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WASCO COUNTY

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TRIAL COURT ADMIN

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CIRCUIT COURT OF OREGON
WASCO COUNTY

STATE OF OREGON, DEPARTMENT OF ENVIRONMENTAL QUALITY

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY,
a Utah Corporation,

Defendant.

Case No. CC 97-8

MOTION FOR ORDER APPROVING
MODIFICATION OF CONSENT DECREE

The State of Oregon, Department of Environmental Quality ("DEQ"), requests that the Court enter an order approving modification of the Stipulation and Consent Decree currently lodged with the Court under Wasco County Case No. CC 97-8. Counsel for Union Pacific Railroad Company ("UPRR") has represented to the undersigned counsel for DEQ that UPRR supports this motion.

1.

On January 31, 1997, The Honorable John V. Kelly ordered entry of the Stipulation and Consent Decree ("Consent Decree").

2.

The Consent Decree provides for remediation of hazardous substances at property owned by UPRR in The Dalles, Oregon. That remediation includes the extraction and treatment of contaminated groundwater, and discharge of the treated water to Threemile Creek in accordance with discharge limitations and other requirements set forth in Attachment C to the Consent Decree. (See Consent Decree Paragraph 4.I.(3))

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3.

Attachment C was modified upon motion of the parties, by order of this Court dated April 7, 1999.

4.

Based on recent data, DEQ and UPRR have determined that the discharge limits and other requirements set forth in Attachment C should be modified a second time, generally as follows:

(a) Eliminating the discharge limits and monitoring requirements for water quality parameters no longer of concern -- i.e., biological oxygen demand, total suspended solids, and alkalinity.

(b) Revising discharge limits for other parameters based on differing flow and dilution conditions.

(c) Reducing the discharge limit for iron.

5.

A copy of Attachment C as proposed to be modified by the parties is attached to this motion.

6.

On March 1, 2002, DEQ provided public notice and opportunity to comment on the proposed modifications to Attachment C. The public comment period ended April 1, 2002. No comments were received.

7.

Under Subsection 4.R. of the Consent Decree, modifications of the Consent Decree, including Attachment C, require approval by this Court.

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8.

The State of Oregon therefore respectfully requests that the Court enter the order set forth below approving the modified Attachment C. Counsel for UPRR, David P. Young, has represented to the undersigned counsel that UPRR supports this motion.

DATED this 9th day of May, 2002.

HARDY MEYERS
Attorney General



Kurt B. Burkholder OSB No. 80465
Assistant Attorney General
Of Attorneys for Plaintiff
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ORDER

Upon motion by the State of Oregon, this Court approves modification of Attachment C to the Stipulation and Consent Decree, Wasco County Case No. CC97-8, which modified Attachment C is attached hereto.

SO ORDERED this 13 day of July 2002.

CIRCUIT COURT JUDGE
WASCO COUNTY

Attachment C

NPDES Discharge Limitations, Monitoring and Reporting Requirements

This attachment establishes conditions, effluent discharge limits, monitoring, and reporting requirements for discharge of treated water resulting from the extraction of groundwater from the unconfined water-bearing zone at the UPRR site in The Dalles, Oregon. UPRR will operate the extraction system and treatment plant as part of a remediation action set forth in the ROD. These conditions, discharge limits, monitoring, and reporting requirements are comparable to those that would be required under a National Pollutant Discharge Elimination System (NPDES) permit and are established in lieu of a permit, pursuant to OAR 340-045-0062.

I. Conditions

A. Treated effluent may be discharged only to Three Mile Creek based upon three (3) stream flow conditions:

- Low (≤ 300 gpm or less), when stream water available for dilution is limited (July-October);
- Normal (300 to 500 gpm), when stream flow and treatment plant effluent flows are adequate for standard operation (November-June); and,
- High (≥ 500 gpm or more), when stream flow available for dilution is ample (November-June).

For each flow condition, a minimum dilution requirement, and discharge limits based on the minimum dilution necessary to maintain ambient water quality in Three Mile Creek, are specified in Section II below.

Stream flow between November and June (inclusive) is considered adequate to provide the dilution necessary for normal operating conditions, and is therefore not monitored during this period. Stream flows measured during monitoring periods (July through October, or when high flow limits are desired) will be used to represent stream flow until the next scheduled stream flow measurement.

B. In the event monitoring results show any exceedance of the discharge limitations, the discharge shall immediately be stopped and the DEQ Site Response Project Manager and the DEQ's Eastern Region Water Quality Source Control section shall immediately be notified.

