



Office of Inspector General

Audit Report

WATER

Oregon's Water Quality Program

E1HWF8-10-0024-9100119

March 31, 1999

**Inspector General Division
Conducting the Audit**

Region covered

Program Office Involved

**Western Audit Division
Seattle Branch Office**

Region 10

Office of Water



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL FOR AUDITS
WESTERN DIVISION
75 Hawthorne Street
19th Floor, Mail Code I-1
San Francisco, California 94105-3901

March 31, 1999

MEMORANDUM

SUBJECT: State of Oregon's Water Quality Program
Audit Report No. E1HWF8-10-0024-9100119

FROM: Truman R. Beeler
Divisional Inspector General for Audit

TO: Chuck Clarke
Regional Administrator
EPA Region 10

This report presents the results of our audit of the State of Oregon's Water Quality Program. The audit was conducted as part of a nationwide review of States' water quality programs. The overall purpose was to determine whether Oregon's program met the principal goals of the Clean Water Act (the Act).

We concluded that generally Oregon's program met the principal goals of the Act. There were some areas where improvements could be made in Oregon's water quality standards and reporting procedures, and in EPA Region 10's (the Region) timely review of standards. We also noted that in addition to the required activities, Oregon had several noteworthy accomplishments which were of benefit to its water quality program.

ACTIONS REQUIRED

In accordance with EPA Order 2750, you as the action official are required to provide us with a written response to the audit report within 120 days of the final audit report date. For corrective actions planned but not completed by the response date, reference to specific milestone dates will assist in deciding whether to close this report. We have no objection to the release of this report to the public.

This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This audit report represents the opinion of the OIG and the findings contained in this audit report do not necessarily represent the final EPA position. Final determinations on matters in this audit report will be made by EPA managers in accordance with established EPA audit resolution procedures.

We appreciate the cooperation from your staff and the Oregon Department of Environmental Quality (ODEQ) staff during this audit. Should you or your staff have any questions about this

report, please call Truman Beeler, Divisional Inspector General for Audit at (415) 744-2445 or Janet Tursich of our Seattle Office at (206) 553-2998.

OBJECTIVES

The specific objectives of our audit were to determine whether:

1. ODEQ implemented procedures to: (i) develop standards that will protect the State's water quality; (ii) monitor the quality of State waters; and (iii) ensure reports on water quality are accurate, complete, and useful for program management.
2. The Region implemented effective procedures to approve Oregon's standards and evaluate Oregon's testing, assessing, and reporting processes.

BACKGROUND

The Act is the primary legislation addressing water quality programs. The principal goals are to: (i) restore and maintain the chemical, physical, and biological integrity of State waters; (ii) achieve water quality that promotes protection of fish, shellfish, wildlife, and for recreation; and (iii) consider the use and value of State waters for public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation.

Section 303(c) of the Act established the statutory basis for the current water quality standards program. Water quality standards provide the foundation for accomplishing the goals of the Act. These standards are laws or regulations that States adopt to enhance the quality of their water bodies and to protect the public health and welfare.

Section 106(e)(1) of the Act requires each State to establish and operate appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on the quality of navigable waters, including biological monitoring.

Section 305(b) of the Act requires each State to assess and report to EPA every 2 years on the condition of all its water bodies. Reporting requirements are further described in EPA's *Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates*, dated September 1997.

Section 303(d) of the Act requires each State to prepare a prioritized list of impaired water bodies that do not fully support its designated use. From this list, the State is required to develop total maximum daily loads (TMDLs), which are allocations of how much pollution each discharger or source will be allowed to release into each water body while ensuring the water body still meets the State's water quality standards.

The 1998 Performance Partnership Agreement (PPA) between ODEQ and the Region specifies responsibilities for the two parties and activities related to the water quality standards, assessments, and the TMDL process. Those activities include revising and updating water quality standards, assessing the water quality on a statewide basis, developing TMDLs in priority basins, submitting a Section 305(b) report to EPA, and continuing to work on a Section 303(d) list.

SCOPE AND METHODOLOGY

We performed this audit according to the Government Audit Standards issued by the Comptroller General of the United States as they apply to program audits. The audit included tests of the program records and other auditing procedures we considered necessary. We conducted our fieldwork at the Region's office in Seattle, WA and ODEQ's office in Portland, OR during the period July 24, 1998 to January 12, 1999. The audit covered the Region's and ODEQ's procedures in effect for the period from fiscals 1994 through 1998.

