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Multnomah County Chair

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1221 SW 4th Avenue, Room 340
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February 18, 2016

Dear Governor Brown,

The recent discovery of dangerously high concentrations of cadmium, arsenic and other toxic heavy metals in Portland-metropolitan area neighborhoods is a cause of serious concern. What is even more disconcerting is that the presence of these metals and other air toxics in the Portland area has been recognized and well-documented by the Oregon Department of Environmental Quality (DEQ) for many years, but no action has been taken to curb these dangerous emissions. Multnomah County participated in the Portland Air Toxics Solutions Advisory Committee with the expectation that actions would be forthcoming to protect public health from sources of air toxics. In 2011 Multnomah County called on the state to adopt rules that would protect the public from area source polluters, but our calls for regulation were met with inaction. Should this inaction persist at the state level, it is our intent to explore options to establish a local Portland metropolitan-area regional air pollution authority pursuant to the provisions of ORS 468A.105.

Over ten years ago, the Oregon Environmental Quality Commission (EQC) took the bold step of writing regulations to address air toxics by granting Oregon DEQ broad discretion and authority to reduce air toxics through the Oregon State Air Toxics Program. The EQC recognized that gaps in the Federal Clean Air Act put the health and welfare of Oregonians at risk. Unfortunately, over three years into the first local air toxics reduction plan under these regulations, Portland Air Toxics Solutions (PATS), there has been very little concrete action to address sources of air toxics.

The consequences of Oregon DEQ's inaction are now clear. Last week hundreds of residents of Southeast Portland expressed urgent concerns during an open house hosted by the Multnomah County Health Department. We will hear from hundreds more tonight, Thursday, February 18th,

when we host a second community meeting at Harriet Tubman School. The message was unequivocal. Now is the time to act.

We are encouraged by your proactive stance on this issue and echo your call for additional action to close loopholes in the regulatory system. We recognize that Portland area issues with air toxics started long before you were governor. We believe, however, that your leadership will force long overdue accountability and action from DEQ. Toward that end, we are urging the state to take the following steps.

- **Immediate rulemaking and strategies.** DEQ has the ability and duty to implement rules to close gaps in the regulatory system. DEQ's regulatory authority under Division 246 is triggered when, among other events, "emissions inventory, modeling or monitoring, shows air toxics emissions from point, area, or mobile sources associated with public health risk at public receptors."¹ The recent air monitoring data collected by DEQ as well as past air toxics data from the Portland region clearly meet the threshold for DEQ action. In addition to rulemaking, DEQ also has broad authority to implement strategies to reduce sources of air toxics. We urge the DEQ to immediately exercise their authority, implementing strategies that will protect public health from the most acute sources of air toxics, particularly those sources that are creating localized hot-spots. We also expect rulemaking to begin in the near future that will lead to meaningful regulatory reform.
- **Revise Portland Air Toxics Solutions.** The EQC, DEQ, and Governor's Office, must work expeditiously to meet the requirements of the Oregon State Air Toxics Program "Geographic Program," which "must require emission reductions from the most significant sources of air toxics."² PATS, the Portland area Geographic Plan, did not require emission reductions. We ask that DEQ take this opportunity, at the three year assessment period for the PATS process, to require emission reductions. PATS needs to identify a plan for cleaning up our air, with clear benchmarks, statutory authority, and adequate funding to comprehensively address all sources of air toxics in our neighborhoods. This process should occur in tandem with, and compliment, rulemaking and the implementation of strategies outlined above.
- **Create statewide action plan on diesel.** The Governor and DEQ must develop and support comprehensive statewide regulation to require the phase out of dirty diesel equipment. This should be accomplished through the development of Source Category Rules and Strategies³, and/or through legislative action. Diesel PM alone contributes to over 400 premature deaths and costs the Oregon economy \$3.5 billion every year, and disproportionately affects communities of color. Immediately adjacent to both glass manufacturing facilities, highlighted in recent media reports, are rail yards that contribute thousands of tons of diesel PM annually, further compounding the environmental nightmare in these areas. All Multnomah County residents, however, are subject to

¹ OAR 340-246-0110(1)(a).

² OAR 340-246-0170(4)(f)

³ OAR 340-246-0110

unacceptably high levels of pollution from dirty diesel engines, and the state must do something about it, starting with rail yards adjacent to neighborhoods.

- **Provide adequate funding.** The state must devote adequate funding, staffing, and resources to conduct comprehensive monitoring of air and soil in all affected areas, including all areas identified as arsenic hotspots in the Forest Service moss study.
- **Establish a clear timeline.** We ask that the state provide a timeline and specific regulatory strategies that will be employed to comprehensively address air toxics pollution.

The protection of public health must be the paramount mission of the Oregon State Air Toxics Program. What is needed today is continued strong leadership from your office and the Oregon Legislature and, as local government leaders, we will stand shoulder to shoulder with the state to ensure our community is protected. We all need to breathe, and breathing clean air is a fundamental right for all.

Sincerely,



Deborah Kafoury
Chair, Multnomah County Board of Commissioners



Charlie Hales
Mayor, City of Portland