

Public Meeting for Citizen Input

An Ordinance to Protect Critical Water Resources in Dunes City, Oregon
I – Minimizing phosphorous releases from septic systems
and
Erosion Control Ordinance

October 18, 2006 – 7 p.m.

The meeting was facilitated by Dunes City Councilor Johan Hogervorst with approximately 30 audience members. Dave Bellemore condensed comments on a flip chart.

Hogervorst began the meeting by going over the following:

Objective: Collect public comment on two draft ordinances:

1. Septic Standards/Phosphate and Nitrogen Reduction
2. Sediment and Erosion Control Ordinance

Ground Rules

1. No Personal Attack
2. Be Respectful of the Speaker on the Floor
3. Focus on Content of Ordinances
4. Limit Comments to 5 minutes

Testimony:

Mark Chandler

Comment on Phosphorus Ordinance: Chandler provided an exhibit from the EPA titled “Court Ordered Buffers Around Pacific Salmon-Supporting Waters.” Chandler recommended the following:

1. Include provision that there be no pesticides and fertilizers.
2. Ban pesticides within 20 yards of fish bearing waters. Woahink Lake, Woahink Creek, Siltcoos Lake and Siltcoos River.

Exhibit follows:

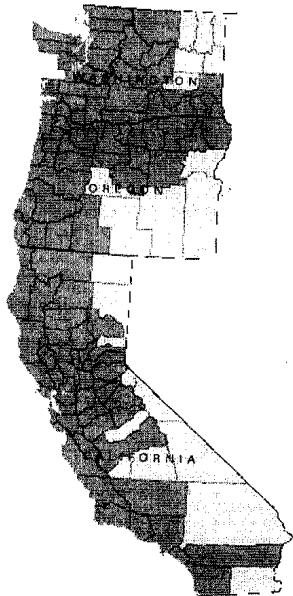
U.S. ENVIRONMENTAL PROTECTION AGENCY

Court Ordered Buffers Around Pacific Salmon-Supporting Waters

Shaded Counties on the map below, are those that support threatened and endangered salmon or steelhead habitat, and in which pesticide use buffers may have been ordered by the court. If you plan to use any of the pesticides subject to the court order in a shaded county **YOU SHOULD FIRST READ THE BACKGROUND** section. Pesticide users are urged to check this site, before, but close to the time of application of the pesticide, since the buffers may become unnecessary as EPA continues its review of the pesticides subject to the court order.

Quick Resources

- [Court Ordered Limitations](#)
- [Effects Determinations and Consultations](#)



BACKGROUND

A citizen suit was filed under the Endangered Species Act against EPA by a group of environmental organizations (Washington Toxics Coalition, et al. v. EPA). In response, the United States District Court for the Western District of Washington issued on January 22, 2004, an order that establishes pesticide buffer zones. Buffer zones are areas adjacent to certain streams, rivers, lakes estuaries and other water bodies, in which the court is ordering certain pesticides not be used. Generally, the buffers established by the Court are 20 yards for ground application and 100 yards for aerial application, adjacent to certain "salmon-supporting waters" in Washington, Oregon and California. The order applies to pesticide use in these three states, for any product containing one or more of the [pesticides subject to the court order](#).

The Court Order which became effective on February 5, 2004, defines salmon-supporting waters as certain water bodies below the "normal high water mark" and thus, any buffer should be measured from that normal high water mark. The buffers apply to the waters indicated on our interactive mapper, and to estuaries relevant to each of the salmon and steelhead. An estuary is a water passage where a tide meets a river current. Failure to comply with the court order is not a violation of the [Federal Insecticide and Fungicide Act \(FIFRA\)](#). [EXIT Disclaimer](#) However, EPA recognizes the legal effect of the Court's order and is providing the information on this Web site and linked sites, to assist pesticide users in understanding the specific provisions of the Court's order.

There are several general exceptions to the buffers in the court order and many pesticide specific variations. You should read the [general exceptions](#) to determine if any buffers apply to your use of the pesticides subject to the order.

If the general exceptions do not apply to you, consult our interactive map to determine whether a specific buffer applies to your use of a pesticide, and the waters to which that buffer applies. Enter our [interactive map](#) site to determine how the Court's order applies to a pesticide use you intend to make.