To accomplish our objectives, we reviewed documents and interviewed the Region and Oregon officials. We also reviewed correspondence between The Region and Oregon applicable to water quality standards and reports. We reviewed internal controls and procedures specifically related to our objectives.

Due to the technical nature of some water quality issues, we obtained assistance from the OIG Engineering and Science Staff. This assistance included: (i) a comparison of Oregon's water quality criteria to EPA's criteria; and (ii) help with the analysis of the monitoring data.

PRIOR AUDIT COVERAGE

The OIG has not issued any reports related to water quality standards, monitoring, and reporting in Oregon. The OIG issued reports on Missouri's and Colorado's water quality programs. The General Accounting Office (GAO) issued a report on Oregon Watersheds dated July 29, 1998. The GAO reported that human activities (timber harvests and related roads as well as agricultural, industrial, urban, and residential development) can contribute to elevated sediment levels during large storms. The sediment from human activities in a municipal watershed, combined with the accelerated erosion that naturally occurs during storms, can shut down a municipality's water treatment system, as occurred in Salem, OR in February 1996.

RESULTS OF AUDIT

Generally, Oregon's Water Quality Program met the principal goals of the Act. Water quality standards were developed and updated to protect Oregon's waters except for a few pollutants. Monitoring the quality of Oregon's waters was performed for all major rivers and lakes. Reporting was not always complete. ODEQ did not submit a Section 305(b) report for 1996 and the 1998 report was incomplete because resources were focused on the Section 303(d) impaired

water listing and the TMDL process. In addition to the required activities, ODEQ has completed several noteworthy accomplishments which were of benefit to its water quality program. Those accomplishments are described in the section of this report titled “Innovative Accomplishments”.

The Region had effective procedures with regard to its responsibilities for the Section 303(d) list and TMDLs. However, the Region did not have adequate procedures to ensure timely approval of Oregon’s water quality standards.

Water Quality Standards

ODEQ updated and adopted water quality standards in 1996 as required. Section 303(c) of the Act requires States to review, modify, and adopt water quality standards every 3 years. A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses and by setting criteria necessary to protect the use. A water quality standard consists of three elements: (i) designating uses; (ii) developing criteria to protect the uses; and (iii) implementing an anti-degradation policy.

ODEQ assigned designated uses to all water bodies by basin. There are up to 16 uses assigned to each basin. They include aquatic life and recreation which are two uses that are specifically identified as goals for all water bodies in the Act. ODEQ is required to adopt EPA criteria or develop its own criteria to protect the designated uses.

Water quality criteria are limits on either a condition of a water body or on a particular pollutant. ODEQ adopted limits on conditions for aquatic weeds and algae, bacteria, biological integrity, chlorophyll a, dissolved oxygen, habitat modification, flow modification, pH, sedimentation, temperature, total dissolved gas, toxics, and turbidity. For particular pollutants, ODEQ did not adopt criteria for 8 out of 99 priority toxins for which EPA has published criteria: bromoform, chlorodibromomethane, DDD, DDE, endosulfan sulfate, endrin aldehyde, methyl bromide, and pyrene. Federal criteria for these pollutants were developed after ODEQ last reviewed and modified its toxics standards. These pollutants may cause death, disease, behavioral abnormalities, cancer, genetic mutations physiological malfunctions or physical deformations to any organism. Therefore, ODEQ should include criteria for these pollutants in its next review of toxics standards.

ODEQ included an anti-degradation policy in its standards but it did not have an implementation plan as required by 40 CFR 131.12. Oregon did not have an implementation plan because it was not a priority. As a result, it has little assurance that Oregon’s waters will not be degraded. The implementation plan should identify the methods to protect existing uses and high quality waters from degradation. In its correspondence to Oregon, the Region had identified the anti-degradation implementation plan as a priority for Oregon’s next triennial review of water quality standards.

Monitoring - Testing and Assessing Water Quality

Testing and assessing water quality was performed for all major rivers and lakes within Oregon. Because resources were insufficient to comprehensively monitor all river and stream miles, ODEQ used a combination of methods to focus monitoring resources on “rivers of special interest.” Those rivers receive approximately 90 percent of the point source loading for Oregon.

