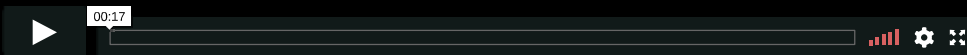




Leaving a Stench

How a system fueled by **corporate cash** lets foul air persist in The Dalles



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“Oregon is an inspiration to people elsewhere who believe they have no voice in government.”

— OREGON GOV. TOM MCCALL, SPEECH TO THE LEGISLATURE, 1973

Part Two of Four

March 1, 2019

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Photography by **BETH NAKAMURA**

The Oregonian/OregonLive

THE DALLES — To experience Oregon’s deference to powerful polluting industries, visit this Columbia River town 90 minutes east of Portland.

Then breathe deep.

The sickening smell of mothballs can burn the inside of your nose, even on what people here consider a good day.

Residents say when the worst fumes hit, the smell is so overpowering they can’t sit on their decks, let their kids play outside, mow their lawns, garden, sleep with the windows open or welcome out-of-town friends.

“There are times it’s nauseating – you just can’t stand it,” said Roger Pettit, 46, who lived a half-mile downwind until he moved last spring. “I gotta tell you, if I was diagnosed with cancer, I would immediately think it was because I lived here.”

In 2016, a few town residents decided they’d had enough. The ensuing battle to stop the stench shows what a political system fueled by corporate cash means for ordinary Oregonians.

No one donates more to Oregon lawmakers than business groups, an investigation by The Oregonian/OregonLive found. They give more per resident

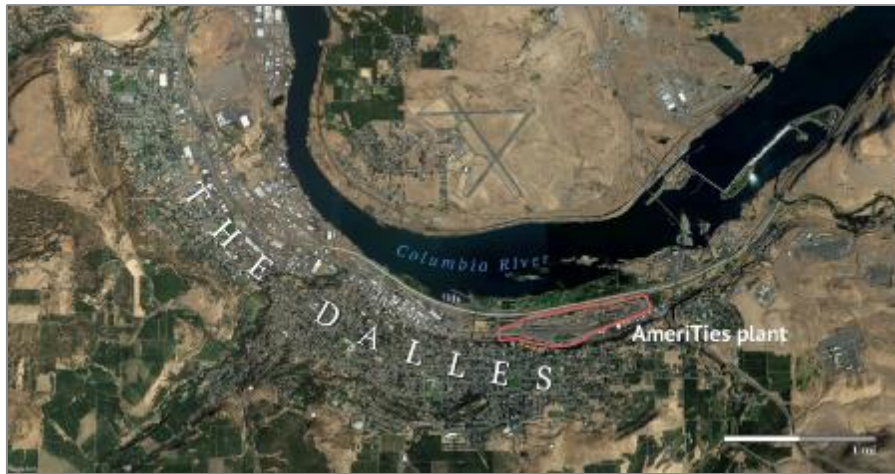
than anywhere else in the country. The money explains why Oregon has fallen behind on a long list of environmental protections.

Environmental regulators are under the steady watch of lawmakers who take hundreds of thousands of dollars from Corporate America. Industry gets a direct line to decision makers, while people who complain about pollution get shut out.

For nearly a century, The Dalles has been a dumping ground for one of Oregon's most environmentally destructive businesses — a railroad tie plant that contaminated the Columbia River, created a Superfund site and put the city's drinking water at risk.

But residents say what makes life miserable is the noxious air pollution created by the current owner, AmeriTies, and its use of creosote.

Creosote is a thick, black liquid derived from coal. It is used as a preservative to help wooden railroad ties withstand insects and weather. One of its primary constituents is naphthalene, which the U.S. Environmental Protection Agency classifies as a possible human carcinogen. It gives mothballs their distinct smell.



The noxious pollutant drove at least 20 adults and children to move out of their homes, *The Oregonian/OregonLive* found.

