Clean Water Services Advisory Commission

Meeting Minutes

September 15, 2010

Attendance

The meeting was attended by Commission Chair Tony Weller and Commission members Molly Brown, Alan DeHarpport, Lori Hennings, Mike McKillip, Deanna Mueller-Crispin, Stephanie Shanley, Jerry Ward, and Bill Young. Clean Water Services Deputy General Manager Bob Cruz attended the meeting on behalf of General Manager Bill Gaffi.

Commission members John Kuiper, Victoria Lowe, George Marsh, and Julie Wilson were absent.

Clean Water Services staff members Bob Baumgartner, Nora Curtis, Marney Jett, Mark Jockers, Jerry Linder, and Sheri Wantland attended the meeting.

Shaun Pigott of Pigott and Associates, a consultant, also was in attendance.

1. Call to Order

Chairman Weller called the meeting to order at 6:32 PM in the conference room at the Clean Water Services Administration Building.

2. May Meeting Minutes

Mr. Young moved to approve the minutes of the May 19, 2010 meeting and the minutes of the April 21, 2010 meeting, noting that approval of the April minutes was tabled at the last meeting. Mr. Jockers said that Ms. Lowe was unable to attend tonight but would like to propose changes to the April minutes before they are approved. Chairman Weller clarified with Mr. Young that his motion would apply only to the May minutes. Ms. Hennings seconded the motion. Mr. Young noted two corrections to the May minutes: Page 8, last paragraph, end of third line, "circs" is unfamiliar (Ms. Baumgartner said it perhaps should be "zircs") and Page 9, first complete paragraph, end of fourth line, a word seems to be missing and probably was intended to read, "…would like to be a…" Minutes were approved as corrected *(further inquiry found "circs" should be "zercs," which are fittings or connecting points for a grease gun - SB)*

3. Surface Water Management Program Assessment

Bob Cruz, Clean Water Services District Deputy General Manager, said that the District is assessing its Surface Water Management (SWM) Program to evaluate program fees, need for changing any current services, and potential for any new services. Results will be reviewed by the District Leadership Team and then presented to the Board of Directors for their reaction, with some issues possibly referred to the Commission for discussion and further evaluation. Tonight's overview of the SWM Program will provide background for those discussions.

Nora Curtis, Clean Water Services Conveyance Systems Department Director, described how the SWM Program and approaches to stormwater management have evolved from focusing on quantity to quality to habitat to the broader watershed environment since she began working at the Unified Sewerage Agency (USA; now Clean Water Services) 22 years ago and as Washington County's population grew almost 43% between 1990 and 2000 *(presentation attached).*

Ms. Curtis said that stormwater programs did not start out nearly as well-defined as sanitary sewer programs. Through the 1980's, each city and the county managed its own "drainage," focused mostly on "quantity management"—using flood control measures to avoid large quantities of stormwater. In 1982 and again in 1985, the county recommended that USA take responsibility for stormwater management, but no action was taken.

In 1987, new federal regulations addressing toxics in stormwater and nonpoint sources broadened the stormwater management focus to include water quality. Also in 1987, a study of the Tualatin River found that nutrients from wastewater treatment plants and stormwater runoff were causing excess algal growth in the lower river, and a lawsuit required the Oregon Department of Environmental Quality (DEQ) to establish limits (Total Maximum Daily Loads, or TMDLs) for these pollutants in 27 streams, including the Tualatin. In 1988, DEQ set TMDLs for phosphorus and ammonia in the Tualatin and in 1989 mandated an erosion control program, furthering the emphasis on water quality in stormwater management. The deadline for meeting the new requirements was 1993. The idea of issuing stormwater discharge permits, similar to permits for wastewater treatment plants, began to take shape.

