

Public records advocate calls for transparency

Cites fees as barrier

By **CLAIRE WITHYCOMBE**
Oregon Capital Bureau

SALEM — Oregon's departing public records advocate said high fees often create a barrier for requesters seeking public information, and called for more clarity and less discretion for public bodies assessing fees to fill those requests.

In her 11-page final report on Wednesday, Ginger McCall said fees were "perhaps the single most pressing issue related to public records requests." She also said there should be a way for those denied records by elected officials to appeal without the costly step of going to court.

She also wrote that more resources, such as a tracking tool, should be dedicated to handling requests for government records. And she endorsed changes to state law to make the advocate more independent from political influence, saying an independent advocate would be more effective.

Gov. Kate Brown



Ginger McCall has issued her final report as the state's public records advocate.

appointed McCall last year to be the state's first public records advocate, a position created by legislation in 2017.

McCall resigned in early September, pointing to what she said were back-channel attempts to get her to quietly promote the governor's agenda on a state council considering changes to the state's public records law.

Oregon public bodies have wide latitude on how they charge fees, allowing for "vastly different fees" to be assessed, McCall wrote

in her report, and that discretion is the "root cause of much of the confusion and animosity around fees."

According to a survey conducted by the state Public Records Advisory Council, there were "vast discrepancies in fee collection across public bodies." Some collected thousands in fees, while others collected little. Some agencies also charge requesters for the costs of having a government attorney review the documents.

McCall said there should be more recourse for those

whose requests for information are denied by elected officials. Under state law, Oregonians can only appeal elected officials' decisions on public records to a court.

"Most requesters lack the resources to vindicate their rights in court," McCall wrote. "This creates a lack of accountability around the decisions of elected officials as any disputes about the disclosure of public records in their possession can only be settled in court, which is an often prohibitively costly and time-consuming undertaking for most requesters."

She suggested an "intermediate appeal option" pertaining to records of elected officials. "While independence in state government is a challenge this advocate is familiar with, it is not impossible to imagine that some kind of separate, independent or simply walled-off office can exist which can provide a reliable review of elected officials' public records decisions," McCall wrote.

McCall also stressed that the office of the advocate should be independent. "The independence of this office

is important in order to be able to propose ambitious reforms, engage in meaningful and trusted facilitated dispute resolution, and even offer credible training on public records," she wrote.

In late September, the Public Records Advisory Council voted to propose legislation in 2020 that would ensure the advocate is a direct hire of the council, and can only be removed for cause by the council.

McCall said in her report that the proposed change "minimizes the potential for political interference by any one elected official, since the advocate will be reporting to the entire council."

Rachel Alexander, vice president of the Oregon Territory chapter of the Society of Professional Journalists, applauded the report. "I think Ginger hit the nail on the head with this report," Alexander said. "The four reforms she outlined square almost perfectly with what we hear from our members and from media outlets across the state."

She added that McCall demonstrated well how "issues like high fees pose a

barrier to requesters both in the media and members of the general public."

Scott Winkels, a lobbyist for the League of Oregon Cities and a member of the Public Records Advisory Council, was more cautious. He said he hadn't read the full report, but had read the section on fees.

"The law requires that we can get the cost, recoup the cost of providing the record," Winkels said. "Nobody should be turning a profit on it. As long as people are charging for the cost of the record, I think that's an acceptable practice."

He said he would be open to having a conversation about setting up a fee structure intended to discourage vague and overly broad requests, but reiterated Wednesday was the first he'd seen of McCall's report. "I haven't fully digested any of it, but if the (council) wants to take up this conversation, then we should do that," Winkels said.

The Oregon Capital Bureau is a collaboration between EO Media Group, Pamplin Media Group and Salem Reporter.

Officials pause review of methanol plant

Project planned for Kalama

By **MOLLY SOLOMON** and **ROB MANNING**
Oregon Public Broadcasting

The decision to approve a proposed methanol plant in Kalama is on hold, as the Washington Department of Ecology pushes for more information.