ODEQ assessed 33,911 of the 114,000 river miles throughout Oregon’s 19 drainage basins. A statewide network of 142 sites were sampled periodically to provide conventional pollutant data for trending, standard compliance, and problem identification. These sites represent all major rivers in Oregon and provide statewide geographical representation. They reflect the water quality impacts from point and nonpoint source activities as well as the natural geological, hydrological and biological impacts on water quality for the watershed that they represent. This water quality monitoring network was designed to measure cumulative impacts from point and nonpoint sources of pollution in a variety of conditions. In addition, ODEQ assessed 491,518 out of 600,000 lake acres with the help of the United States Forest Service and volunteers through the Citizen Lake Watch Program.

We selected a judgmental sample of 21 water bodies to evaluate the processes for sampling, testing, and assessing water quality. We selected water bodies from high priority basins and a mixture of geographic locations. We determined that for each sampled water body, ODEQ applied the correct criteria in sampling, testing, and assessing water quality.

In addition to ambient river monitoring, ODEQ conducted biological and habitat monitoring to determine the degree to which biological and habitat impairment occurred and affected beneficial use attainment. Biological and habitat monitoring was conducted under one of three sampling strategies: (i) probabilistic sampling for extrapolation study unit conditions; (ii) Best Management Practices (BMP) effectiveness; and (iii) reference site monitoring. ODEQ is currently conducting probabilistic and reference site sampling in the Coastal and lower Columbia areas, BMP effectiveness in the Grande Ronde River Basin, and probabilistic sampling in the upper Deschutes basin.

ODEQ conducted special studies including about 10 to 20 mixing zone studies, monitoring for inorganic and organic toxics, and watershed assessments. The watershed assessments provide a detailed characterization of water quality conditions and determine cause and effect relationships at the watershed level. Currently, detailed assessment activity on seven basins is being performed.

Comprehensive Water Quality Assessment and Impaired Water Body Reports

EPA requires States to submit two water quality reports every 2 years: (i) the Section 305(b) report which is a comprehensive assessment of all Oregon’s water bodies; and (ii) the Section 303(d) report which lists water body segments that are impaired. ODEQ did not submit a

Section 305(b) report in 1996 and submitted an incomplete report in 1998. ODEQ submitted Section 303(d) reports in 1996 and 1998.

Comprehensive Water Quality Assessment Reports

ODEQ submitted a Section 305(b) report to EPA in 1994 and 1998, but did not prepare a report in 1996. The 1994 report included extensive narrative descriptions of Oregon's water quality program. The 1998 report was not complete according to EPA's guidance, but did contain overall summary tables which the Region required as a minimum to enable consolidation of the State reports for the national summary statistics submitted to the Congress. ODEQ did not submit a Section 305(b) report for 1996 and submitted an incomplete 1998 report because it focused limited resources on the Section 303(d) impaired water listing and the TMDL process.

Section 305(b) of the Act requires each State to assess and report to EPA every 2 years on the condition of the State's water bodies. These reports describe the water quality of all water bodies, and classify each as either "fully supporting," "partially supporting," or "not supporting" its designated use(s). EPA consolidates the summary data from all the States' Section 305(b) reports into a national report for submittal to the Congress. EPA uses this national report to measure its performance towards achieving its goal of clean and safe water. The 1998 PPA required ODEQ to submit a comprehensive Section 305(b) report to EPA.

The requirements, purpose, and uses of the Section 305(b) reports are stated in EPA's Guidelines. Some of the uses include: (i) reports to the Congress to meet Clean Water Act requirements, (ii) a primary source of national information on water quality, (iii) educating citizens and elected officials, (iv) helping to focus resources on priority areas, and (v) providing assessment data which is more useful and accessible to decision makers. To meet those intended uses, the Region needs to work with ODEQ to ensure that the Section 305(b) reports comply with the requirements of the Act, EPA Guidelines, and the PPA.

Impaired Water Body Reports

ODEQ submitted 303(d) reports for 1996 and 1998. We evaluated only the 1998 report and based on our testing of a sample of water bodies, the 1998 Section 303(d) report was accurate and complete in accordance with EPA and regional guidance. This report was comprehensive, and included 1,168 water body segments identified as impaired for one or more designated uses as prescribed by Oregon's water quality standards. When developing the report, ODEQ sought all available information on whether water bodies are violating water quality standards, including data from individuals, organizations, and government agencies, as well as ODEQ's own monitoring data.

