

COLUMBIA CORRIDOR
A S S O C I A T I O N

Oregon Department of Environmental Quality
Water Quality Division
Attn: Jenine Camilleri
811 SW Sixth Ave.
Portland, OR 97204

April 14, 2006

Dear Ms. Camilleri:

Introduction

Thank you for the opportunity to comment on the proposed revisions to the 1200-A, 1200-COLS, and 1200-Z industrial storm water NPDES permits. The Columbia Corridor Association (CCA) represents the needs and interests of businesses and industries within the Columbia Corridor, a designated Regionally Significant Industrial Area (RSIA). A number of facilities in our Association's geographic area have one of these permits, particularly the 1200-COLS permit which regulates storm water quality entering the Columbia Slough.

Specific Comments on Proposed Permits

While our specific comments enclosed herein (see Attachment A) are brief, CCA and our members are in support of other trade and business organizations, and other individual permit holders who are submitting more substantive and detailed comments on the proposed permits.

General Comments on Proposed Permits

DEQ has been presented a very difficult situation in the development of these permits. We acknowledge and understand the issues and challenges in the process. Nonetheless, it is imperative that DEQ address several deficiencies in the proposed approach and especially the lack of the regulated communities input in the process:

- We encourage DEQ to recommend to the Environmental Quality Commission that draft permits, including the NEDC settlement provisions, NOT be adopted at this time.
- DEQ has spoken in favor of a participative approach to resolving the present set of permitting issues. We support that approach as a way of creating collaboration instead of litigation. CCA and its members recommend that the proposed permit changes be reviewed by an Advisory Committee or similar approach that includes

regulated industrial discharger representation on an equal basis with other stakeholders.

- If the permits go forward as written, we believe the result will be increased litigation and an increase in the number of individual permits being issued by DEQ. This will create legal and economic hardship on affected permit holders and place further demands on DEQ's already limited resources.

The proposed permits will have an impact on the economic vitality of the region. Increased monitoring does not appear to have any basis for justification. The overall impact of the proposed changes without a substantiated need is extremely burdensome for many CCA members that have limited financial resources and environmental compliance staff.

CCA supports DEQ adoption of the Blue Ribbon Committee's recommendations for the water quality program, implementing the court ordered TMDL deadlines, developing a world class water quality staff, making agency infrastructure improvements where needed and, most importantly, resolving differences between stakeholders via collaboration, not litigation.

Thank you in advance for considering our comments on this important rulemaking.

Sincerely,

Corky Collier
Executive Director

ATTACHMENT A

Comments of the Columbia Corridor Association on the Proposed 1200-A, 1200-COLS, and 1200-Z Storm Water NPDES Permits

April 14, 2006

1. Public Comment on Permit Issuance/Reissuance (Permit Coverage, Condition 1)

CCA supports public review and comment on the issuance/reissuance of storm water permits. However, public comment on an application for coverage under a general permit should be limited to whether the applicant's proposed activity is regulated by the permit and whether the permittee's proposed Storm Water Pollution Control Plan (SWPCP) addresses the permit requirements. Comment on the permit itself once it has been adopted is inappropriate.

2. Storm Water Pollution Control Plan Updates and Revisions (Schedule A, Condition 2)

A facility should not have to submit updates to the SWPCP each time a minor facility or operations change occurs. This is burdensome for DEQ and for the facility. Updates to the SWPCP should be submitted on an annual basis for changes that do not impact the facility's discharge volume or quality.

Beneficial changes in operation and management practices to the SWPCP should be allowed to be implemented immediately without waiting for DEQ review and approval.

Public comment on SWPCP revisions should be limited to only significant changes on an annual basis and the DEQ should be clear in the permit as to what triggers public review.

3. Conversion of Benchmarks to Enforceable Limits (Schedule A, Condition 9)

Benchmarks are intended to monitor the progress and success of a permittee's storm water program. They are action levels and were never intended to be used as enforceable effluent limits. They serve as general indicators about whether or not a facility's storm water controls are effective. Effluent limits are facility and receiving water specific and must be established on an individual facility basis. Converting these to enforceable limits if they are not met on average over a two year period is arbitrary.

4. Compliance with Water Quality Standards (Schedule A, Condition 5)

Section 5.a. of the proposed permits reads, "The permit registrant must comply with instream water quality standards." This statement is ambiguous and open-ended. The DEQ has not informed permit holders how compliance with those standards will be determined or how it will determine if discharges are not complying under Sections 5.b. or

5.c., respectively, nor does it provide guidance on what the permittee can do to achieve compliance.

Permit holders and the public should know with reasonable certainty what is required of the permittee. A permittee who complies with the permit should not be subject to an enforcement action for violating a condition that DEQ cannot define in advance.

It has become apparent to CCA and other members of the regulated community during development of the proposed permits that many interest groups strongly believe the permits, if issued as proposed, will drive compliance with instream water quality standards at the point of discharge into the receiving water (i.e., at the end of the pipe).

Without clarification in the permit language itself, we believe Condition 5.a. will become the fodder for expensive litigation against DEQ, individual permit holders, or groups of permit holders (e.g., all 1200-COLS permit holders). The industrial stormwater provisions including facility stormwater management plans are a proven method to assure water quality standards are met. DEQ should clarify the permit language to assure no misinterpretation will exist.

5. Discharge Monitoring (Schedule B, Condition 1)

The increase in monitoring required from twice to four times annually and at all outfalls is not based on demonstrated evidence it will provide an environmental benefit, but it will require additional financial burden on the permittee. DEQ should defer from requiring this additional monitoring.