Washington County again requested in 1989 that USA take on stormwater management, this time joined by the cities, who were concerned about being individual permittees under federal Municipal Separate Storm Sewer System (MS4) requirements, and Clackamas and Multnomah counties, which included small portions of the USA service area. USA was approved for the new utility operation and began functioning as the regional SWM service provider July 1, 1990. The cities were covered under USA's MS4 permit. The program charter developed in 1989 set a forward-thinking vision for including both man-made and natural systems in stormwater management plans. The first SWM plan in 1990 focused on flood management and on controlling summer levels of phosphorus in the river, with a big effort to catch up on stormwater system maintenance as there were still catch basins clogged with ash from the 1980 Mt. St. Helens eruption. The rules developed for stormwater management systems mirrored those for sanitary sewers. The SWM fee was set at $3 per month for a single-family residence and for every 2,640 square feet (SF) of impervious surface on commercial lots. There was no Master Plan and no budget for capital improvements. Washington County's population in 1990 was 305,000, and the pace of development was picking up.

In 1991, erosion control was included in SWM Plans, and Design and Construction Standards were established requiring a 25-foot buffer for all waters. In 1994, a work program and Master Plan were adopted and sub-basin plans were developed as SDCs (Systems Development Charges) became a new source of funding. Also in 1994, a small capital improvements program was funded, with a total of $150,000 available and a limit of $35,000 per project. By 1995, the county population had grown to 370,000.

USA received its first stormwater permit in 1998 and its stormwater management plans were incorporated into the permit requirements. Also in 1998, USA began its industrial stormwater runoff

program as an agent for DEQ's 1200-Z permit program, and SWM fees were raised for the first time, by $1 per month, to fund capital improvements.

In 1999, stormwater management began to include habitat considerations to meet the requirements of the federal Endangered Species Act (ESA) as set out by METRO Title 3, for protection of floodplains and riparian areas, and Oregon land use Goal 5, for natural resource protection. USA, with some related programs and practices already in place, was asked by the cities to coordinate a response to these requirements. Ms. Curtis noted the spirit of collaboration between USA and the cities in developing their own plans that would work well for this area rather than having plans dictated by others. One action was to update the Design and Construction Standards, increasing the required buffer to 50 feet and requiring enhancement of the buffer area. In 2000, Clean Water Services (formerly USA) began collecting data on streams and stream systems, related resources, outfall retrofits, and culverts. By this time, the population was 445, 342—an increase of nearly 43% in 10 years.

Following the general trend in approaches to water quality, stormwater management continued to broaden from looking at quantity, quality, and habitat measures to assessing the overall health of streams throughout the watershed. In 2004, DEQ issued the nation's first watershed-based discharge permit to Clean Water Services, integrating requirements for wastewater treatment plants, MS4 operations, and the 1200-Z industrial stormwater program. By 2005, the streams study was complete and a Healthy Streams Plan was developed and adopted by Clean Water Services and its partner cities toward compliance with Goal 5.

Ms. Curtis said the permit issued in 2004 has expired but is still in effect through a DEQ administrative extension. Current areas of interest reflected in the draft permit renewal for stormwater management include hydromodification (the idea that the volume, or flow amount, of stormwater is a "pollutant" in addition to any pollutants that may be in it), construction sites (erosion control), and outfall inspection (checking for discharges during dry periods to detect cross connections between the stormwater and sanitary sewer systems or illicit discharges into the stormwater system).

Ms. Curtis concluded by saying that capital improvements, maintenance, regulatory requirements, land use planning, and public awareness of stormwater and water quality have come a long way since 1990, making this a good time to undertake the SWM Program Assessment to see if the program charter is still valid and to evaluate program components in light of continued limited resources.

Shaun Pigott, Pigott and Associates, is leading the Program assessment. Like Ms. Curtis, was affiliated with Clean Water Services when the SWM Program was established. He noted that some things will always be the same, such as the legacy of cooperation in Washington County, which is a point of envy for many other jurisdictions. Rate increases of any kind will always be a "hard sell," particularly so in this economy, and rate increases for stormwater programs are harder to sell than others. However, other things have changed, as there is now more stormwater, a larger stormwater system to maintain, increasing regulatory requirements, escalating customer expectations, and greater awareness of the effectiveness of Integrated Water Resources Management (IWRM) as people become more aware of water quality and how stormwater quality affects receiving waters.

