, the  
24 Department's right to proceed against Respondent in any forum for  
25 any past or future violations not expressly settled herein.

26 NOW THEREFORE, it is stipulated and agreed that:

2 - STIPULATION AND FINAL ORDER (MW\WC10\WC10642) (11-4-92)

1       6. The Environmental Quality Commission hereby issues a final  
2 order:

3       a. Requiring respondent to eliminate all discharges from  
4 combined sewer overflows that violate applicable water quality  
5 standards from November 1 through April 30 except during storms  
6 greater than or equal to a storm with a five year return frequency  
7 and to eliminate all Discharges that violate applicable water  
8 quality standards from May 1 through October 31 except during  
9 storms greater than or equal to a storm with a ten year return  
10 frequency, as soon as reasonably practicable, but no later than  
11 the following schedule:

12       (1) By March 31, 1993, the Respondent shall submit to the  
13 Department a draft scope of study for the facilities plan.  
14 The scope of study shall include an outline of the final  
15 facilities plan content, and sufficient detail on how the  
16 necessary information is to be obtained to complete the  
17 facilities plan. The facilities plan shall, at a minimum,  
18 include a characterization of the Discharges including volume,  
19 times of discharge, and bacterial and chemical content;  
20 alternatives for eliminating water quality violations  
21 attributable to CSOs; the environmental and other impacts of  
22 the alternatives evaluated; the estimated cost of the  
23 alternatives; an evaluation of the impact of the CSO control  
24 alternatives on the City of Astoria wastewater treatment  
25 facility; if the CSO alternatives will cause permit violations  
26 at the treatment facility, an evaluation of alternatives to

1 expand or upgrade the treatment plant so as to maintain  
2 compliance with existing discharge standards; recommended  
3 control alternatives including any required plant upgrades  
4 that will result in compliance with water quality standards  
5 for the CSO discharges and compliance with the existing  
6 treatment plant discharge standards; a detailed implementation  
7 schedule for completing the recommended actions; and a  
8 mechanism for financing the recommended improvements. The  
9 facilities plan shall include detailed implementation plans  
10 and financing plans for attaining compliance with applicable  
11 water quality standards at all CSOs by December 1, 2022;

12 (2) By July 1, 1996, the Respondent shall submit a draft  
13 facilities plan to the Department;

14 (3) Within six months of receiving written comments from  
15 the Department, the Respondent shall submit to the Department  
16 a final facilities plan that is approvable by the Department.

17 (4) By December 1, 2000, the Respondent shall submit final  
18 engineering plans and specifications for construction work  
19 required to comply with Paragraph 6.a.(6);

20 (5) By July 1, 2001, the Respondent shall begin construction  
21 required to comply with Paragraph 6.a.(6);

22 (6) By December 1, 2003, the Respondent shall eliminate  
23 discharges that violate applicable water quality standards,  
24 subject to the storm return frequencies specified in Paragraph  
25 6.a. of this Order, at 8 of the CSO discharge points including  
26 all the Young's Bay CSO discharge points, consistent with the

1 facilities plan approved by the Department;

2 (7) By December 1, 2003 the Respondent shall submit final  
3 engineering plans and specifications for construction work  
4 required to comply with Paragraph 6.a.(9);

5 (8) By May 1, 2005 the Respondent shall begin construction  
6 required to comply with Paragraph 6.a.(9);

7 (9) By December 1, 2007 the respondent shall eliminate  
8 discharges that violate applicable water quality standards,  
9 subject to the storm return frequencies specified in Paragraph  
10 6.a. of this Order, at 8 of the remaining CSO discharge  
11 points, consistent with the facilities plan approved by the  
12 Department;

13 (10) By December 1, 2007 the Respondent shall submit  
14 engineering plans and specifications for construction work;  
15 required to comply with Paragraph 6.a.(12);

16 (11) By May 1, 2009, the Respondent shall begin  
17 construction required to comply with Paragraph 6.a.(12);

18 (12) By December 1, 2011, the Respondent shall eliminate  
19 discharges that violate applicable water quality standards,  
20 subject to the storm return frequencies specified in Paragraph  
21 6.a. of this Order, at 8 of the remaining CSO discharge  
22 points, consistent with the facilities plan approved by the  
23 Department;

24 (13) By December 1, 2011 the Respondent shall submit  
25 final engineering plans and specifications for construction  
26 work required to comply with Paragraph 6.a.(15);

1 (14) By May 1, 2013 the Respondent shall begin construc-  
2 tion required to comply with Paragraph 6.a.(15);

3 (15) By December 1, 2015 the respondent shall eliminate  
4 discharges that violate applicable water quality standards,  
5 subject to the storm return frequencies specified in Paragraph  
6 6.a. of this Order, at 8 of the remaining CSO discharge  
7 points, consistent with the facilities plan approved by the  
8 Department;

9 (16) By December 1, 2015 the Respondent shall submit  
10 final engineering plans and specifications for construction  
11 work required to comply with Paragraph 6.a.(18);

12 (17) By May 1, 2018 the Respondent shall begin construc-  
13 tion required to comply with Paragraph 6.a.(18);

14 (18) By December 1, 2022 the respondent shall eliminate  
15 discharges that violate applicable water quality standards,  
16 subject to the storm return frequencies specified in Paragraph  
17 6.a. of this Order, at all remaining CSO discharge points,  
18 consistent with the facilities plan approved by the  
19 Department;

20 (19) By September 1 of each year that this Order is in  
21 effect, the Respondent shall submit to the Department an  
22 annual progress report on efforts to minimize and eliminate  
23 discharges that violate water quality standards. These annual  
24 reports shall include at a minimum work completed in the  
25 previous fiscal year and work scheduled to be completed in the  
26 current fiscal year.