Retired pharmaceutical company manager Norman Bennett blames the pollution for his 2008 lung cancer diagnosis. He started complaining in 2002 about the mothball smell that crept up Dry Hollow Road and sneaked in his doors and windows. Finally, he gave up. Bennett took an estimated \$30,000 loss selling his home in 2011 to escape upwind. The non-smoker, now 92, said he knew he could not wait for state authorities.

“I got so tired of it,” Bennett said. “I knew they would never do anything about it.”

Oregon's Department of Environmental Quality has allowed the stench to persist through decades of complaints, even after policymakers empowered the agency to declare persistent odors a public nuisance and penalize companies that continue creating them.

Jeff Thompson, the plant's manager, said in a statement that his company “has worked diligently with the Oregon Department of Environmental Quality to address odor concerns.”

“We remain committed to being both a good employer and neighbor,” he wrote.

AmeriTies has powerful friends on its side. Union Pacific Railroad is the company's main customer. It owns the property where the AmeriTies plant is located and is financially responsible for the Superfund cleanup there. Over a decade, the railroad gave \$144,000 to Oregon lawmakers, including then-Rep. John Huffman, a Republican representing The Dalles.



Rep. John Huffman, R-The Dalles, at left, speaking with Rep. Chris Gorsek, D-Troutdale, in 2014. (Photo: Michael Lloyd/staff)

In the 2016 fight over AmeriTies, records show, Huffman pushed the state to protect the company and its 50 jobs. Agency officials listened.

They asked the company for voluntary steps to reduce odors. They could have included the public in negotiations about a solution. They didn't. After a deal was signed, Huffman said letting the public comment on it would amount to little more than a "bitch session."

The agency's own attorney later said the state's failure to involve residents in the process could be the basis for a lawsuit.

Six days after the deal was signed, the railroad handed Huffman a \$1,000 campaign donation.

Town residents who had never donated to a political campaign were left to beg for help.



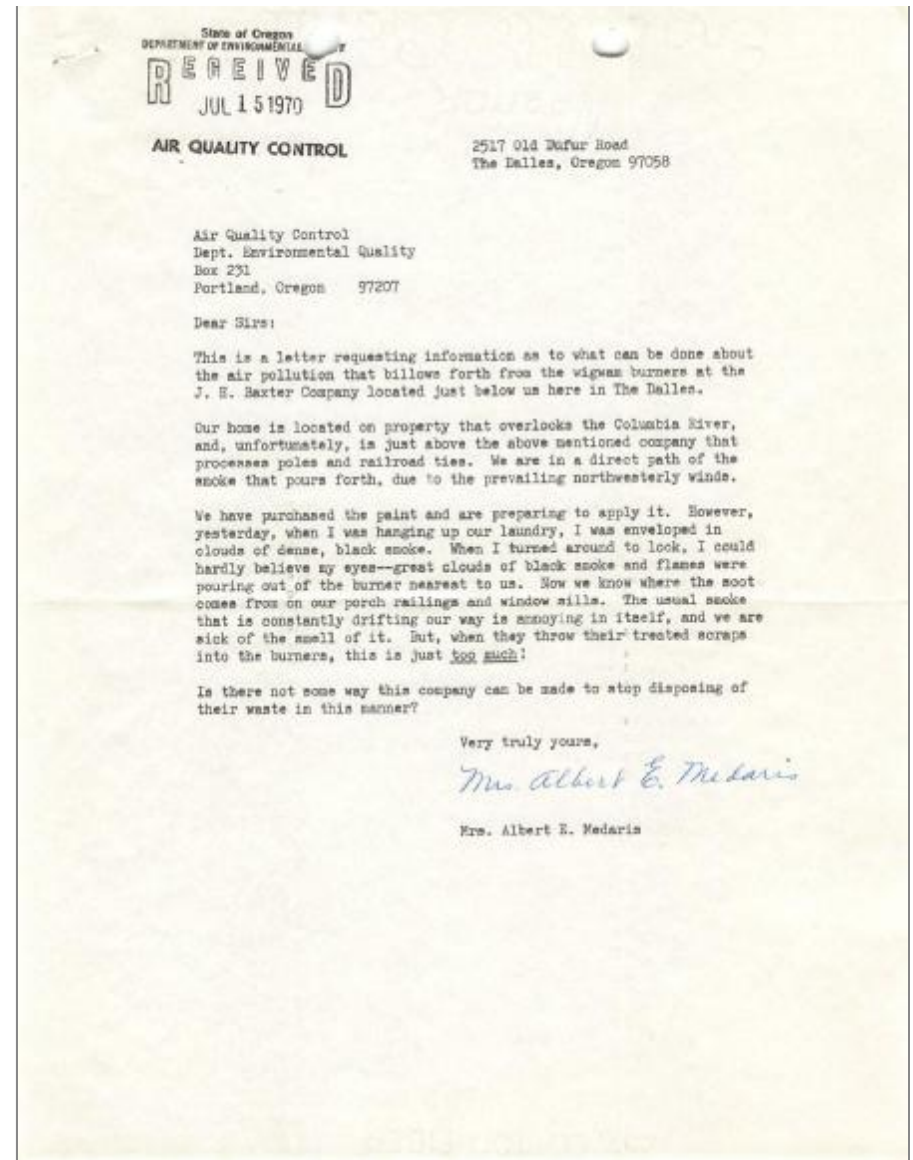
The first complaint arrived typewritten on delicate onion skin paper one summer day in 1970.

