


**Date:** Feb. 14, 2011

**To:** Environmental Quality Commission

**From:** Dick Pedersen, Director 

**Subject:** Agenda item Q, Informational item: Director's dialogue  
February 16-18, 2011, EQC meeting

**1200C construction stormwater general permit**

At the December EQC meeting, representatives of the Northwest Environmental Defense Center stated concerns with DEQ's 1200C construction permit that regulates stormwater runoff from construction sites and activities, which DEQ renewed Dec. 1, 2010. As part of this renewal, DEQ also issued a 1200CN permit that applies to smaller projects within specific jurisdictions that have their own erosion and sediment control ordinances accompanied by a program to complete plan review, and conduct inspections and enforcement. In summary, the concerns were that DEQ had eliminated public review for approximately 20 to 25 percent of sites, the renewal permit does not require turbidity monitoring or reporting and general process concerns that DEQ did not post the response to comment document until one week after the permit had been renewed.

In the renewal, DEQ did create a category of permitted activities that are automatically covered under the permit. This category is for sites less than five acres that are defined as "minor" in the federal regulations. In the past, construction stormwater has been regulated both by DEQ and by local governments who are required by their municipal separated storm sewer system permit to have a construction program that includes plan review, inspections and enforcement. Because of DEQ's declining resources, DEQ worked with EPA to find a way to reduce this dual regulation. Therefore, these smaller sites are deemed automatically covered in municipal separated storm sewer system jurisdictions, and in Albany, which does not have a municipal separated storm sewer system permit, that chose to be included in this approach. These smaller sites would not have been subject to public notice under DEQ's previous permit. Members of the public interested in the sites are able to contact the local jurisdiction to get information about the site and the erosion and sediment control plan. DEQ will still assist the local jurisdiction on enforcement and will respond to complaints as needed.

In their public comments, NEDC requested that DEQ add a 30-day public review period for all projects. DEQ rejected this suggestion because the agency has not received any public inquiries on smaller sites during the past five years; in rare circumstances where an extension of the comment period was requested for a larger site, DEQ has generally granted it. Based on this experience, DEQ concluded that it was not necessary or appropriate to extend the comment period for all projects. NEDC is correct that the final permit does not contain any turbidity monitoring and does not require annual reporting. The numeric turbidity limit and turbidity

monitoring were included in the draft permit to implement the effluent limitation guideline issued by EPA in December 2009. They were removed in accordance with EPA guidance because EPA vacated both of these components of their regulation during the public comment period on the proposed permit. Also, DEQ received numerous comments asking it to do the same until EPA makes a final decision. The permit does require visual inspections by a designated Erosion and Sediment Control Inspector to ensure that best management practices are working. The permit requires daily inspections when stormwater runoff, including runoff from snow melt, is occurring and inspections at least once every two weeks regardless of whether stormwater runoff is occurring. Finally, DEQ did experience a delay in getting some of the documents posted to the website and is working to ensure that all related documents are posted immediately in future permitting decisions.

### **2010 annual report on Columbia River total dissolved gas and spill for fish passage**

The commission requires an annual report on the fish passage spill season at each of the four Columbia River dams as part of the June 2010 total dissolved gas waiver granted to the U.S. Army Corps of Engineers and the related 2002 total maximum daily load. This update is for the 2010 fish passage spill season. The Corps' total dissolved gas waiver provides a balance between increased fish survivorship from fish passage spill, as governed by the Endangered Species Act, and increased gas bubble trauma from increased total dissolved gas levels due to spill, as governed by the Clean Water Act. DEQ received the Corps' annual report Dec. 28, 2010.

The total dissolved gas standard is 110 percent, and the waiver allowed for 120 percent in the tailwater, or area downstream of the spilling dam, for the purpose of endangered species fish passage spill. The dams subject to this standard are the Bonneville, The Dalles, John Day and McNary federal hydropower dams on the Columbia River. In 2010, Columbia River flows were lower than average, at 78 percent, compared to 85 percent of average flow in 2009.

In 2010, nine percent, equal to 50 out of 576, of the total days in the fish passage spill season exceeded the waiver limit. In 2009, this figure was only six percent, or 36 out of 576 days. The instances of days over the limit were due to:

- The Corps' uncertainty when applying fish passage spill criteria at the dams, such as not properly accounting for runoff patterns from watersheds, water travel time, degassing of total dissolved gas, water temperature effects and spill gate patterns
- High runoff flows and flood control operations

Juvenile salmon and trout monitoring for gas bubble trauma was conducted at the Bonneville and McNary dams two days a week for the duration of the fish passage spill season, April 1 to Aug. 31. Of the 7,278 juvenile salmonids examined, only one has gas bubble trauma.

