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.

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DEQ Offices
700 NE Multnomah St.
Portland, OR 97232

List of Attendees

Members
Allison LaPlante, Earthwise Law Center; Todd Miller, City of Springfield/ACWA; Michael Karnosh, Confederated Tribes of Grand Ronde; Kathryn Van Natta, Northwest Pulp and Paper Association; Donna Schmitz, Benton County Soil and Water Conservation District (by phone).

DEQ Staff
Aron Borok
Alex Liverman
Debra Sturdevant

Others in attendance
Raj Kapur, Clean Water Services/ACWA; Taylor Lucey, OFIC; Eileen Tanner, Covanta (by phone); Cheryl Niemi, Washington Department of Ecology (by phone); April Catan, City of Newberg (by phone); Shane Sinclair, City of Corvallis (by phone); Kevin Osantowski, Foley Mansfield (by phone); Amanda Keller, Clackamas County (by phone)

List of Handouts and Presentation Notes

- Agenda
- Discussion Draft Procedures for determining the appropriate expression of the Highest Attainable Condition under the Willamette Basin Variance for Municipal Wastewater Treatment Operators
- Discussion Draft Rationale for Variance Term
- Differences Between 2015 Fedral Variance Rules and Oregon State Variance Rules
- DEQ Presentations
  - Highest Attainable Condition Discussion Draft Procedure for Municipalities
  - Proposed Variance Term for the Willamette Mercury MDV
  - Changes to State Varianc Rule

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.

Alex provided an opportunity for additional feedback collected from advisory committee constituents on each topic from the previous meeting. Todd Miller indicated his questions were answered by the materials provided for the current meeting. Allison LaPlante felt the discussion of the planned agenda would answer her questions. Michael Karnosh expressed that the variance term was of interest to the Grand Ronde Tribe, but that he hadn't yet spoken with the council about it directly.

Aron Borok presented on the proposed procedure for categorizing facilities into the appropriate expressions of the highest attainable condition under the variance for municipal wastewater treatment facilities. Kathryn VanNatta asked whether the facilities with data used in the evaluation were geographically spread across the state or only in the Willamette Basin. Aron clarified that most are in the Willamette Basin, including all the facilities that have advanced treatment, but some facilities are elsewhere in the state. Allison inquired whether both data and technological developments are evaluated during the five year reviews and Aron confirmed that was anticipated. Todd noted that technology exists to possibly get better results than some current treatment, but it has not been shown to be scalable to large POTW flows and wondered if a more thorough literature review was needed. Aron indicated that DEQ's understanding of EPA's requirement on feasibility was satisfied by the fact that better treatment at scale has not been demonstrated. Raj Kapur noted that the data set is limited to 19 plants druing a single year (2016) and captures mostly large facilities with advanced treatment, so using it to make a determination between HAC 2 and 3 may not be adequate. Small facilities that aren't represented by the data may make a number higher than 3.5 ng/L the threshold to move to a different HAC expression. Kathryn wondered if we were contemplating a process or setting numeric limits, because changing populations might move influent concentrations up, which might need system consideration rather than thresholds. Aron clarified that the intent was a process, using number thresholds, to bin facilities into categories of applying MMPs or perhaps requiring additional treatment. Jennifer Wigal questioned whether population increases would alter percent removal capabilities. Raj cautioned that CWS has seen MMPs bring influent concentrations down, but this doesn't always correlate to effluent concentration reductions. Todd opined that population increases might not be a concern for mercury increases, but wondered if anti-backsliding would be an issue with HAC thresholds. Raj pointed out that there aren't primary systems in the Willamette Basin and wondered how mechanical processes like lagoons would be considered. Aron and Debra Sturdevant confirmed lagoons were considered but as primary, and so would be re-evaluated as secondary going forward. Kathryn pointed out that in discussing removal of grams per years from POTW discharges underscores the fact that POTWs are a small portion of the mercury load into the Willamette Basin, since the TMDL modeling indicates the overall load is expressed in kilograms per year. Raj reiterated ACWA's comment on the mercury TMDL that other states negate POTWs as sources because their proportion of the total load is similarly small and asked DEQ to consider expressing this in the TMDL to avoid facilities having to go through the arduous process of the MDV. Kathryn agreed with Raj that the MDV should acknowledge the small scope of POTW contribution and strive for a realistic process that isn't so onerous that it prevents participation in future processes. Allison expressed that it was troubling to be considering a 20 year variance for point sources without knowing yet what would be required to curtail the more impactful nonpoint sources. Raj suggested running existing facility data through the proposed HAC process to see where they fall and Aron indicated that most would be HAC 3 with one potentially needing additional treatment. Todd questioned the basis for looking at 1% of household median income as a factor in determing feasibility for additional treatment and asked if DEQ would consider examples from other communities, if they could be provided. Aron confirmed that the feasibility discussion needed EPA input still and requested advisory committee members to provided any examples available from other communities. Raj suggested DEQ look for additional data sets from SB737 work or

other states to make the evaluation of HAC determination more robust. (DEQ later confirmed that SB737 data included meHg, but not Hg data). Todd recalled that TMDL AC meeting presentations indicated that minor facilities would only need MMPs and may not, then, need the MDV. Kathryn reiterated that assigning numbers with limited data to evaluate doesn't make sense so the focus should instead be on the process.

Debra presented on the proposed duration of the variance. Todd requested clarification between HAC achievement during the term of the variance as opposed to at a facility. Debra explained that making progress toward the WQC during the term of the variance was an overall requirement, but at a facility, re-evaluating the level currently achievable was more like a compliance schedule for achieving an interim permit limit. Allison asked for further explanation of the administrative efficiency gained by having a 20 year term rather than a 10 year term and Debra gave more details of the efforts required for conducting rulemaking and an advisory committee, with little additional information than that provided in the required five year HAC re-evaluations, given that watershed response is expected to be on the order of decades before reduction efforts will be able to be measured. Michael expressed the Tribe's concern with a long term duration of 20 years, due to the Tribe's negative experience in long term licensing processes which effectively prevented the use of data in re-evaluations. Debra confirmed that the re-evaluations every five years of the level currently achievable was required in federal regulations to be based on data. Todd indicated that ACWA members support the 20 year term of the variance, which gives regulatory certainty with five year reviews, which is robust, and other states also use 20 years. Todd also thought repeating the process again in ten years would be unproductive.

Aron presented on proposed rule language changes to align the state variance rule with the subsequent federal rule. Todd asked if "unreasonable human health risk" was defined, but indicated an assumption that small discharges likely avoid this risk. Aron agreed that existing facilities would not likely face this risk, as they would be held to meeting the currently achievable level. Jennifer confirmed, that while DEQ is not proposing a watershed variance at this time, that would also need a rulemaking process, adoption by EQC and approval by EPA. Kathryn reminded the group that she supported acknoeledging both the MDV and watershed variance options in the previous rulemaking and also supports that now. Raj asked if the rule will be consistent with federal rules not just for mercury. Aron clarified that DEQ intends to include the MDV under the Willamette Basin-specif criteria, not as a statewide rule.

The meeting closed with general agreement on looking for a venue farther south in the Willamette Valley would be acceptable, but acknowledged that a Salem location would not be near the Capital because logistics would be difficult with the Legislature in session. Having the next meeting at DEQ in Portland would also be acceptable.

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