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NEDDC's Winter Newsletter



Abiqua Falls

Oregon Department of Environmental Quality Settles “Zombie Permits” Case

After years of resistance and delay, **the Oregon Department of Environmental Quality (“DEQ”)** finally agreed to address its backlog of expired water pollution permits in a settlement reached with **NEDC and Northwest Environmental Advocates (“NWEA”)** in **November**. Oregon currently has the worst individual water pollution permit backlog in the nation.

DEQ is responsible for issuing and administering water pollution discharge permits (called National

NEDC and Partner Organizations Bring Fight Against Oregon Hazardous Waste Disposal Facility

In December, **NEDC, along with Friends of the Columbia Gorge and Columbia Riverkeeper,** formally announced its intent to sue the owner of a hazardous waste facility in **Arlington, Oregon, in the Columbia River Gorge east of The Dalles.**

Chemical Waste Management, the facility’s owner, recently constructed a treatment and disposal unit for oily hazardous wastes without obtaining the permits required under the Resource Conservation and Recovery Act (“RCRA”) and the Clean Air Act (“CAA”).

Pollutant Discharge Elimination System, or “NPDES” Permits) to polluters in Oregon, pursuant to an agreement with the U.S. Environmental Protection Agency under the federal Clean Water Act. The Clean Water Act requires state agencies like DEQ to revisit these water pollution permits every five years and update them to reflect the most current data, the best available science, and changing environmental conditions.

However, NEDC and NWEA discovered that in Oregon approximately 150 permits for individual polluters and 15 general permits—which cover an entire industry or type of polluter—are over ten years old (so-called “zombie permits”).

Some are more than 25 years old. Instead of issuing new, stricter permits after the five year terms expired, DEQ simply “administratively continued” these expired permits indefinitely. This practice allows permittees to continue polluting without having to comply with new or updated water quality standards that Oregon has adopted to protect human health and aquatic resources. Plaintiffs NEDC and NWEA sued DEQ in state court in 2017, asking the court to force DEQ to do its job and address its backlog of expired permits.

Under the court-endorsed settlement agreement, DEQ must

The potential environmental and public health impacts of the facility are substantial. The treatment unit at issue processes about 10 tons of oily hazardous waste *per hour*, reclaiming the oil for sale as a commercial fuel, while only minimally treating the remaining hazardous constituents before disposal. Significant quantities of non-condensable, non-flammable, and highly toxic vent gasses resulting from the oil reclamation process are ultimately emitted into the atmosphere. These gasses include mercury, lead, and hydrochloric acid, among other hazardous air pollutants harmful to human health.

Had it obtained the necessary permits, the treatment and disposal unit would be subject to strict conditions and limitations under the federal rules. The company is already required by other state agencies to meet these more stringent requirements at its other facilities across the country.

Instead, the corporation has been operating its Arlington, Oregon oil disposal unit for over a year with minimal oversight. **“This work is precisely what NEDC thrives at: stepping in to ensure that Oregonians are protected from harmful, unpermitted polluters**

reduce its backlog to less than ten percent of permits within ten years. (By comparison, at the end of 2017, 84 percent of permits were backlogged.) DEQ also agreed to meet binding milestones every two years, and to issue 100 percent of the existing “zombie permits” within ten years from the settlement date. In addition, the settlement commits DEQ to taking steps to improve the quality of Oregon’s pollution discharge permits. For example, DEQ will issue guidance to its staff on how to ensure that the agency has enough data on the pollutants in discharges and receiving waters to meet federal regulations. The settlement addresses the root causes of DEQ’s delays, and improves the transparency of Oregon’s permitting program. **All in all, it is a big win for water quality throughout the state.**

NEDC thanks Nina Bell and attorneys Lia Comerford at Earthrise Law Center and Karl Anuta at the Law Office of Karl G. Anuta for their terrific work on this case.



Oregon's McKenzie River is one of the rivers that will be the

when regulators look the other way,” said NEDC executive director Mark Riskedahl. **“It also highlights the ongoing importance of federal citizen suit provisions in the current regulatory climate.”**

Earthrise Law Center attorney Jamie Saul represents NEDC, along with Friends of the Columbia Gorge and Columbia Riverkeeper, in this matter.



Columbia River near Arlington, Oregon



"Being involved in NEDC has greatly enriched my law school educational experience by providing me access

beneficiaries of more protective conditions in updated permits

Coming up in 2019: NEDC turns 50!

Stay tuned for information on events, fundraisers, and more.

Working to Reduce Dirty Diesel in Oregon

NEDC will be continuing its work in 2019 in partnership with Lewis & Clark Law School's Green Energy Institute and Portland-based Neighbors for Clean Air on a project aimed at reducing diesel pollution in Oregon.

Diesel soot causes heart disease and cancer and can aggravate asthma in children, whose developing lungs are especially susceptible to damage. Black carbon, one of the primary components of diesel exhaust, is a powerful yet short-lived climate pollutant that can also have significant direct and indirect effects on local snowpack, glaciers, and silvicultural and agricultural productivity. Black carbon is so potent that per unit of mass, it has a warming impact on climate that is 450-1,500 times stronger than CO₂. The fact that it remains suspended in the atmosphere for a relatively short period before it settles to the

to a thriving community of environmentally-minded individuals, concrete real-world opportunities for me to apply the concepts I'm learning in classes, and the motivation to continue doing so."

We'll be watching the Oregon legislature closely to monitor which promising legislative concepts make their way into law during the 2019 session. We will then continue working with our partners to press local decision-makers and the Oregon Environmental Quality Commission to fill remaining regulatory gaps towards our objective of comprehensive diesel emissions reduction.

Many thanks to the Green Energy Institute's Amy Schlusser, Licia Sahagun and Melissa Powers, and to Neighbors for Clean Air's Mary Peveto and Tori Cole, as well as our numerous academic and community partners for their critical roles in moving this project forward.

earth means that aggressive black carbon reduction strategies offer significant near-term climate-related benefits.

The wide range of diesel reduction tools that we have identified with our partners provide state, regional and local governments major pollution-reduction opportunities under existing statutory authority.



Diesel Emissions Harm Public Health and the Environment

Save the Dates:

Westwind 2019

Join us on **September 6-9th, 2019** for NEDC's 50th Anniversary Celebration at Camp Westwind on the Oregon Coast.

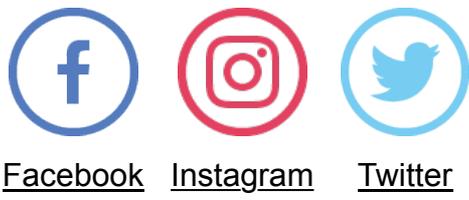


Pedal Pursuit

Our annual spring bike-race-adventure fundraiser will take place on **Saturday May 11th, 2019**. Start planning your team today!

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