

Oregon's Zombie Permits: Fact Sheet

Northwest Environmental Advocates (NWEA) and the Northwest Environmental Defense Center (NEDC) have sued the Oregon Department of Environmental Quality (DEQ) for failing to protect Oregon's waters by not keeping pollution discharge permits current. While Clean Water Act permits expire after five years, they automatically continue indefinitely—like zombies—if DEQ does not issue new permits. DEQ's failure to renew permits ensures that dischargers avoid meeting new goals for water quality, new pollution prevention rules, and can ignore new scientific information on the quality of Oregon's waters.

Example: Oak Lodge, a Permit Started but Never Issued

Oak Lodge is a sewage treatment plant located in Milwaukie and discharging into the Willamette River. Its permit was issued in 2004 and expired in 2009—seven years ago. In 2013, Oregon DEQ proposed to renew the permit. But today, the Oak Lodge permit remains expired . . . yet another zombie permit.

Nobody knows why DEQ has not issued a new permit to Oak Lodge. We do know that the U.S. Environmental Protection Agency (EPA) told DEQ that the draft permit was missing many permit restrictions required by the Clean Water Act to protect public waters from pollution. Even though DEQ had had nearly 10 years to work on it, the draft permit for Oak Lodge suffered from a wide array of defects including:

- No limits on the discharge of temperature.
- No justification for allowing the plant to discharge excessive pollution beyond standards that protect human health and fish based on a so-called “mixing zone”—a regulatory invention that allows toxic hotspots.
- Missing federal pollution prevention requirements using existing technology.
- Incorrectly calculated pollution limits to ensure sufficient levels of dissolved oxygen in the Willamette River to support fish.
- No limits on mercury to ensure that Oak Lodge did not contribute to already unsafe levels of mercury in Willamette River fish.
- Not enough information to ensure that Oak Lodge did not contribute to existing unsafe levels of toxics in the Willamette, including for: copper, lead, mercury, silver, zinc, free cyanide, and bis (2-ethylhexyl) phthalate.
- No limits to comply with clean-up plans (“Total Maximum Daily Loads” or “TMDLs”) for temperature and mercury in the Willamette.

Take Home Message

DEQ's proposed Oak Lodge permit demonstrates it is just making excuses when it blames environmental group litigation for its problems in issuing timely permit renewals. Despite having a temperature TMDL clean-up plan in place for the Willamette River, DEQ proposed not only to ignore the requirements of that TMDL but also to use specified parts of the water quality standards for temperature that only apply when a TMDL does not exist. Thwarted in its plan to issue a permit that required no new pollution controls, DEQ issued nothing.

Apparently when DEQ could not issue a permit with water pollution restrictions that Oak Lodge could easily meet, DEQ chose not to issue any permit.