



State of Oregon Department of Environmental Quality

NPDES Permitting Review

NPDES Permitting Program Review Stakeholder Public Workshop

Friday, May 6, 2016

10:00 a.m. – 4 p.m.

DEQ Headquarters
811 SW 6th Avenue
Portland, OR 97204

Meeting Summary: The Department of Environmental Quality (DEQ) held a public workshop to review and discuss the results of an assessment that included over 40 individuals that participated in the April 2016 assessment process. They included DEQ staff, members of Oregon's Blue Ribbon Committee on Wastewater Permitting (BRC), and other key stakeholders such as the regulated and environmental communities. All participants in the assessment, as well as members of the public, were invited to attend this workshop to see a presentation on the aggregate results, and to provide input on the next steps for the Permitting Program Review.

The project team led by facilitator Lisa Beutler (MWH) and NPDES permitting specialist Tom Grovhoug (Larry Walker Associates) shared key findings from the Stakeholder Assessment with those in attendance. Participants were asked to provide input and help validate the information presented, both during the presentation and in small break-out groups. A webinar option was made available for select DEQ staff to listen in on the results. The project team also reported on the research that they had done into NPDES permitting backlog issues, including previous work done by DEQ and the BRC.

In the second half of the meeting, the Project team described the working hypotheses they had developed based on preliminary findings. Meeting attendees then participated in a future trends mind-mapping exercise, in which the group worked together to create a visual diagram of the important trends in Oregon water quality management.

Feedback from the sessions will be important to refining the scope and focus of the next phases of the Permitting Program Review.

Attendance:

A full list of attendees is included with this meeting summary as **Attachment 1**.

Meeting Objectives

- Review Situation Assessment Results
- Discuss Project Plan Topics
- Identify Future Trends Impacting Statewide Water Quality Management

Meeting Materials

Much of the meeting work focused around a 23-page workbook that included sections for stakeholders to provide feedback on the situation assessment results, the project plan, and on the draft hypothesis presented by the project team. The workbook is attached to this meeting summary as **Attachment 2**.

The meeting featured two full group activities – the first was asking group members to add to a history timeline that presented the evolution of NPDES and water quality efforts in the State. Participants were invited to add notes onto the timeline poster to contribute and refine the key events and dates listed. The second activity was a collaboratively developed mind map that identified future trends impacting water quality management in Oregon. A depiction of the map is included in this summary as **Attachment 3**.

Action Items

| Action |
|---|
| Send a copy of the project Work Plan to members of Oregon's Blue Ribbon Committee on Wastewater Permitting |
| Set meeting dates scheduled in the Project Plan for Phase 3 &4 (Fall 2016) so that stakeholders have time to plan attendance` |
| DEQ staff to send the project team follow-up materials that support development of the workplan. These will include information on time accounting, a summary and memo on permits that have been expired for 8 to 10 years. |

Meeting Notes:

Welcome, Greetings, & Agenda Review

The meeting began with introductions among the participants. Deputy Director Joni Hammond, and Acting Director Pete Sheppard delivered opening remarks expressing support for the continuing process to identify solutions for outstanding permit backlog. They both extended a thank you to Commission Coleen Johnson for attending the workshop. Director Shepard shared that he was committed to make both staff and himself available to the process, and noted that he would be sharing contact information with the stakeholders.

Lisa Beutler (MWH) opened the proceedings with a discussion of the Project Team schedule. Lisa noted that this meeting represents the team nearing the end of its first of four work phases. The next phase will include development of a work plan that will scope and schedule the remaining work. The final report will be a developed and packaged to send to the State legislature by the end of the year.

Discussion followed:

- It was requested that the BRC have an opportunity to review the Project Plan
- Participants requested that the Project Plan include future meeting dates that will involve stakeholders

- Discussion of state budget:
 - Negotiations are already underway
 - DEQ needs to prepare to potentially take budget cuts

Review of the Situation Assessment Process

Lisa Beutler outlined the Situation Assessment process, describing it as an internal and external scan of the situation or context in which an issue is occurring. The assessment included eight types of questions, and was designed to engage the full system, serve as an initial point of contact with key stakeholders, and to help establish and refine an appropriate Project Plan. Ms. Beutler was clear that the intent of the assessment was to seek the causes of issues and problems, and not to assign blame.