C. UPRR shall operate and maintain the treatment system in a manner that optimizes treatment system contaminant removal efficiency.

II. Discharge Limits and Monitoring Requirements

The following tables specify the discharge limits and monitoring requirements for the flow conditions described in Section I above:

Table 1

Discharge Limits & Monitoring Requirements During Normal Flow Conditions (300-500 gpm)

Parameter	Discharge Limit	Monitoring Frequency	Sample Type
Effluent Flow	≤ 30 gpm and ≤ 1/10 the flow in Three Mile Creek	Daily	Measurement
Three Mile Creek Flow	N/A	Not measured (November through June) Twice/month (July to October)	Not measured Handheld ultrasonic Monitor (Flowtote)
Arsenic	190 µg/L	Once/month	Grab
PCP	10 µg/L	Once/month	Grab
PAHs	10 µg/L for each PAH	Once/month	Grab
TDS	1,200 mg/L	Once/month	Grab
PH	6.5 – 8.5	Once/month	Grab
Chloride	700 mg/L	Once/month	Grab
Iron	3.0 mg/L	Once/month	Grab

Table 2

Discharge Limits & Monitoring Requirements During Low Flow Conditions (300 gpm or less)

Parameter	Discharge Limit	Monitoring Frequency	Sample Type
Effluent Flow	≤ 30 gpm and ≤ 1/5 the flow in Three Mile Creek	Daily	Measurement
Three Mile Creek Flow	N/A	Twice/month (July to October)	Handheld ultrasonic Monitor (Flowtote)
Arsenic	190 µg/L	Once/month	Grab
PCP	10 µg/L	Once/month	Grab
PAHs	10 µg/L for each PAH	Once/month	Grab
TDS	1,200 mg/L	Once/month	Grab
PH	6.5 – 8.5	Once/month	Grab
Chloride	700 mg/L	Once/month	Grab
Iron	1.5 mg/L	Once/month	Grab

Table 3

Discharge Limits & Monitoring Requirements During High Flow Conditions (500 gpm or more)

Parameter	Discharge Limit	Monitoring Frequency	Sample Type
Effluent Flow	≤ 50 gpm and ≤ 1/10 the flow in Three Mile Creek	Daily	Measurement
Three Mile Creek Flow	N/A	Twice/month	Visual staff gauge only if effluent flow > 30 gpm
Arsenic	190 µg/L	Once/month	Grab
PCP	10 µg/L	Once/month	Grab
PAHs	10 µg/L for each PAH	Once/month	Grab
TDS	1,200 mg/L	Once/month	Grab
PH	6.5 – 8.5	Once/month	Grab
Chloride	700 mg/L	Once/month	Grab
Iron	3.0 mg/L	Once/month	Grab

Notes: Discharge limits are based on achievable limits using Best Demonstrated Available Technology for treatment of the groundwater containing PAH, PCP, BTEX, and arsenic and that are necessary to prevent violation of in-stream water quality standards as set in OAR 340-41. The treatment process consists of carbon treatment and coprecipitation systems. Relative to in-stream water quality standards, for those parameters that are potentially toxic, the discharge limits have been set at levels such that concentrations in the receiving stream for those parameters will be less than the chronic toxicity as established in OAR 340-41, Table 20. Parameters with higher limits have discharge limits set at levels such that after mixing concentrations in the receiving stream will be less than chronic toxicity levels.

III. Monitoring and Reporting

Monitoring frequency and sample collection methods are specified in Tables 1, 2, and 3 in Section II above. Grab samples shall be collected at the point of discharge from the treatment system.

Notes: Test methods should generally conform to requirements under 40 §CFR, Part 136 and as required under a DEQ-approved sampling plan. No changes to the sampling plan may be made unless otherwise approved in writing by the DEQ.

- A. Analytical Methods must have a detection limit that is less than or equal to ½ the discharge limitation. The pH may be measured in the field using a portable pH meter with accuracy greater than +/- 0.1 pH units.
- B. Monitoring reports shall be submitted quarterly to the DEQ Site Response Project Manager.
- C. The DEQ will review these limitations and requirements every five (5) years, in accordance with ORS 468.B.050.

CERTIFICATE OF SERVICE

I certify that, on May 9 2002, I served a true and correct copy of the foregoing Motion for Order Approving Modification of Consent Decree, with Attachment C, by regular mail, postage prepaid, to:

David P. Young
Law Department, Room 830
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

Attorney for Union Pacific Railroad Company



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Assistant Attorney General
Of Attorneys for Plaintiff