The Corps' goal is to meet the waiver limit when implementing the fish passage spill program. Structural and operational modifications to reduce the total dissolved gas during the fish passage spill continue to be implemented. As one example, the Corps installed a spillway wall at The Dalles dam to reduce total dissolved gas during the fish passage spill season. Although the total dissolved gas exceeded the waiver limit for a portion of time, the biological monitoring indicated a low risk to out-migrating salmonids. When the total dissolved gas exceeded the waiver limit, the Corps reduced the amount of fish passage spill in order to reduce total dissolved gas levels in

the river. DEQ will continue to work with the Corps to reduce the number of days and times the waiver limits are exceeded during the fish passage spill season.

### **Oregon E-Cycles Program shows big gains in material collected in 2010**

The Oregon E-Cycles Program, with its network of more than 250 collection sites and recycling facilities statewide, collected and recycled more than 24 million pounds of materials in 2010 – a 27 percent gain over the program's first year. This represents 6.3 pounds of electronic waste per Oregonian and exceeded the program's 2010 goal of 21.5 million pounds. DEQ oversees the program, which is funded by electronics manufacturers.

A variety of factors contributed to this year's big gains. A new disposal ban on computers, TVs and monitors that began in January 2010 likely spurred the public to find recycling sites and increased awareness of Oregon E-Cycles. Consumers have also continued to purchase flat-screen TVs and need to discard old TVs.

Oregon has collected and recycled a total of 43 million pounds through the first two years of the program, for an estimated statewide energy savings equivalent to the energy content of 7.5 million gallons of gasoline and greenhouse gas reductions of approximately 50,000 metric tons of carbon dioxide equivalent or the tailpipe emissions of 10,000 passenger cars. Additionally, almost 63,000 individual electronic units, such as computers, monitors and televisions, coming through the program have been reused.

### **Davy Crockett and DEQ's response**

The Davy Crockett is a former petroleum barge, located near Camas, Washington, on the Columbia River. Oregon DEQ, the U.S. Coast Guard and Washington Department of Ecology were first alerted about potential problems the week of Jan. 24, 2011, when "mystery sheen" was traced back to the barge. The agencies formed a Unified Command to address the release and potential for a more significant release. The participating agencies have put remedial support in place, and have been working to contain the release and prevent further environmental damage.

### **Barge scrapping on the Columbia River**

On February 3, the DEQ Emergency Response Program received an National Response Center report of a barge being illegally scrapped on the Columbia River in Dallesport, Washington, across from The Dalles, Oregon. The company scrapping the WWII era vessel was Principal Recover Systems, LLC, the same company involved in scrapping the Davy Crockett vessel in Camas. The U.S. Army Corp of Engineers issued a cease and desist order to the company in the fall 2010 for pushing waste debris into the river and creating a dirt access ramp to the barge.

Representatives of Washington Department of Ecology, Washington Natural Resources Department, Oregon DEQ and the Corps boarded the vessel on Monday, Feb. 7, 2011, to assess its condition and potential risks posed to the environment. The vessel is in the late stages of dismantling with decking and sides removed to the waterline. All open compartments were inspected, with only minor sheen from released oil or fuel noted. One sealed tank was inaccessible and its contents, if any, are unknown. Records indicate that the barge may have been sold to a new owner.

The Corps is developing an order or letter that will require the owners to develop a plan for the barge that meets federal and state regulations. The Corps is leading an effort to coordinate a multi-agency meeting with the new owners to make sure stakeholders are satisfied with the plan. Although the barge is located in Washington, DEQ is closely monitoring the barge because of the potential for any leaks to impact the Columbia River or the Oregon shore.

### **EPA's National Air Toxics Assessment report**

On February 24, EPA will release its latest National Scale Air Toxics Assessment. Also called NATA, this report will illustrate key findings related to air toxics and public health concerns. Past NATA reports have indicated that Portland has the highest concentrations of air toxics in the state, and that trend is likely to continue. Once DEQ has the final report, staff will share the findings and implications with the commissioners and have prepared a public outreach plan to communicate the results to Oregonians.

### **Accounting gold star certificate**

DEQ recently received the Gold Star Certificate for excellence in accounting and financial reporting for fiscal year 2010. This certificate is presented every year by DAS, and fiscal year 2010 is the 18<sup>th</sup> Gold Star Certificate for DEQ.

### **Senate Bill 737 sampling results**

DEQ's laboratory recently completed analyses of the second round of samples collected under Senate Bill 737. Oregon's 52 largest municipal wastewater treatment facilities sampled their final effluent for the 118 pollutants on the developed Persistent Priority Pollutants List. Two sampling events were conducted to incorporate seasonal changes in hydrology as well as use. Results from the second round of sampling were consistent with the first round and, overall, a small number of the priority pollutants were detected at mostly very low levels. Two pollutants, cholesterol and coprostanol, by-products of human digestion, were detected at every facility above the associated Plan Initiation Levels. As the commission may recall, the Plan Initiation Levels are levels of pollutants which, if exceeded, trigger the development of a Persistent Pollutant Reduction Plan by the affected municipality. Facilities with effluent that contained pollutants, other than cholesterol and coprostanol, exceeding the levels are required to submit a Persistent Pollutant Reduction Plan to DEQ addressing these pollutants by July 1, 2011. DEQ also found arsenic, pyrene, a combustion by-product, and beta-sitosterol, a plant sterol, above the initiation levels at a few facilities.