Summary Review of Background Research

Tom Grovhoug (Larry Walker Associates) presented slides on the documents that had been reviewed to date by the project team. Mr. Grovhoug opened the floor for additional suggestions which were offered as follows:

- Response to comments in permits, and responses to EPA objections
- Any documents related to water quality trading, and the EPA review of the anti-degradation policy
- July 1 EPA performance partnership agreement
- Additional data on process and timekeeping

Debrief from Stakeholder Interviews

Lisa Beutler presented the results of the Assessment, and encouraged discussion as the presentation moved along. The discussion is summarized here:

Workload:

- Some believe a permit writer's job should be multi-tasking, but should focus on one source. They should be able to understand future issues associated with that source
- There was concern about DEQ staff spending time on non-permitting tasks

Lisa responded these are job design issues, and they have implications. She noted that the Project team has heard about needs for special projects, officer of the day etc.

Performance Metrics:

- How is DEQ going to interact, and take the BRC's recommendations? There have been plenty of recommendations that have never been implemented.
- .Are offers for partnership are being taken seriously?
- On customer service; there are two customers – Oregon citizens, and the regulated community. DEQ still has work to do in finding respect as a regulator
- DEQ should consider common goals with large municipal discharges

The Oregon Way

- There were questions about the definition of “Oregon Way.”
- Some suggested the Oregon Way:
 - Includes collaborative and consensus ability.
 - Results in a false sense of ecotopica.
 - Incorporates the rural communities’ way of life, and the difficulty in complying with new permitting requirements. There was a sense that financial costs and considerations were taken into account with tailoring of permits.
- Some believed there was an overstatement in the role of the BRC to provide oversight.

Legal/Policy

- There should be a reframe of the term procedural accuracy to substantive accuracy.
- Permit writers pay the consequences for things that happen in other places in the water quality regulatory cycle.

The discussion concluded with discussion on DEQ permits that were approaching or above 10 years in administrative backlog. DEQ staff offered to provide more detailed data to the project team.

Discussion – Feedback on Research & Interviews

Break-out groups formed at several tables, and participants were asked to further discuss the assessment results in a small group setting. Each group chose a representative to report back to the larger meeting. Their discussions are summarized here.

Table #1

- Legal- We get when the Department of Justice (DOJ) says that they cannot issue permits until issued are resolved. The situations where there is risk to take. Ultimately the department has decision points when waiting to hear from council. It does not have to be a slowdown, there could be a process to address it through the department to come up with a strategy. We would also hope for planning in advance to mitigate for foreseen legal issues.
- Policy – Myths vs. Reality. Permit writers may think it’s this or that – could be right, wrong, or just something that someone thought.
- A framework where you can have communication is important. How do permit writers elevate issues, do those manager have the experience to make the decision, or take the policy risk? An example was a simple permit that took over a year because it kept getting stuck. That framework is important.
- Clear & Concise guidance to permit writers – we would like updated and clear guidance to permit writers.
- Permit charters – who should be involved? Maybe each permit needs one of those that defines communication, SMEs, and decision making

- Sufficient Knowledge base – when you have risk decisions, there needs to be enough knowledge to understand that decisions.

Table #2

- Moving towards not just production flow of permits, but how to get actual quality permits. That requires common understanding of what a quality permit is. That includes all environmental and regulatory outcomes. Start from there, with a desired outcome.
- Green Infrastructure & Climate Change
- Integration of policies, communication on new standards
- Need for strategic thinking, and better management of limited funding is needed
- Better definition on the scope of what a permit writers should be supporting outside of processing permits.
- DEQs regional structure has likely been a contributor to problems.
- DEQ needs training and capacity to address the “expert deficit”. Can you fill it by contracting? Can you get surge capability? Is there opportunity to leverage universities?
- Suggestion to add accountability & metrics as a new category

Table #3

- Structural – One is the duality in DEQ’s organizational structure. There are different structures between the regions, and the re-org at headquarters. No one is sure who to contact.
- Communication: Internal and external systems.
- Capability of staff, permit quality issues, and cost effectiveness
- Technology
- Resources: DEQ doesn’t have a resource model for seeing how time is spent. There is an EPA model that was mentioned.
- Burden on small communities, and relationship issues with DEQ as regulators
- Authority: A lack of clarity about where authority lies – both regulatory and decision making at the agency
- More difficult standards, more permits, and less people to do them

Project Plan – Working Hypotheses

Lisa Beutler and Tom Grovhoug presented a set of 20 working hypotheses across five issue areas to the meeting participants, and asked for reaction, feedback, and validation. They defined the working hypothesis as a tentative insight into the issue; a concept that is not yet verified, but if true would explain certain facts or phenomena. The working concepts presented at the meeting were derived from (1) multiple studies, reports, and audits (2) the interview results from the Situation Assessment, and (3) other solutions and ideas for improvement based on past experience.

Discussion comments reflect a diversity in views among the participants.:

Regarding how to test success on the cultural hypotheses:

- A need to engage DEQ on the cultural issues, and validate the information
- Potential to survey permit writers, do a desk audit or do time accounting
- WHPT data provides some insight into culture and productivity
- Many issues with backlog are “willingness” issues. They may not be perfect permits, but they can be effective for five years.

