



# the HEPPNER GAZETTE TIMES

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## Port appeals DEQ groundwater contamination fine

*Says nitrate violations were unintentional and had minor effect on health or environment*

By David Sykes

The Port of Morrow is appealing a recent \$1.3 million fine from the Oregon Department of Environmental Quality for violating its permit by over-applying nitrogen to farm ground.

The Port collects wastewater from food processors, storage facilities and data centers in its industrial park outside Boardman. It has a permit that allows use of the nitrogen-rich wastewater beneficially for irrigation on nearby farms, but the permit includes limits on how much nitrogen can be applied to the farmland and how much nitrate can be present in soil prior to applications.

According to the DEQ, the port violated these limits more than a thousand times in a three-year period, resulting in approximately 165 tons of excess nitrogen being applied. The DEQ also said the port failed to monitor nitrogen at application sites on 121 separate occasions.

The allegations are serious since the permits are meant to stop overapplication and ensure nitrates don't filter down through the soil into groundwater used for drinking. Nitrogen is a beneficial plant nutrient but too much in drinking water can contribute to health problems in humans. The application area also has a long history of high groundwater nitrate levels.

In response to the charges and large fine, the Port did not dispute that it over-applied nitrates, only that its actions were "unintentional and beyond the reasonable control of the Port." It added that the penalty was excessive since the violations had no more than a minor adverse effect or threat on human health and the environment.

The DEQ's penalty on the Port was broken down into two fines. The larger penalty of \$1,227,600 was for applying "wastewater containing nitrogen during the winter irrigation season to fields where soil nitrate in the four feet to five feet soil level was equal to or greater than 30 lbs." thus exceeding its permit levels. In its appeal document the port said overapplication was caused by less available acreage and high winter precipitation which "forced" it to over-apply the nitrates. "When the permit was issued, the port believed that it had or would have



The Port of Morrow industrial park at Boardman.

sufficient land application acreage available to comply with the nitrate loading limits... of the permit. An unexpected combination of less available acreage and unusually high winter precipitation, however, forced the port to apply wastewater to sites that exceeded the nitrate levels specified," even though it tried to avoid the overapplication, it explained. The port added that "it has made and continues to make extraordinary efforts to avoid applying wastewater in the winter to sites that exceed 30 pounds of nitrate per acre."

The smaller fine of \$63,951 was for "failing to monitor nitrogen uptake in crops at each of its land applications sites." The port said although this was true, it should not be fined since it was not a violation of its permit. Although the permit requires it to monitor and record plant tissue nitrogen removal (a method to gauge nitrogen levels in the soil) "there are no standard methods for monitoring plant tissue nitrogen removal," and that the DEQ provided "no useful guidance on the appropriate method" even though the Port asked for that guidance. The Port said the DEQ did not provide an approved method of testing until 2021. "The Port was uncertain regarding both what information should be collected and how it should be collected. There are no standard methods, no method is specified in the permit and DEQ had not provided any useful guidance to the Port on an appropriate method," the appeal document states.

To handle its DEQ appeal the Port has hired Attorney Michael Campbell of Portland law firm Stoel Rives, LLP. According to its website, Stoel Rives has 10 offices located in seven states and Washington D.C. With its headquarters in Portland, it is the largest law firm in Oregon having 391 attorneys and a total of 721 staff. "Stoel



Attorney Michael Campbell

Rives is considered a leader in the Pacific Northwest in corporate, energy, environmental, intellectual property, labor and employment, land use and construction, litigation, natural resources and renewable energy law," the website stated. Attorney Campbell has "more than 30 years of experience helping hydropower, industrial and municipal clients obtain water quality approvals and find solutions to regulatory problems related to water quality," the site said.

Now that the appeal process is in place the next step will be a meeting between the Port and DEQ officials to discuss a settlement. "We don't have much to share right now beyond just that we've received an appeal from the port. The next step will be for DEQ

and the port to schedule an informal meeting to discuss the information the port has provided as part of the appeal letter, and see if we can reach settlement terms," Public Affairs Specialist with the DEQ Eastern Region Laura Gleim told the Gazette-Times.

"This is very standard procedure for our enforcement process", Gleim said. "If we can't reach settlement, the DEQ will refer the case to the state's Office of Administrative Hearings and request a hearing before an administrative law judge. Most cases do not reach this stage, but it would be the next step if we couldn't reach a settlement," she explained about the possible future course of the appeal.

## New doctor joins MCHD staff

By April Hilton-Sykes

Dr. Josh Sirucek has joined the Morrow County Health District staff and is now practicing in Heppner. Dr. Sirucek, who attended Monday's MCHD meeting, and his wife, Bonnie, have four children and indicated that they have plans to live in Heppner.

A "meet and greet" session with Dr. Sirucek has been scheduled for Tuesday, February 22, at 6:30 p.m. in the Pioneer Memorial Clinic Conference Room.

Dr. Ed Berretta, who lived and practiced in Heppner years ago, along with his wife, Dr. Jean Berretta, remains as chief of staff for the district. He presented a positive commentary to the board via letter, quoting Charles Dickens, "These are the Best of Times, These are the Worst of Times," ending with "It will Truly be The Best of Times."

Emily Roberts, MCHD CEO, announced that "Donna Sherman has assumed responsibility for EMS (Emergency Medical Services) on a permanent basis and is now the director of Laboratory and EMS Services." Roberts said that Sherman "started with the district's EMS program 13 years ago and brings a wealth of knowledge and experience."

Patti Allstott, human resources director for the district, announced that the district has hired 16 new employees since the November board meeting, including: a part-time physician for Hospice directorship, a part-time Hospice family nurse practitioner, a Pioneer Memorial Clinic certified medical assistant, a community relations and communications director, a fill-in radiology technician, a floating clinic medical assistant for three clinics (Heppner, Boardman and Irrigon), a full-time paramedic and ED technician, four temporary status hospital RNS, a hospital screener, a chief operating officer, a full-time lab technician, a Home Health and Hospice clerk, adding, "Dr. Sirucek is Here!"

## New Maple trees being planted



Hard at work replacing the old trees with the new saplings. -Photos by Hannah Finch.



One of the freshly planted trees standing tall in Memorial Park.

By Hannah Finch

If you've taken a walk down Main Street recently, you may have noticed something missing, or rather, something new.

Heppner has been working on an ongoing project to replant many of the trees that you'll find around town. Seven to eight trees were planted last year, and by the end of the project, there will be 25 new trees in place. The trees, coming from a nursery just south of Portland, can only be planted in winter while they are dormant.

Otherwise, transporting and planting could harm the tree, so it may be another season before all of the trees are planted.

When asked why the old trees were being replaced, Craig Cutsforth, the city manager, said that the old trees had reached maturity and were beginning to cause problems. Trees were falling over, damaging property and damaging the cement in the sidewalk. Many of the old trees were Bradford Pear trees, a species that is responsible for a foul smell and for the fruit that sits on the sidewalk.

Cutsforth says that these new trees shouldn't smell bad and won't be bearing fruit. Along Main Street, you can find Crimson Maples, a type of tree that in time, will grow to about 25 feet tall. They are much skinnier trees that will be much easier to trim and maintain, Cutsforth says. The trees in Memorial Park, the Pacific Sunset Maples, are supposed to grow to 50 feet tall and live for 150 years. All of the new trees will be very colorful in the fall and bring out the beauty of the season.



Dr. Josh Sirucek

The board approved a services agreement between MCHD and Nurse Practitioner Vicki Kent, ARNP, who will be working two 10-hour days.

Allstott also reported the district has scheduled

-See NEW DOCTOR/PAGE TWO

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