The Department of Environmental Quality was barely a year old, created as part of the environmental awakening led by Republican Gov. Tom McCall. Oregon was leading the country. The U.S. EPA wouldn't exist for another five months.

A woman who identified herself as Mrs. Albert E. Medaris complained that tie plant workers were burning treated wood scraps. At the time, state cleanup documents show, the facility used chemicals now known to contain highly toxic dioxins.

The smell was bad, she wrote, but the plumes of smoke were unbearable.

"Yesterday, when I was hanging up our laundry, I was enveloped in clouds of dense, black smoke," Mrs. Medaris wrote. "I could hardly believe my eyes. Now we know where the soot comes from on our porch railings and window sills."



The Department of Environmental Quality took its first complaint about the rail tie plant in 1970.

Residents have complained more than 1,350 times in the decades since.

1982: "Black soot over entire neighborhood."

1995: “Fumes burned the inside of our noses” and caused bloody sores.

2010: Fumes sucked into The Dalles Middle School’s ventilation system; firefighters called.

2014: “Incredible” stench. “Absolutely sickening.”

At least one state environmental worker was appalled. In 2013, a Department of Environmental Quality employee filed a formal complaint with his own agency after driving by the AmeriTies plant.

“I rolled down the window and my eyes began to water,” wrote Larry Brown, an environmental health specialist. “I feel sorry for those having to live 24/7 in the area. This type of nuisance condition should not have to be tolerated.”

But environmental degradation has long been tolerated in The Dalles, a town of 15,000.

Finishing The Dalles Dam in 1957 submerged ancient Celilo Falls, where tribes harvested salmon and traded with one another for millennia. After the rail tie plant opened in 1922, workers stored chemical preservatives in unlined pits, so thoroughly soaking the soil that the cleanup is still underway after nearly three decades.



The AmeriTies plant, summer 2018.

Frank Messina, a Department of Environmental Quality permit writer who has overseen the plant since the early 1990s, created a form letter to answer complaints. The letter was slapped together so casually it is missing punctuation in places.

“Documenting of complaints is a very important factor for DEQ,” it says. “So please document your complaints. Please share this with other people in your community. Thank you”

One after another, residents have tried to get regulators and the plant to act. The plant’s operators often visited people who complained. When they smelled the air, they repeatedly told regulators, they couldn’t smell anything unusual.

2001: “Only the cat box and the flowers in the backyard.”

2010: “Only the surrounding trees, bushes and flowers.”