Section 303(d) of the Act requires each State to prepare a report listing all water bodies that do not fully support their designated use(s). States are also required to establish a priority ranking for these impaired water bodies, and submit the report and priority ranking to EPA every 2 years

for approval. Based on the priority ranking, the States are further required to develop TMDLs, which are allocations of how much pollution each discharger will be allowed to release into each water body, plus a margin of safety. TMDLs describe the amount of each pollutant a water body can receive and still not violate water quality standards.

ODEQ developed a decision matrix to supplement the Section 303(d) report. The decision matrix summarizes the following for each water body:

- Name and Description
- Water Body Segment
- Parameter
- Criteria
- Season
- Basis for Consideration of Listing
- Supporting Data or Information
- Rationale for Not Listing
- Listing Status
- Listing Change From 1994/96

The decision matrix provides The Region and the public with clear documentation of the rationale for ODEQ's listing decisions, and provides a crosswalk from the current list to the prior Section 305(b) report and Section 303(d) list. In our opinion, this decision matrix is an effective tool or a "best management practice" that could be used by other States to effectively document the rationale for decisions made during the Section 303(d) listing process.

ODEQ established a multi-step process for priority ranking and targeting of TMDLs for its impaired waters. Using this priority ranking process, ODEQ scheduled target dates for completion of TMDLs by sub-basin over the next 10 years for all waters on the Section 303(d) list. The process assigns four levels of priorities with the highest priority to sub-basins that contain water quality problems that affect threatened and endangered fish species or human health.

Regional Oversight

The Region had procedures to evaluate and provide comments to Oregon's on Section 305(b) and Section 303(d) reports, the priority ranking for impaired water bodies, and TMDLs. However, the Region had not approved Oregon water quality standards within the time frame required by regulation. 40 CFR 131.21(a) requires the Region to approve the standards within 60 days, or disapprove the standards within 90 days. As of December 1998, 2½ years after the 1996 standards were submitted, the Region had not approved them. According to the Region, the main reason contributing to the delay was the required Endangered Species Act consultations with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. These consultations are extensive and include correspondence, meetings, tele-conferences and site specific discussions.

The recovery of endangered salmonid species in the Oregon standards made it important to complete the consultation prior to the Region approving/disapproving them on time. Although the Region has not approved Oregon's water quality standards, ODEQ adopted and implemented those standards in 1996. We believe that untimely reviews by the Region could result in adverse environmental effects if the ODEQ's standards are not found adequate to protect water quality.

The Region reviews the States' monitoring programs and may give input to the States on future monitoring priorities through the PPA process. The Region also provides technical assistance to States when needed, although it does not approve the States' monitoring program or strategies. The Region's role is assistance, sharing of information, and collaboration, as opposed to regulatory oversight of States' monitoring programs. According to the Region, ODEQ has the most balanced monitoring program of all the Region 10 States.

Innovative Accomplishments

Oregon has completed several innovative and challenging accomplishments relating to its water quality program that deserve recognition. These accomplishments include: (i) a TMDL which significantly improved water quality in the Tualatin sub-basin as a result of several government entities working together; (ii) a volunteer monitoring program for lakes; (iii) an agreement for state and local governments and private industries to work together to improve beneficial uses; (iv) a method to provide a simple and concise measure of water quality; (v) a complete listing of impaired waters in Oregon; and (vi) laws to control nonpoint source water pollution.

- Oregon reported that general water quality conditions have significantly improved at all of the Tualatin Sub-basin sites monitored since 1988 when a TMDL was issued. A number of governmental entities worked together to limit discharges of nutrients to the river. Waste load allocations were assigned to point sources and load allocations were assigned to nonpoint sources as necessary to achieve the in-stream criteria. Monitoring included ambient studies to assess changes in the overall water quality and time and site-specific studies to determine the effectiveness of specific water quality control projects and management practices designed and installed to mitigate water quality problems.
- ODEQ initiated a volunteer monitoring program for selected lakes in 1988 called the Citizen Lake Watch Program. One of the primary goals was to characterize and identify changes in physical, chemical, or biological characteristics in Oregon lakes. ODEQ and various contractors coordinated the program until 1991, when the program was transferred to Portland State University. In 1996, 41 volunteers spent over 600 hours sampling 28 lakes around Oregon. The results of the volunteer monitoring are used to assess water quality of lakes in the Section 305(b) report.
- The Healthy Stream Partnership is an agreement, coordinated by the Governor's Office, between Federal, State and local governments and private industries to work together to

