DRAFT Meeting Summary

# Willamette Mercury Multiple Discharger Variance Advisory Committee

State of Oregon
Department of Environmental Quality

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*DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.*

December 10, 2018
Willow Lake Water Pollution Control Facility
5915 Windsor Island Road North
Keizer, OR 97303

## List of Attendees

**Members**
Allison LaPlante, Earthwise Law Center; Stephanie Eisner, City of Salem/ACWA; Michael Karnosh, Confederated Tribes of Grand Ronde; Kathryn Van Natta, Northwest Pulp and Paper Association.

**Agency Advisors**
Lindsay Guzzo, U.S. EPA (by phone)

**DEQ Staff**
Aron Borok
Alex Liverman
Debra Sturdevant

**Others in attendance**
Todd Miller, City of Springfield/ACWA; John Korecki, Mt. Angel Public Works; Christina Brow, SLR Consulting; Rich Wildman, Geosyntec Consultants; Amanda Keller, Clackamas County (by phone); Eileen Tanner, Covanta (by phone); Cheryl Niemi, Washington Department of Ecology (by phone)

## List of Handouts and Presentation Notes

- Agenda
- Draft Procedures for determining the appropriate expression of the Highest Attainable Condition under the Willamette Basin Variance
- DEQ Presentations
  - Highest Attainable Condition Overview
  - HAC Process
  - Variance Duration
  - Mecury Minimization Programs

## Meeting Summary

The meeting began with a round of introductions.

Alex Liverman gave building logistics and evacuation information and led review of the Charter, Roles and Ground Rules, as well as meeting mechanics of turning up name cards to note questions/comments and capturing terms needing a common understanding of definitions to be kept in a glossary.

Aron Borok noted that the timeline for completing the rulemaking is being updated, such that DEQ will likely bring the amended rules to the Environmental Quality Commission for adoption in November 2019 or January 2020, rather than September 2019.

Debra Sturdevant presented an overview of the expressions of Highest Attainable Condition. Allison LaPlante inquired whether the Advisory Committee process would be covering nonpoint sources. DEQ confirmed that the Multi-Discharger Variance process is limited only to point sources who will need a variance on mercury for permit compliance, but the concurrent Advisory Committee process for revising the Willamette Basin Mercury Total Maximum Daily Load is considering nonpoint sources. Allison also asked is DEQ had developed a plan for data collection and assessment to meaningfully re-evaluate the HAC every five years, as required by federal rules. DEQ responded that the plan did not yet have details, but is anticipated to be a combination of influent/effluent monitoring and effectiveness of mercury minimization measures.

Aron presented on the HAC process. Stephanie Eisner clarified the difference between advanced secondary treatment, which basically includes nutrient removal, and tertiary treatment, which includes filtration. Kathryn VanNatta asked if DEQ was still looking for treatment information and DEQ confirmed that data and information is welcome, especially related to industrial discharges, for which information is limited. Stephanie noted that, because the mercury amalgam rule for dentists has been in place since 2006 in Oregon, the largest reductions for POTWs have likely already been realized. Allison asked EPA if there was any insight on economic feasibility under HAC 3. Lindsey Guzzo from EPA confirmed there was nothing to offer at this time. Stephanie noted that influent and effluent concentrations are not necessarily correlated and wondered what more could be done at facilities that already have quite low mercury effluent concentrations, without doubling energy costs, and that would make a difference in the waterways. DEQ confirmed that a lines of evidence approach is anticipated so that weighing of the facts at each facility would be put into the proper context.

Debra presented on the duration of the variance. Allison asked for clarification as to what "a long time" could be with respect to the duration of the mercury MDV. DEQ responded that the practical reality of mercury impairment and the low water column target based on the standard meant that achieving the standard in Willamette Basin waterways will not be attained in decades. Therefore, it was estimated that the duration of the variance is likely to be greater than 5 years, but less than 30 years. Rich Wildman (non-member) asked why it is undesireable to go down the path of use attainability analysis for mercury in the Willamette Basin. DEQ explained that the process laid out by the Clean Water Act includes many steps and tools for reducing impairments toward achieving the standard, which is set at a level protective of human health and the environment, and it is DEQ's aim to continue to strive to attain the standard and gain improvements on all fronts before acquiescing to a less protective alternative standard. This is particularly important for mercury, because the sources to waters are dominated by air deposition, rather than permitted discharges, so we must first try to make progress on reducing mercury sources and mobilization to waterways.

Aron presented on mercury minimization programs.

DEQ requested discussion items and feedback on the process so far. John Korecki asked if DEQ was considering best practices from other states and noted that point sources shouldn't be tasked with reductions greater than their contributions. Kathryn asked EPA if guidance on economic and environmental feasibility for HAC 3 was being developed in tandem with discussions about the Clean Water Services individual variances. Lindsey confirmed that there were no plans for developing such guidance, but that EPA was working individually with states, which may be more effective than general guidance because the issues are individualized. Kathryn indicated it would be helpful for information discussed between EPA and DEQ on the Clean Water Services variances and applied to the MDV to be shared with the Advisory Group. Allison and Kathryn indicated that the path to MDV, as explained, was understandable, but certainty on who it will affect and what planning of operations, resources and applications should be done was unclear. Kathryn requested hearing from the other stakeholders on their positions. DEQ will

continue to offer time on the meeting agendas for group discussion and input from all Advisory Committee members and other attendees, as time allows. Allison requested getting meeting materials, including presentations, with more time in advance of the meetings to discuss with constituents prior to meetings. DEQ explained that presentations without context would not be valuable to share. Rather DEQ's preference is to present the information at the meetings and then have Advisory Committee memebrs discuss it with constituents and provide input at the following meeting. DEQ committed to provide time on future meeting agendas for a short recap of the previous information presented and any stakeholder input that should be shared. In addition, Advisory Committee members can contact DEQ staff between meetings for clarifications that may be needed as constituent discussions occur. Rich asked whether DEQ anticipates variability or standardization of mercury minimization plans. DEQ indicated that some standard elements may come into play, but largely MMPs are anticipated to be tailored to specific-facilities, which have differing sources and operations and opportunities for reductions. Michael Karnosh indicated his support for including time on the next agenda for a short recap and input from Advisory Committee members.

The meeting closed with general agreement that alternating meeting locations between Portland and farther south in the Willamette Valley would be acceptable, so the next meeting will be in Portland.

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