2011: “Only the odors of wood stoves.”

The cycle so often ended with residents getting fed up and moving.

In 2015, it was Rachel Najjar's turn.



Najjar and her husband were oblivious to the rail tie plant's legacy when they moved to The Dalles from Beaverton for work in 2015, buying a three-bedroom tan rancher in a neighborhood perched above a wide blue bend in the Columbia River.

Najjar, then seven months pregnant with her third child, said her two young girls grew violently ill on days they visited the city's riverfront park. She said they cried about stomach pain, vomited, drank glasses of water and laid down for long naps.



Rachel Najjar, at home in Hood River. The family left The Dalles in 2016.

"I know my kids," Najjar said. "That is not them. And it kept happening."

The park sits north of the rail tie plant. Decades earlier, Superfund cleanup workers in full-body coveralls excavated tons of contaminated soil from the area. Viscous black liquid lurked in the grassy barrens back in the 1950s, said Mike Kennedy, who went to work at the rail tie plant after high school. Kids called it the Black Lagoon.

"You step on what you think is going to be grass and you'd sink up to your knee," Kennedy said. "You know you're going to be in trouble 'cause that's not going to come out of your clothes. And it smelled awful."

Najjar started noticing horrible odors in her neighborhood. She assembled a slideshow of every itchy rash, every oozing sore on her arms, her eyes, her children's legs, backs and arms.



Workers in 1992 removed tons of soil contaminated by the rail tie plant at what is now the city's Riverfront Park.

Toxicologists say it is impossible to determine whether illnesses residents reported over the years were caused by exposure to the plant's pollution. However, scientists have connected direct contact with creosote to cancers and skin and respiratory irritations. Breathing naphthalene, which escapes into the air when wood is treated with creosote, has been linked to lung irritation and respiratory cancers based on studies of lab animals.

Susanna Wegner, a toxicologist for the Oregon Health Authority, said the smell in The Dalles is powerful enough to cause headaches, nausea, dizziness and other physical symptoms.

"We know that there are strong odors there, and some of the health effects people are experiencing may be caused by the odors," Wegner said.

Najjar asked other parents: Do your kids have health problems like mine? She found Kris Cronkright, who had moved to The Dalles so her husband could be closer to his job at Google's data center. Cronkright was also concerned about what AmeriTies' pollution might be doing to her young son.

In early 2016, the Department of Environmental Quality's director stepped down amid an outcry over toxic air pollution in Portland. Najjar and Cronkright saw an opening. They stirred up media attention. That April, the two women faced a television camera and described the stench.

"Once you smell it, it's just like you're right there, because it's so strong," Najjar told KGW. "You can't escape it."

The TV story seemed to have the desired effect. Najjar soon received a phone call from the Department of Environmental Quality. Najjar remembers the woman on the phone saying she wanted to apologize for what her family had been through.



While Najjar and her neighbors were organizing, Linda Hayes-Gorman was on the verge of a delicate deal with AmeriTies to do something about the odor. The veteran environmental administrator had to contend with two powerful lawmakers during the negotiations.

"It's a highly politically charged situation," she wrote in one email to a colleague. "1 representative and 1 senator are watching."

She was referring to Huffman and then-Sen. Ted Ferrioli, a Republican whose sprawling district stretched to The Dalles. He was included with Huffman in correspondence about AmeriTies.



Linda Hayes-Gorman (Photo: Herald and News)

The department in 2014 had adopted a plan to deal with chronic smells in places like The Dalles, finally putting teeth in rules created more than a decade earlier. The state had the power to fine companies whose odors were foul, frequent and harmful.

The endless stream of complaints made AmeriTies the first test of the state's blueprint.

Environmental regulators already had evidence of pollution from 2011 and 2012 testing around the plant. One eight-hour sample in a nearby neighborhood found naphthalene at a level 400 times the amount the state considers safe, if sustained over a lifetime.