C  
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1 b. Requiring Respondent to demonstrate that each discharge is in  
2 compliance with applicable water quality standards, by a means  
3 approved by the Department, within twelve months of the scheduled  
4 date when compliance is required in this Order. (Nothing in this  
5 paragraph shall prevent the Department from enforcing this Order  
6 during the twelve month demonstration period.)

7 c. Requiring Respondent to identify each discharge that is  
8 converted to a storm sewer discharge only.

9 d. Requiring Respondent, in the event that Respondent chooses to  
10 retain a Discharge with any connected sanitary wastes, to apply  
11 for a modification of Respondent's permit requesting a waste load  
12 increase and appropriately sized mixing zone. (Nothing in this  
13 paragraph shall affect the Department's or the Commission's  
14 discretion over granting such a request.)

15 e. Requiring Respondent to comply with all the terms,  
16 schedules and conditions of the Permit except as specified by  
17 Paragraphs 6.g, or of any other NPDES waste discharge permit  
18 issued to Respondent while this SFO is in effect.

19 f. Requiring Respondent, upon receipt of a written Penalty Demand  
20 notice from the Department, to pay the following civil penalties:

21 (1) five hundred dollars (\$500) for each day of each  
22 violation of each provision of the compliance schedules  
23 set forth in Paragraph 6.a.;

24 (2) one thousand dollars (\$1,000) per outfall per day for  
25 each CSO outfall for which Respondent fails to  
26 demonstrate compliance with applicable water quality

standards as specified in Paragraph 6.a.;

(3) two hundred fifty dollars (\$250) for each day of each violation of any other requirement of this SFO.

g. Allowing respondent to violate water quality standards as a result of each combined sewer overflow discharge until the schedule and terms of Paragraph 6.a for each discharge point are met.

7. If any event occurs that is beyond Respondent's reasonable control and that causes or may cause a delay or deviation in performance of the requirements of this SFO, Respondent shall immediately notify the Department verbally of the cause of delay or deviation and its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which Respondent proposes to carry out such measures. Respondent shall confirm in writing this information within five (5) working days of the onset of the event. It is Respondent's responsibility in the written notification to demonstrate to the Department's satisfaction that the delay or deviation has been or will be caused by circumstances beyond the control and despite due diligence of Respondent. If Respondent so demonstrates, the Department shall extend times of performance of related activities under this SFO as appropriate. Circumstances or events beyond Respondent's control include, but are not limited to, acts of nature, unforeseen strikes, work stoppages, fires, explosion, riot, sabotage, or war. Increased cost of performance or consultant's failure to provide timely reports shall not be

1 considered circumstances beyond Respondent's control.

2 8. Respondent and the Department hereby waive any and all of  
3 their rights to any and all notices, hearing, judicial review, and  
4 to service of a copy of this SFO. The Department reserves the right  
5 to enforce this SFO through appropriate administrative and judicial  
6 proceedings.

7 9. Regarding the schedules set forth in Paragraphs 6.a.,  
8 Respondent acknowledges that Respondent is responsible for complying  
9 with that schedule regardless of the availability of any federal or  
10 state grant monies.

11 10. The terms of this SFO may be amended by the mutual agreement  
12 of the Department and Respondent. The storm return frequencies as  
13 defined in Paragraph 6.a. above may be amended based on future  
14 determinations, regarding combined sewer systems, made by the  
15 Environmental Quality Commission.

16 11. Respondent acknowledges that it has actual notice of the  
17 contents and requirements of the SFO and that failure to fulfill any  
18 of the requirements hereof would constitute a violation of this SFO  
19 and subject Respondent to payment of civil penalties pursuant to  
20 Paragraph 6.f. above.

21 12. Any stipulated civil penalty imposed pursuant to Paragraph  
22 6.f. shall be due upon written demand. Stipulated civil penalties  
23 shall be paid by check or money order made payable to the "State  
24 Treasurer, State of Oregon" and sent to: Business Office,  
25 Department of Environmental Quality, 811 S.W. Sixth Avenue,  
26 Portland, OR 97204. Within 21 days of receipt of a "Demand for

1 Payment of Stipulated Civil Penalty" Notice from the Department,  
2 Respondent may request a hearing to contest the Demand Notice. At  
3 any such hearing, the issue shall be limited to Respondent's  
4 compliance or non-compliance with this SFO. The amount of each  
5 stipulated civil penalty for each violation and/or day of violation  
6 is established in advance by this SFO and shall not be a contestable  
7 issue.

8 13. Providing Respondent has paid in full all stipulated civil  
9 penalties pursuant to Paragraph 12 above, this SFO shall terminate  
10 60 days after respondent demonstrates full compliance with the  
11 requirements of the schedules set forth in Paragraph 6.a. above.

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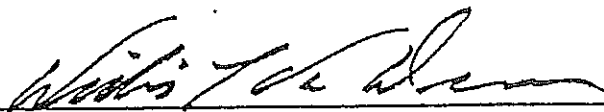
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RESPONDENT

1  
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3  
4 January 4, 1993  
Date

  
\_\_\_\_\_  
(Name) Willis L. Van Dusen  
(Title) Mayor

DEPARTMENT OF ENVIRONMENTAL QUALITY

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10 January 7, 1993  
Date

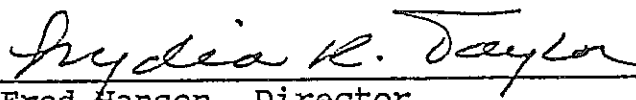
  
\_\_\_\_\_  
Fred Hansen, Director

FINAL ORDER

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14 IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

15  
16  
17 January 7, 1993  
Date

  
\_\_\_\_\_  
Fred Hansen, Director  
Department of Environmental Quality  
Pursuant to OAR 340-11-136(1)