Mr. Pigott said the SWM Program Assessment will be a "check-up" to inventory current program activities; assess how the SWM Program has evolved, focusing on areas which have changed in scale or scope; and consider possible future directions based on expected regulations and customer service requests. The assessment process includes compiling staff observations into target areas, developing issue papers for the Leadership Team, collecting comments and outlining possible directions to present to the Board. Some of the emerging issues include SWM capital programs, responsibility for improvements to the collections system, collections system extension, and ditch cleaning, street sweeping, and leaf collection programs as well as upcoming regulations. Issue papers will continue to be presented to the Leadership Team through October, ideas and recommendations will be shared with the Board through December, and some items may come to the Commission for review after that. Ms. Curtis said she and Mr. Pigott will provide the Commission with a final report on the SWM Program Assessment. Mr. Pigott added that in his consulting work with other jurisdictions around the nation, everyone wants to know how Clean Water Services is doing it, so while some refinements may be identified, the program is already seen as an effective model.

Mr. DeHarpport asked if regional (stormwater) facilities are "on the list." Ms. Curtis said they were not identified as a specific issue but Clean Water Services is looking for opportunities for regional facilities, such as in the Bethany area or to replace multiple small facilities. Regional facilities are included in the SWM Plan for reaching unserved areas. Ms. Curtis observed that the fast pace of development over the past 20 years left no opportunity or desire for developers to coordinate and many individual facilities were built because no one wanted to wait for anyone else, but now there may be some chance to connect some of them. Mr. DeHarpport encouraged continued discussion of regional facilities as they could be a good solution in infill areas and/or in neighborhoods built in the 1940s, '50s, and'60s before there was the concern for water quality that there is now. He added that he would support an increase in SWM fees to develop regional facilities. Mr. DeHarpport pointed out two examples of sites for regional facilities: the Fanno Creek area along Highway 217 in Beaverton, and the hay field at the corner of Saltzman and Laidlaw which is actually an undevelopable wetland in need of restoration.

Chairman Weller commented that it can be challenging to site regional facilities as one landowner loses for the gain of all the other landowners in the service area. Another obstacle is the difficulty in retrieving runoff from a natural system for treatment.

Ms. Curtis clarified in response to Ms. Brown's question that the Leadership Team includes the Clean Water Services District General Manager, Deputy General Manager, Department Directors and some of the Division Managers.

Ms. Brown observed there will be a new Board soon. Mr. Jockers confirmed that two new Board members will be elected in November and sworn in next January, as the Washington County Commissioners serve as the Clean Water Services Board of Directors.

4. Senate Bill 737: Addressing Priority Persistent Pollutants in Oregon's Waterways

Bob Baumgartner, Clean Water Services Regulatory Affairs Division Manager, and Marney Jett, Source Control Investigator, provided information about Senate Bill 737, which was codified in Oregon Revised Statutes Chapter 468B—Water Quality (Persistent Pollutants) *(presentation attached).* Mr. Baumgartner described SB 737 as a combination of pollution prevention and toxics reduction efforts. He said public concern about toxics has grown as technology has allowed detection

at lower levels than ever before and also allowed better understanding of their impact—not just at what level does it kill fish but at what level does it have some effect on fish and what is that effect. Environmental groups had proposed legislation focused on eliminating mixing zones (defined area around a discharge point, where less stringent water quality standards apply while the discharge disperses into the receiving waters which must meet the standards) while legislative discussions have focused on reducing toxics. Eventually a collaborative effort emerged to remove or minimize the most important pollutants before they ever get to a discharge point. SB 737 requires any wastewater treatment plant (WWTP) discharging more than one million gallons per day (mgd) to test for 118 different substances identified as "priority persistent pollutants," establish a plan for reducing any that are found above the threshold, and submit to DEQ reports on their progress. There are 52 such WWTPs in 48 communities around the state, including the four operated by Clean Water Services.

