

Underwater

The agency responsible for monitoring polluters of Oregon's waterways is the most backlogged in the country

BY EMILY GREEN
STAFF WRITER

Oregon has the stiffest water pollution regulations of any state in the U.S. Sounds impressive, right?

Think again.

Oregon is dead last nationwide when it comes to keeping wastewater permits current with state regulations. According to the EPA's most recent data on the status of each state's stormwater and wastewater permits, Oregon has the highest percentage of expired state-issued permits nationwide.

Most of the state-issued permits polluters operate under have long-passed their original expiration dates — in some cases by 20 years or more.

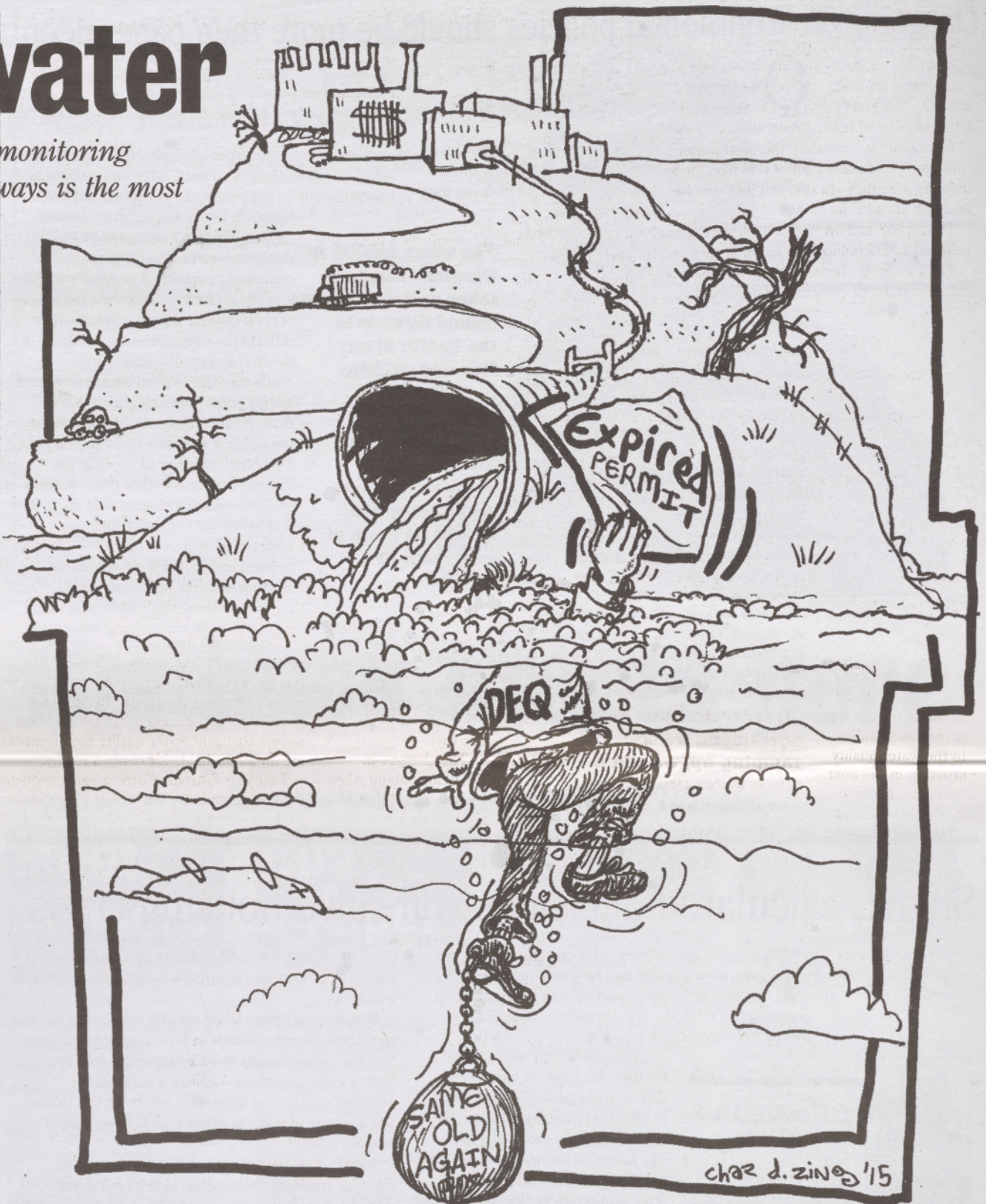
This means these permit holders have to be in compliance only with laws that existed when their permits were written, not with current laws. In the past two decades, numerous changes to state regulations have reduced permissible levels of toxics and temperature in wastewater.

Under the Clean Water Act of 1972, facilities and municipalities releasing wastewater directly into U.S. waterways must adhere to limits outlined in EPA or state-issued wastewater and stormwater permits. The Oregon Department of Environmental Quality issues these permits in Oregon, under the oversight of the EPA. Under the Clean Water Act, DEQ is supposed to revise water-quality standards every three years and renew each permit every five years.

But according to DEQ's current backlog count, 63 percent of existing state-issued permits for releasing stormwater and treated wastewater directly into streams and rivers are expired. An alarming 76 percent of major wastewater permits — issued to facilities with more than 1 million gallons of wastewater flowing through their treatment plants every day — also are operating on administrative extensions. Because permits are written five years before they expire, there are many municipal sewage facilities and several large industrial facilities operating under permits written in the late 1980s and early 1990s, when regulations were much less stringent than they are today.

For example, TDY Industries in Albany — a metals manufacturer that is one of the state's top polluters according to the EPA — is operating under the parameters of a wastewater permit that was written in 1988. Most of the state's municipal sewage treatment plants are operating under expired permits as well. Klamath Falls' is the oldest, written in 1990.

The amount of pollution a permit allows is based on many factors, including the number and size of other facilities contributing to the pollution of a waterway, the temperature of the water and the



condition of wildlife living in the area.

"It's very circumstantial, and those circumstances can change, and they do change, as well as the scientific knowledge," says Nina Bell, an attorney who specializes in the implementation of Clean Water Act programs as the executive director of Northwest Environmental Advocates. She says when the Clean Water Act was written, Congress understood that science was going to be changing rapidly and that permits needed to keep up with it — that's why permits are supposed to be rewritten every five years.

"We have a much better idea of the science behind what pollution does to people, fish and wildlife. And that change in our scientific understanding is supposed to

be reflected in our water quality standards," says Bell. "In that course of time you could also have species that have come to the brink of extinction and are listed as threatened or endangered and need the protection a new permit might afford. There could be studies that show there's contamination in fish or water that we didn't know about the last time the permit was issued. The amount of water in the stream that dilutes the pollution could change over that period of time as well — whether because there are more withdrawals or from the effects of climate change," she says.

In 2012, Oregon's waterways were ranked the 33rd most polluted in the nation, according to the Environmental Protection Agency's Toxics Release Inventory.

So why is DEQ allowing polluters to operate under such outdated parameters? It's not because polluters are failing to reapply for new permits. They are applying on time, which removes their liability. According to DEQ, it just doesn't have the resources it needs to do its job.

Greg Aldrich has worked for DEQ for 15 years and is the former head of its water quality program. He's seen backlogs like the one DEQ is experiencing before. He says the program was the most backlogged in the nation in the early 2000s as well, but then DEQ ramped the water program's funding, creating more positions, and it started to catch up.

Then the recession hit.

See UNDERWATER, page 5