Regarding Oregon community’s willingness to spend on upgrades:

- There is a high degree of uncertainty when it comes to future standards, and that impacts permit issuance, and the ability of small communities to plan investment. Some communities are leaders in green infrastructure on their own accord, while others have very limited resources and wait for regulatory and compliance issues to drive investments
- Temperature standards have really upset the balance between what’s needed to comply, and what is realistic to afford. Infrastructure investments are deficient already, so spending needs to be done wisely – not on outsized temperature chillers
- 15 year old permits in backlog are harder to do than new permits
- Other states in Region 10 have found ways to work as effective regulators when it comes to small communities. Sometimes the issues they face need to be elevated to the legislature.

Regarding the Legal/Policy Hypotheses:

- Investigate if issues are “real” or “perceived” – referencing that sometimes mythology about what can and cannot be done supercedes decision making from leadership.

Regarding the Priority Permit Track:

- Look into how permits are prioritized, are the newest ones dealt with first? Are they organized logically?

On Issues that are less priority for investigation:

- The DEQ is familiar with issues around data, EDMS, and technology. There are other efforts underway to address this. However, funding data collection is still a major issue
- On the organizational structure, it is unlikely to change – it may be more beneficial to investigate adaptation and resilience, instead of starting over with a new structure.
- On the working hypothesis, one stakeholder requested that the document make a more direct distinction between technology issues, and data issues.

Future Trends and Issues

A full group discussion was facilitated to map out the future drivers of change in the Oregon water quality permitting community. The results of the discussion are presented in **Attachment 3**.

Next Steps

The project team will move forward with updating the Situation Assessment based on the results of this meeting, and with developing the Project Plan. Some activities proposed in the Project Plan, like workload samplings, maybe scheduled before the plan goes final. The team will also work to begin scheduling stakeholder meetings for Fall 2016.

For DEQ staff who wish to know more about the project or have additional feedback, they are asked to contact Abby Boudouris, Ron Doughton, Steve Schnurbush, or Jennifer Wigal.

Adjourn

Attachment 1 – Meeting Attendance

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| # | Name | Organization |
|----|--------------------------|-----------------------------------|
| 1 | Susan Aha | Port of Portland |
| 2 | Greg Aldrich | Oregon DEQ |
| 3 | Keith Anderson (W) | Oregon DEQ |
| 4 | Bob Baumgartner | Clean Water Services |
| 5 | Nina Bell | Northwest Environmental Advocates |
| 6 | Lisa Beutler | MWH |
| 7 | Joshua Biggs | MWH |
| 8 | Jim Bloom (W) | Oregon DEQ |
| 9 | Abby Boudouris | Oregon DEQ |
| 10 | Karen Burgess | EPA Region 10 |
| 11 | Rob Burkhart (W) | Oregon DEQ |
| 12 | Don Butcher | Oregon DEQ |
| 13 | Tim Caire (W) | Oregon DEQ |
| 14 | Michael Campbell | Stoel Rivers |
| 15 | Paul Daniello (W) | Oregon DEQ |
| 16 | Ron Doughton | Oregon DEQ |
| 17 | Lydia Emer | Oregon DEQ |
| 18 | Eugene Foster | Oregon DEQ |
| 19 | Janet Gillaspie | ACWA |
| 20 | Tom Grovhoug | Larry Walker & Associates |
| 21 | Joni Hammond | Oregon DEQ |
| 22 | Mark Hynson (W) | Oregon DEQ |
| 23 | Colleen Johnson | Oregon DEQ Commission |
| 24 | Jerry Linder | Clean Water Services |
| 25 | Zach Loboy (W) | Oregon DEQ |
| 26 | Peggy Lynch | League of Women Voters |
| 27 | Steve M. (W) | Oregon DEQ |
| 28 | Melinda Mahoney | Oregon DEQ |
| 29 | Ranei Nomura (W) | Oregon DEQ |
| 30 | K. Ratliff (W) | Oregon DEQ |
| 31 | Tom Roick | Oregon DEQ |
| 32 | Steve Schnurbusch | Oregon DEQ |
| 33 | Eric Strecker | Geosyntec Consultants |
| 34 | Kate Strohcker (W) | Oregon DEQ |
| 35 | Karen Tarnow | Oregon DEQ |
| 36 | David Waltz (W) | Oregon DEQ |
| 37 | Jennifer Wigal | Oregon DEQ |
| 39 | Priscilla Wollverton (W) | Oregon DEQ |
| 40 | Mark Yeager | City of Albany |
| 41 | Tiffany Yelton-Bram | Oregon DEQ |

(W) indicates webinar attendance