Oregon's approach is unique in that it focuses on WWTPs, which do remove some toxics by default during the treatment process, but are not specifically designed to do so. However, many WWTP have experience with pre-treatment programs. Pre-treatment programs work with industrial and commercial dischargers to remove toxics from their wastes before they are discharges to the WWTP. The pre-treatment programs could be expanded to include any of the listed pollutants that may be found. Mr. Baumgartner noted that SB 737 does not set new standards for any of the 118 substances—the emphasis is on prevention.

Mr. Baumgartner shared a copy of the SB 737 persistent pollutants list (*http://www.deq.state.or.us/wq/SB737/docs/LegRpAtt20100601.pdf)* which includes many substances commonly found in personal care products, and even cholesterol. He said that some chemicals which were banned years ago, such as DDT, are on the list because they are still around in residual amounts and/or are coming in on foods and other items from countries where they are still in use. He added that some of the chemicals that replaced them are now also being detected as persisting in the environment. He recommended the DEQ website, which has a very good history and explanation of how and why substances were listed, and how pollutant reduction plans will be developed. DEQ 737 website: http://www.deq.state.or.us/wq/SB737/.

Mr. Baumgartner said Clean Water Services has begun its sampling process in cooperation with DEQ, involving chemists from both labs. The new testing methods cost about $7,000.00 per sample and Clean Water Services will sample effluent from Rock Creek and Durham in the summer and will sample from all four plants in the winter. The first analysis results will come in tomorrow and it will take about six weeks to do all the tests on the first round of samples. Mr. Baumgartner said it was premature to make any guesses about the findings, but he expects results for each treatment plant will be different because each has different sources (more industrial area, more residential area, specific customer, etc.). Clean Water Services will work with DEQ in releasing information about the results. A proposal has also been submitted to the Water Environment Research Foundation (WERF) to study how the various substances get into waterways and how much is attributable to WWTPs.

Plans to address any detected persistent pollutants from the list are due to DEQ next July and will become part of the NPDES (National Pollutant Discharge Elimination System) permit requirements. Most jurisdictions affected by SB 737 have coordinated with DEQ and ACWA (Oregon Association of Clean Water Agencies) to foster some consistency in implementing the plans. He handed out a copy of the Clean Water Services Master Planning Process (STEP: Stakeholder Engagement Process) for the response to SB 737, which reflects interactions that may help guide DEQ as it implements the

program around the state. Mr. Baumgartner said that the response to SB 737 ties in with the Clean Water Services desire to enhance existing pollution prevention activities and that Clean Water Services and others affected by SB 737 will need to do a lot of public outreach about toxics and prevention efforts. .

Ms. Jett reviewed some existing pollution prevention programs at Clean Water Services, pointing out that it is much easier to catch and deal with a pollutant before it is in the treatment system and dispersed across millions of gallons. By federal mandate, certain types of businesses must pre-treat their wastewater before it goes into the public system. For example metal platers, facilities that electrically plate metals such as chrome car bumpers, are required to remove the metals from their wastewater before they discharge to the WWTP. These facilities are permitted and inspected by POTW staff. In addition, there are local mandates requiring permits to release anything into the public system that might create a problem for the area's public wastewater treatment plant.

One example of a local mandate is the dental program, which Clean Water Services began in 2001 as a voluntary effort to recycle lead, silver, and mercury at dental offices. ACWA later took it state-wide and it is now mandatory, with a high compliance rate. Clean Water Services recently began another local effort addressing fats, oils, and grease (FOG). Through education of everyone from owners and staff of restaurants and other businesses which generate FOG to the pumpers who haul it away, the FOG Abatement Program aims to keep these substances out of the sanitary sewer system, where they clog pipes and cause back-ups.

Another new program is Ecobiz, a voluntary certification program for businesses which go above and beyond required environmental regulations. Participating businesses can get technical assistance to implement environmentally friendly practices and can publicize themselves as eco-friendly. They are also recognized through Ecobiz publicity efforts. The Ecobiz program is currently focused on automotive and landscape businesses but Ms. Jett sees potential for expansion to other sectors, such as veterinary offices, in response to SB 737. (www.ecobiz.org)

Ms. Jett sees outreach programs to the ratepaying public as an important part of SB 737 plans, as many household chemicals are on the persistent pollutant list. ACWA is working on training for purchasing agents in businesses and government so they can identify products that are "737-free."