DEQ's lab had to develop and validate analytical methods for a number of the compounds on the list, resulting in an expansion of the lab's capabilities and truly cutting-edge work with regard to toxics. This was an extremely technically and logistically challenging project, and special recognition should go to Brian Boling, the LEAD Organic Section Manager, and Lori Pillsbury, LEAD Point Source Project Coordinator, for their outstanding work in coordinating and communicating with the facilities and in conducting the analyses.

### **Low carbon fuel standard**

The final report for DEQ's Low Carbon Fuel Standard advisory committee is now available online, at <http://www.deq.state.or.us/aq/committees/lowcarbon.htm>, and DEQ can provide copies to commissioners as requested. DEQ will present the findings to the House and Senate

environment committees February 24. DEQ is also preparing a report on the standard in development to the entire legislative assembly, as required by House Bill 2186 (2009).

### **Low emission vehicles**

The California Air Resources Board, EPA and the U.S. Department of Transportation's National Highway Traffic Safety Administration announced they will coordinate the release of their proposals for the next phase of vehicle greenhouse gas and fuel efficiency standards, to apply to model year 2017 through 2025 passenger cars and light trucks. By aligning their efforts in this way, the three agencies seek to continue their collaboration and potentially extend the current National Clean Car Program for model year 2012 to 2016 cars and light trucks that was finalized last spring. However, in a recent letter to Congress, automakers have signaled that they may be backing away from the cooperation that led to the first phase of the program. DEQ is currently developing rules to align its Low Emission Vehicle Program with the National Clean Car Program and is tracking developments for phase 2.

### **Portland-area air quality**

DEQ continues to address air toxics issues in Oregon as part of its comprehensive Air Toxics Program. The program focuses on assessing and finding reductions for air toxics in specific geographic areas, with the first area of study being Portland since it has the largest population base and highest concentrations of air toxics in the state. The program will assess Oregon's three other areas of major concern, Medford, Eugene and Salem, through its 10-year plan.

DEQ convened the Portland Air Toxics Solutions advisory committee in August 2009, which has met regularly since its inception. At the January Portland Air Toxics Solutions advisory meeting, DEQ staff presented data from the 2017 air toxics emission inventory model. The data included draft pollutant maps that illustrated the types and concentrations of air toxics in Portland, informational pollutant summary sheets and reduction targets necessary to reach the air toxics benchmarks set by the Air Toxics Science Advisory Committee. The committee members will continue to review the modeling information and provide feedback to DEQ. The meeting also included a discussion of the draft decision-making criteria to evaluate potential emission reduction measures. DEQ presented a white paper template for the committee's review and consideration. The next PATS meeting is March 2.

### **ESCO update**

DEQ has signed a contract with an independent consultant to conduct audit of ESCO's emission control strategies and what other similar type facilities are doing to reduce controlled and fugitive emission sources of odor, particulate and other air toxics. The ESCO plant is in northwest Portland, and DEQ has been keeping both the Northwest District Association and the Pacific Environmental Advocacy Center informed of the contract status. DEQ has also informed ESCO about the planned audit, which should begin this month.

DEQ has met with the Northwest District Association, Pacific Environmental Advocacy Center and ESCO to discuss how a good neighbor agreement and best work practices document would dovetail with ESCO's Title V permit. Neighbors for Clean Air, another organization in northwest Portland, hosted a meeting January 27 to discuss the good neighbor agreement.

### **Beneficial use determination and West Hayden Island**

DEQ made a decision to reconsider the beneficial use determination to allow dredged sediment from the Willamette River at Post Office Bar to be placed at the Port of Portland West Hayden Island Placement Facility. DEQ received a request to allow more time for additional public input on the decision, and is committed to making this opportunity possible. DEQ's Land Quality Division plans to host a public meeting by April on or near West Hayden Island to provide information on the proposed project, answer questions and accept testimony for consideration. DEQ will accept the input, analyze the data and determine the next steps for the proposed project.

### **Managers' cohort**

Several years ago, I had the opportunity to participate in Leadership Oregon and found that an invaluable experience. At that time, I envisioned having a "Leadership DEQ" program in which staff aspiring to be managers would get an immersion in what it takes to be a state agency manager. The program would provide opportunities for staff to learn various aspects of public service, state government, budgeting and leading staff for a true blend of both the hard and soft skills managers need today. Many private companies invest in this type of manager-in-training program and find that it helps people understand the commitment required as well as gives them the necessary support, tools and background to become successful managers or determine that management is not necessarily a good fit for them prior to accepting a management position. Led by our training and development specialist, Jill Corona, DEQ launched the first "manager cohort" class this past fall. A group of 12 individuals is about halfway through the program and some of them have already made the move into management positions, and will finish the program in fall 2011. As part of their experience, the cohort group is attending part of this EQC meeting to see firsthand the important role the commission plays in shaping DEQ policy and direction.