GENERAL EXCEPTIONS

Below are descriptions of specific uses for which there is no buffer for any of the pesticides subject to the court order, and uses where only a one yard buffer applies for any of the pesticides subject to the court order. Also below are specific exceptions that apply to Noxious Weed Control Programs, and Programs Authorized by the National Marine Fisheries Service.

USES FOR WHICH THERE IS NO BUFFER

No buffers apply for the following uses of any of the pesticides subject to the order:

- Use in a public health vector control program administered by a public entity
- Use to manufacture an end-use pesticide product
- Use in flea or tick collars for dogs or cats
- Indoor uses
- Use by tree injection
- Homeowner applications to household potted plants

USES FOR WHICH THERE IS A ONE YARD BUFFER

A one yard buffer applies for the following uses of any of the pesticides subject to the order:

- Localized spot treatments using hand-held, ready-to-use devices, as long as the area treated is limited to 10 percent of the treated right-of-way, roadside, pasture, lawn or forestry site
- insect bait stations
- spot treatments of wasp and hornet nests, as long as the area treated is limited to 10 percent of the treated right-of-way, roadside, pasture, lawn or forestry site
- individual tree removal using cut stump applications
- basal bark applications to individual plants

NOXIOUS WEED CONTROL PROGRAMS

Buffers for use of the pesticides for noxious weed control are the same as those indicated for your use area and the specific active ingredient, on the interactive map with the following exceptions:

- A. Application of a pesticide registered for aquatic use, and used to control state-designated noxious weeds as part of a program administered by a public entity, does not require any buffer if:
 - The application is overseen by a Certified Applicator AND
 - Precipitation is not occurring or forecast to occur within 24 hours.
 - If using 2,4-D or Triclopyr, only the amine formulations are used.

- B. Application of a pesticide which is not registered for aquatic use, but used to control state-designated noxious weeds as part of a program administered by a public entity, requires only a 15 foot buffer if:
 - The application if overseen by a Certified Applicator AND
 - Precipitation is not occurring or forecast to occur within 24 hours, AND
 - Winds are not greater than 5 mph AND

- o If using 2,4-D or Triclopyr, only the amine formulations are used.

**PROGRAMS AUTHORIZED BY THE
NATIONAL MARINE FISHERIES SERVICE (NMFS)**

Use of a pesticide undertaken as part of a specific agency action (other than EPA's authorization of a pesticide use under FIFRA) as authorized by:

- a no-jeopardy biological opinion issued by NMFS that addresses the pesticide's use and effects on a salmon Evolutionarily Significant Unit (ESU), and an incidental take statement issued by NMFS under the Endangered Species Act (ESA) Section 7(a)(2) that authorizes the take of listed salmon or steelhead;
- a written concurrence by NMFS in a "not likely to adversely affect" determination issued under ESA Section 7(a)(2) that addresses the pesticide's use and effects on a salmon ESU;
- an incidental take permit issued by NMFS under ESA Section 10(a) that authorizes the take of listed salmon or steelhead from application or use of the pesticide; or
- a limit on the take prohibition of ESA Section 9 with respect to a specific use of a pesticide promulgated by NMFS pursuant to ESA Section 4(d) and incorporated into the salmon 4(d) rule codified at 50 CFR § 223.203.

PESTICIDES SUBJECT TO THE COURT ORDER

If you are planning to use a pesticide in one of the counties shaded in green on the map above, and that pesticide contains one or more of the active ingredients listed below, there may be court ordered buffers that apply to your use of the pesticide. You are encouraged to review the BACKGROUND section above to determine the general exceptions and then to use the interactive map to determine specific buffers the court has ordered and the waters to which those buffers apply. You are encouraged to check this site, before, but close to the time of pesticide application, since the information may change as EPA continues to review the pesticides and certain buffers may no longer be necessary.

1,3-dichloropropene	dimethoate	metolachlor
<u>2,4-D</u>	<u>disulfoton</u>	metribuzin
<u>azinphos-methyl</u>	<u>diuron - crop</u>	<u>naled</u>
bensulide	<u>diuron - non-crop</u>	oxyflourfen
bromoxynil	<u>ethoprop</u>	pendimethalin
<u>captan</u>	<u>fenamiphos</u>	<u>phorate</u>
<u>carbaryl</u>	fenbutatin oxide	prometryn
carbofuran	lindane	propargite
<u>chlorothalonil</u>	malathion	tebuthiuron
<u>chlorpyrifos</u>	<u>methidathion</u>	<u>triclopyr BEE</u>
coumaphos	<u>methomyl</u>	<u>trifluralin</u>
diazinon	<u>methyl parathion</u>	
diflubenzuron		

Unidentified Citizen

The pesticides on the market are regulated by the EPA and are inert when they contact the ground; therefore, there is no chance of contaminating the lakes, rivers.