Ecology officials called the application "incomplete" and said they needed more specifics about the project's greenhouse gas emissions.

"Our review of the county's permit decision found significant information missing from the project's supplemental environmental impact statement and inadequate analysis of the project's potential effects on Washington's environment," the Washington Department of Ecology said in a news release Wednesday.

"We want a lot more details about what they're proposing to do," said Department of Ecology communications manager Jeff Zenk.

Northwest Innovation Works, or NWIW, wants to build in Kalama on the banks of the Columbia River. The \$1.8 billion plant would convert natural gas to methanol. From there, NWIW said it'd be shipped overseas to markets in Asia for plastics production.

The company has touted its technology and use of natural gas piped in from Canada as a "cleaner" energy alternative. A final environmental study released in August found that the proposed facility would help reduce global greenhouse gas emissions by displacing coal-based methanol production in Asia.

But environmental groups have pushed back on this assumption and called the company's greenhouse gas emissions analysis misleading.

In a letter to Cowlitz County's director of com-



Northwest Innovation Works

The proposed site at the Port of Kalama where Northwest Innovation Works is proposing a 90-acre methanol plant.

munity services, Elaine Pacido, Ecology officials listed seven specific sets of information the agency wants regarding the company's proposed reduction in greenhouse gas emissions. Those range from a list of emissions that would be included in the in-state mitigation plan to "an explanation of how NWIW proposes to select appropriate out-of-state carbon markets as mitigation for in-state emissions."

The letter also pressed county officials about the company's claim it would have "no significant unavoidable adverse impacts." Ecology wants more information to explain its analysis of greenhouse gas reduction.

"We would have liked to have seen the questions in our comment letter fully addressed in more detail," said Neil Caudill, with the Department of Ecology's air quality program, referencing comments Ecology made on the project's draft supplementary environmental review last December.

Caudill said the project is still largely in a design phase and wants NWIW to provide a variety of scenarios to Ecology of how the methanol could be used over a long period of time.

The Department of Ecology also has concerns about unanswered questions regarding the methanol's use globally, and whether the methanol will be used for plastics or if it will end up burned as a transportation fuel.

Documents obtained by Oregon Public Broadcasting this year suggested NWIW may have been misleading state regulators and

was presenting a plan to sell its methanol as fuel in the Chinese transportation market to potential investors. Environmental groups who oppose the project say a move like that would dramatically change the analysis of greenhouse gas emissions from the Kalama facility.

Kent Caputo, NWIW general counsel, said the company has looked at the request to Cowlitz County and said they "foresee being involved with responses as needed."

Caputo acknowledged the difficulty of the process, calling it "an unclear and

evolving regulatory environment," but said the company is "proud to be on the leading edge of driving very beneficial outcomes."

Washington Gov. Jay Inslee, who has no final say on the project, initially supported the methanol plant.

But in May, Inslee reversed his position and said he could no longer stand behind it.

Environmental groups that oppose the project are encouraged by the Ecology department asking more questions.

"Ecology is holding NWIW accountable," said Dan Serres, conservation director with Columbia Riverkeeper, a lead opponent of efforts to expand fossil fuel processing in Washington state and Oregon.

"NWIW has proposed the world's largest fracked gas-to-methanol refinery on the Columbia River, telling Washington regulators it will mysteriously help our climate," Serres said in a statement. "Ecology is following the law and seeking complete and accurate information before deciding on a permit of such importance."

The Department of Ecology has set a deadline of Nov. 7 for Cowlitz County, the Port of Kalama and NWIW to provide more information to the state. Ecology will then have 30 days to determine if an additional environmental review is needed, or it will issue a final decision on the shoreline permit.

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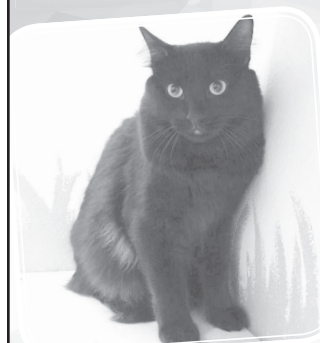
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