Ms. Brown asked if prescription drugs were included in any of the programs. Ms. Jett said there are only a couple of drugs on the SB 737 persistent pollutant list, but there have been conversations with ACWA about drug takeback programs (locations or events where consumers can drop off unused medications). Mr. Jockers commented that the federal Drug Enforcement Agency (DEA) coordinates drug takebacks with local police and Clean Water Services is helping with an upcoming event. Drug takebacks are not necessarily part of SB 737 compliance but are still part of pollution prevention, which is a foundation value of Clean Water Services.

Mr. Young wondered how to deal with the ambiguity between the point at which something can be detected and the point at which it is a problem; presumably all the substances on the list are detectable, but is there a standard for each one? Mr. Baumgartner said there is a range of thinking due to the uncertainty about at what level some of the emerging toxics have environmental impact and that is why the focus of SB 737 is prevention. He said the detection levels that will trigger a

prevention plan are not standards in the same sense as existing water quality standards, although some listed substances do have standards through other regulations. He added that everything on the list should be detectable and the current sampling effort will offer some sense of how well we can detect it.

Mr. Young also asked if any of these pollutants lend themselves to dispersal outside the water environment. Mr. Baumgartner said most of them cannot be gassed off and many like to be attached to soils, which will certainly affect disposal choices. He added that SB 737 focuses on what goes into the river from POTWs but Clean Water Services prevention programs is looking more broadly at reducing pollutants prior to getting to the water.

Ms. Shanley asked what DEQ will do with the SB 737 response plan once it is submitted. Mr. Baumgartner said DEQ has a responsibility to reject or approve each plan. He just met today with DEQ staff regarding the parameters for rejection or approval. He acknowledged ACWA's efforts and Mr. Jockers, Ms. Jett, and Jerry Linder for helping keep the process on a positive track.

Mr. McKillip asked if the DEQ website includes information about the impact of each item on the persistent pollutant list. Ms Jett noted that the website contain information about each of the pollutants on the list. For many of the pollutants the impacts are not well known.
Ms. Jett said there were numerous filters used to refine the original list from 20,000 to 2,000 to 600 to the final 118. For instance, all are toxic, either persistent or bioaccumulative, and all are actually used in Oregon.

Chairman Weller wondered how to determine if test results were normal, seasonal fluctuation, unusual event, etc. with only two samples from each plant. Mr. DeHarpport wondered how much the samples would be influenced by agricultural activities this time of year.

Mr. Linder commented that SB 737 is clearly the beginning of a long process. Clean Water Services and other utilities who are at "the end of the pipe" don't want to get stuck with standards they can't meet and don't want to be seen as the violators due to stuff put into the treatment system by others. They do not want to be held responsible for solving everyone else's problems nor do they want to bear the cost alone. He said it is important to recognize that the thresholds for the persistent pollutants are numbers which will trigger a prevention plan, not a fine. The numbers are not regulatory standards at this time, though he feels some of them will probably become standards.

5. Announcements

Mr. Jockers said he will be talking to the Board of Directors next week to begin recruitment for the two open Commission seats left by Jim Spencer, whose term expired in June, and George Marsh, whose term expires next month. Mr. Spencer served as an environmental representative; Mr. Marsh represented the agricultural community. He said a copy of the recruitment news release will probably be sent to Commission members and he asked members to encourage or suggest potential applicants.

He also said Clean Water Services is celebrating its 40th anniversary this year. Invitations will be mailed to Commission members for a special community event at the Durham Advanced Wastewater Treatment Facility on October 16. Congressman David Wu will attend to help recognize some of the

Clean Water Services "founders," and there will be family activities, displays from environmental groups, music, and facility tours. The weather will, of course, be dry and sunny.

Mr. Jockers reminded everyone of the next Commission meeting, October 20, 2010.

6. Adjournment

Mr. Young moved to adjourn the meeting and Ms. Hennings seconded. Chairman Weller declared adjournment at 8:18 PM.

(Meeting notes prepared by Sue Baumgartner)