improve the health and function of aquatic systems and enhance beneficial uses of water for future generations. The partnership addresses all of the factors impacting water quality in high priority streams in the most intensive and progressive manner possible while also enhancing positive ongoing programs throughout Oregon. As a result of the Healthy Stream Partnership, the Oregon Plan was developed. The Oregon Plan provides a focus on salmon recovery through the formation of basin work teams. It identifies numerous tasks and measures to be conducted by all partners including ODEQ. The focus is on the needs of salmon, but it will also conserve and restore crucial elements of natural systems that support fish, wildlife, and people. The Oregon Plan involves the following elements: (i) coordination of effort by all parties; (ii) development of action plans with relevance and ownership at the local level; (iii) monitoring progress; and (iv) making appropriate corrective changes in the future.

- In order to determine whether objectives are being met, and to see if water quality programs are making a difference environmentally, ODEQ's laboratory division measures results through the Oregon Water Quality Index (OWQI). The OWQI is a single number that expresses water quality by integrating measurements of eight water quality parameters (temperature, dissolved oxygen, biochemical oxygen demand, pH, ammonia and nitrogen, total phosphates, total solids, and fecal coliform). Its purpose is to provide a simple and concise method for expressing ambient water quality. The index relies on data generated from routine ambient monitoring and is used to analyze trends in water quality over long time periods. Oregon's ambient water quality monitoring network is designed to measure cumulative impacts from point and nonpoint sources of pollution in a variety of conditions. The OWQI allows users to easily interpret data and relate overall water quality to variations in specific categories of impairment. It can also identify problem areas and trends in general water quality. The index provides a basis to evaluate effectiveness of water quality management programs and assist in establishing priorities for management purposes. The OWQI for 1997 indicated 52 percent of the stream sites had significantly increased trends in water quality and none had significantly lower trends in water quality.
- As stated in the "Impaired Water Body Report" section above, we believe that Oregon's Section 303(d) report of impaired waters and corresponding decision matrix is a "best management practice." Oregon's assessment process resulted in a very detailed and comprehensive list of impaired waters and clear documentation of the rationale for all listing decisions made by ODEQ.
- In 1993, Oregon approved Senate Bill 1010, which required the Oregon Department of Agriculture (ODA) to help reduce water pollution from agricultural sources. Senate Bill 1010, which was crafted with the input and support of the agriculture industry and the State Board of Agriculture, helps the industry address water quality in key areas. ODA works with farmers and ranchers to develop overall Water Quality Management Plans for listed watersheds. The Plan may require actions to prevent or control water pollution.

ODA provides technical help and funds to help mitigate and correct problems. Civil penalties may be assessed for violations of the Plan requirements. ODEQ believes that the approach offered under Senate bill 1010 is innovative and found only in Oregon.

RECOMMENDATIONS

We recommend that the Regional Administrator:

1. Ensure that ODEQ adopt criteria for all priority pollutants in its next review of toxics standards.
2. Ensure that ODEQ prepares an anti-degradation implementation plan in its next triennial review of water quality standards.
3. Work with ODEQ to ensure that the Section 305(b) report is submitted bi-annually as required by the Act and is completed according to EPA's guidance, and the PPA.
4. Provide timely approval or disapproval of ODEQ's water quality standards.

REGIONAL AND STATE COMMENTS

A draft report was provided to the Region and ODEQ on February 2, 1999 for their comments. Both the Region and ODEQ responded to the draft report and their comments are included as APPENDIX A to this report. They generally agreed with the findings and recommendations. Their responses included suggested changes to factual matters in the draft report. We have incorporated those changes, as appropriate, in this final report. With regard to recommendation No. 3, the Region had raised a concern to the Office of Water at EPA Headquarters about competing deadlines for the 305(b) and the 303(d) reports.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

March 16, 1999

Reply To
Attn Of: OW-134

Truman R. Beeler
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75 Hawthorne Street
19th Floor, Mail Code I-1
San Francisco, CA 94106-3901

Dear Mr. Beeler:

This letter is in response to the February 2, 1999, request for review and comment on the draft Audit Report on Oregon's Water Quality Program. I appreciate the opportunity to review and comment on the draft audit report. Our comments and concurrences on the findings and recommendations follow below. Enclosed with this letter is a letter from Oregon Department of Environmental Quality (ODEQ) with their comments on the draft audit report.