Cost of a phosphorous containing system is not good. His system does not allow phosphorous to travel but a few feet and he is not close to the lake.

Bill Sathé—

Straw bales do not work for flooding and will not keep silt from entering the lake. Commented that opening the dam would flush the lake out. Erosion comes from the arms.

Unidentified Citizen

The majority of Siltcoos and its problem are in Douglas County.

Darlene Beckman

Septic Ordinance p. 31, d and c; not appropriate in the ordinance at this time. The systems are not approved by the EPA. Wait until systems are on the market and do not put in the ordinance now. Wait until outside sources are found to deal with the costs.

Dick Anderson

Need to cooperate and partnership with other entities such as ODOT, timber company, watershed users and include them in the Ordinance. It would do everyone good, not just a small part of the whole picture.

Bill Sathé—

Will there be public comment when changed at the PC Level? Hogervorst: Yes.

There are concerns from builders that they want to talk to the group; that the costs will make the houses too expensive.

Measure 37 lawsuits will occur if the ordinance is passed.

How are the ordinances going to be enforced? He does not like the City to tell citizens what they can and cannot do. He is concerned that the City is over-regulating its citizens. Sathé was also concerned that these ordinances may lead to more restrictions such as burning which keeps him from using chemicals to control diseases on fruit trees and berries.

Lori Robertson

Higher Density will require more regulation.

Lee Riechel

Erosion Ordinance – break into white paper and draft septic ordinance as section 12. The items are tutorial in nature and do not belong in ordinance form.

Minimize the cost to citizens and landowners.

Rex Wampler

No more homes should be built on Woahink Lake. There is currently sewage going into the lake.

Bill Sathe

New lake front lots could afford to keep septic systems 500' from the lake. Most are over an acre, so they should be okay.

Mark Chandler

50' riparian setback is minimal compared to other areas around the US – he would like to see a larger buffer.

Rick Cox

What do you do with existing homes and applying new standards?

Unidentified Citizen

People don't think the lake is being taken care of—whose jurisdiction is the lake? Hogervorst answered that the State regulates the water, but it is in the best interest of the City to protect the drinking water.

Ken Greger

Has anyone checked on other types of septic systems or toilets? Hogervorst answered that those looked into were not well tested and not approved by the DEQ.

George Burke

The State controls who can take water from the lake.

Teresa Sathe

Systems have not been proven to do what they say they do. Why are we going to require them?

Bill Sathe

DC makes people replace a septic with a more expensive system when they don't live anywhere near the lake.

There was a discussion about the proposed septic ordinance and its requirements. Effluent from the drainfield will have to be tested by sending off to University of Washington (may find a more local source). There was concern for the cost that would be incurred to each citizen. There was a comment that the citizens should have had an opportunity to vote on the Septic Maintenance Ordinance 173 – could the citizens still vote? Hogervorst said that was an issue for the City Council.

Hogervorst explained the process of getting an ordinance passed.

John Stead

PC will have a public hearing. There will be another public hearing at the City Council level.

Unidentified Citizen

He has a low pressure system and it is recommended by the pumping service that it be pumped every five years. He is in favor of the Septic Maintenance Ordinance.

Troy Sathe

Most people in Dunes City are great stewards of the land. Need to look at how much pollution is from septic, how much from boats, swimmers, wildlife, geese, highway (grease and oil).

State Parks have septic within close proximity of the lake.

Gordon Robertson

Erosion 1.113 a, b, c, d: Square footage too restrictive and too small to be practical.

Darlene Beckman

Size restriction could be enlarged for the erosion control ordinance.

There is a need for an engineer and hydrologist or required plan necessary in some locations, but not as many as provided in the ordinance.

Lori Robertson

Need standards and thresholds to determine the type of plan required.

Lee Riechel

Need definition for disturbance of land.

Gerald Reavis

He wants to let the Council know that there is more than one person that agrees with the comments voiced tonight.

Troy Sathe

MSC – against all building in the City? What is the committee about and what is their agenda?

Hogervorst explained the need for a moratorium.

Meeting adjourned at approximately 9:00 p.m.

Submitted by Christina Lewis, Recording Secretary