Background: This summary of the Clean Water Act and its provisions related to water quality standards is accurate; however, we suggest a revision to the fourth paragraph on page 2 for clarification. We suggest revising the second sentence to read: "From this list, the State is required to develop total maximum daily loads (TMDLs), which are allocations of how much pollution each discharger **or source** will be allowed to release into each water body **while ensuring the water body** still meets the State's water quality standards (WQS)."

Water Quality Standards: We concur with the findings presented in this section; however, we would like to provide additional information to more accurately reflect the Environmental Protection Agency's (EPA), Region 10 situation. Prior to the review of Oregon's 1996 WQS revisions, EPA adhered closely to the specified deadlines for approval/disapproval of State WQS. In this particular case, the additional effort required to complete Endangered Species Act (ESA) consultation prior to approval/disapproval caused significant delays in the review of Oregon's standards. The significance of Oregon's standards for the recovery of endangered salmonid species led the EPA to conclude that it was especially important to complete consultation prior to the Clean Water Act decision even at the risk of delaying the decision.

Monitoring - Testing and Assessing Water Quality: We concur with the findings under this section and have no further comments.

Comprehensive Water Quality Assessment and Impaired Water Body Reports: We concur with the findings of this section; however, we note the following correction. Under Impaired Water Body Report, Oregon's final 303(d) list contained 1,168 water body segments, rather than 1,163 water bodies.

Regional Oversight: We concur with the findings under this section and have no further comments.

Innovative Accomplishments: We generally concur with these findings; however, we refer you to Oregon's comment letter for a more accurate reflection of the Tualatin TMDL and Oregon's nonpoint source program.

Recommendations:

1) *Work with ODEQ to ensure that the Section 305(b) report is submitted in accordance with time frames of the Act and is completed according to EPA's guidance.* We concur with the recommendation; however, until the regulations are changed to resolve the problem of both the 303(d) list and the 305(b) reports due at the same time, it will be a significant challenge for us to ensure that Oregon meets the statutory deadlines. Both reports are based on the same data sets and require the use of the same staff, which makes it difficult for the State to cover development of both reports at the same time. Region 10 has raised the concern about the competing deadlines to the Office of Water at EPA Headquarters and has suggested that the deadlines be changed in the TMDL regulations currently under review.

2) *Ensure that ODEQ adopt criteria for all priority pollutants.* We concur with this recommendation. We note that the State in its comments has agreed to consider adopting these criteria in the next triennial review cycle. However, we are aware that the State has a lot on their plate for the next review so that the State may not be able to complete adoption of these criteria until the following triennial review cycle. As a result of the ESA consultation on Oregon's Temperature, Dissolved Oxygen (DO), and pH standards, the State will need to adopt revisions to its Temperature and DO standards. This work, in addition to standards identified by EPA for revision in the next Triennial Review, will take priority over the eight criteria identified in the Report. Given resource constraints at both the State and EPA, the State may put off final work on these priority pollutants until the following Triennial Review cycle.

3) *Ensure that ODEQ prepares an anti-degradation implementation plan.* We concur with this recommendation. Additionally, the State committed to develop and adopt an anti-degradation implementation plan.

4) *Provide timely approval or disapproval of ODEQ's water quality standards.* We concur with this recommendation with the following comment. EPA's forthcoming revisions to the WQS regulations (the Alaska Rule), will focus the Agency's attention on developing procedures to meet the statutory deadlines for approval/disapproval of state water quality standards. In addition, a Memorandum of Agreement between the Services and EPA, published in the Federal Register on January 7, 1999, provides a framework to facilitate ESA consultation in order to meet the statutory deadlines of the CWA. However, even with this framework the process of consultation with the Services under ESA is a complex and time consuming process.

Where there are serious issues brought up in the consultation, we may not be able to meet the 60 or 90-day time frame called for in the CWA. Region 10 is working with the Services at the regional level to develop a more streamlined process to complete ESA consultation in order to meet the CWA statutory deadlines.

This concludes our comments. Thank you again for the opportunity to review the draft audit report. If you have questions on our comments, please do not hesitate to call me at (206) 553-1234, or you may contact Dru Keenan of my staff at (206) 553-1219.

Sincerely,

Chuck Clarke
Regional Administrator

Enclosure

cc: Michael Llewelyn
Andy Schaedel
Dick Pedersen

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Oregon

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Re: Oregon's Water Quality Program
Draft Audit Report No. E1HWF8-10-0024

Dear Chuck:

This letter is in response to the February 2, 1999 request for review and comment on the draft *Audit Report on Oregon's Water Quality Program* by Truman Beeler, Divisional Inspector General for Audit. In general, we concur with the findings in the report. We are submitting the following comments in regard to findings and to improve the accuracy of the report. We did not review in detail the citations referencing the Clean Water Act.

Water Quality Standards: The Department agrees that we do not have water quality standards for the following 9 out of 99 priority toxins for which EPA has published criteria: bromoform, chlorodibromomethane, DDD, DDE, endosulfan sulfate, endrin aldehyde, methyl bromide and pyrene. These will be considered along with other parameters in our next triennial standards review.

The Department does have an antidegradation policy (OAR 340-41-026(1)(a)) but does not have an implementation plan. The Department is committing to develop such a plan in the next biennium (1999 - 2001).

Monitoring: This appears to be an accurate summary of the monitoring program.

Comprehensive Water Quality Assessment Reports (305(b)): It is true that DEQ did not submit a 1996 305(b) Report and turned in a minimal 305(b) Report for 1998 due to our focus on developing an adequate and approvable 303(d) List. The Department would like to develop a more detailed 305(b) report similar to those that were completed by DEQ between 1979 and 1994. However, we are likely to run into similar conflicts as we did in 1998 due to the same deadline for both of these documents (April of even numbered years). It would be better if these deadlines were a year apart or developed at a different frequency as the 305(b) report uses much of the data that is gathered in developing the 303(d) list. We will be exploring the option of filing an electronic version in the coming months.

Impaired Water Body Report: The information is generally correct. We have two minor edits: there are 1,168 water body segments on the final 1998 list (1,163 segments were on the draft list). Water bodies that were identified as being of potential concern were mainly those waters where we had information (mainly from the 1988 Nonpoint Source Assessment surveys) about potential problems but did not have any supporting data for listing purposes.

Regional Oversight: Generally concur.

Innovative Accomplishments: We appreciate the fact that the auditors recognized many of Oregon's innovative and challenging accomplishments in the report. The following are suggestions for improving the accuracy.

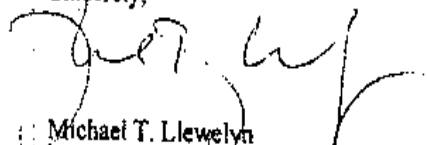
Tualatin sub-basin TMDL: The following agencies should be added to the three that were included: Unified Sewage Agency of Washington County, City of Portland, Clackamas County, Washington County, West Linn, and Lake Oswego. Much of the significant improvement was due to implementation of advanced wastewater treatment for nutrients (ammonia and total phosphorus) at major wastewater treatment plants in the sub-basin. We are seeing some progress and water quality improvements due to implementation of BMPs as well.

Healthy Stream Partnership: The Oregon Plan identifies numerous tasks and measures to be conducted by all partners including DEQ. The partnership also includes federal agencies.

Oregon Law to control nonpoint sources of pollution: There is a blend of law and program management that is mixed in this paragraph. Oregon uses permits, agreements, the state Forest Practices Act and SB1010 to implement the program. I believe that the innovative program that is unique to Oregon is the one that is required under SB1010 (which was approved by the 1993 State Legislature). This statute directs the Oregon Department of Agriculture to work with farmers and ranchers to develop overall Water Quality Management Plans for listed waters. While we have great pride in all of our programs for implementation of TMDLs, I believe that approach offered under SB1010 is innovative and found only in Oregon whereas many states have many of the other tools available to them. I have sent a brochure that has more detail about the SB1010 program separately to Janet Tursich.

We appreciate the opportunity to comment on the draft audit and appreciate the openness and flexibility of your auditors in working with us on this audit. If you have any questions on our comments, please contact Andy Schaedel at 503-229-6121.

Sincerely,


Michael T. Llewelyn
Administrator, Water Quality Division

Cc: Dick Pedersen
Andy Schaedel
Greg Pettit

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Division Administrator, Oregon Department of Environmental Quality