A Department of Environmental Quality photo of rail ties releasing vapors at the plant in The Dalles.

In 2015, the state sent inspectors to smell the air for themselves. They concluded the stench was unpleasant nearly a month of each year. One hot, dry afternoon in early August 2015, for example, they rated the odor near the plant a 10 on a 0-12 scale — "highly offensive." Najjar and her family moved in six blocks away a month later.

Hayes-Gorman, the official in charge of air quality across eastern Oregon, moved cautiously.



AmeriTies representatives, at their first meeting with Hayes-Gorman's team, made it known that the plant would smell no matter what they did, according to a state official's notes. So, they asked: What's the end game? How much do we have to spend?

In a recent interview, Ferrioli said he helped convince the company that it needed to do something about the odor problem or it risked being shut down. But Ferrioli said he also instructed the Department of Environmental Quality about how it should approach talks with AmeriTies.

"My admonition to the agency was, 'Please try to do everything you can with a consultative approach. Because if it's a regulatory approach, there's a potential loss of jobs,'" Ferrioli said.



Former Republican Sen. Ted Ferrioli. (Photo: Stephanie Yao Long/staff)

The company requested a legal process that would limit input from residents as much as possible, the meeting notes say. The Department of Environmental Quality agreed.

The process dragged on for months. When an agency official in Portland objected to the slow pace and secrecy, Hayes-Gorman fired off an email to one of his superiors. AmeriTies was "one of the few places to earn full wage in town," she wrote. Any solution that was too costly might lead Union Pacific to move rail tie production elsewhere.

The message was in tune with Huffman's pro-jobs platform and his donor base. He took \$445,000 from corporations and industry groups over a decade, compared with \$56,000 from residents of The Dalles and small unnamed sources.

SEARCH THE DATA: See how much current legislators have raised and from what source. [🔗](#)

At the time of the AmeriTies negotiations, Huffman sat on the Legislature's most powerful committee, Joint Ways & Means, which controls the Department of Environmental Quality's \$300 million budget.

Huffman enjoyed sweeping access to Hayes-Gorman and other state officials as they negotiated with AmeriTies, emails and calendar entries show.

Huffman had Hayes-Gorman draft a response to a constituent who complained about the plant. He lunched with Messina, the state official overseeing the plant, and another air quality manager the day they negotiated final deal points with the company.

The secret agreement with AmeriTies was almost finished when Huffman heard about Rachel Najjar and her fellow activists. Huffman emailed Hayes-Gorman, worried that "a few very vocal people" were trying to make trouble.

He wasn't about to let the deal with AmeriTies be upended.




Najjar realized she'd found someone in charge when the Department of Environmental Quality's call came. It was Linda Hayes-Gorman. Najjar started asking questions.

Her husband is from Liberia, she explained. She worried her children were suffering from hemolytic anemia, a problem with red blood cells that can be

caused by naphthalene. People of African descent are particularly at-risk.

In the days that followed, Hayes-Gorman asked local health officials whether they'd pay for tests Najjar wanted for her family. They wouldn't.

DATA POINT: Oregon is one of only five states without any limits on the amount of money given to political campaigns. [#PollutedByMoney](#) 

Hayes-Gorman also offered advice that struck Najjar as strange. Maybe you should buy face masks for your children, she said.

Hayes-Gorman declined to answer questions about the phone call. She told her superiors the face mask comment was a mistake.

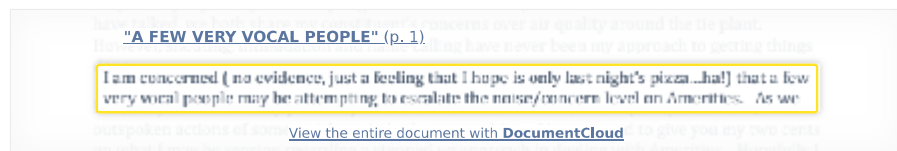
After a while, Najjar recalled, Hayes-Gorman said she had to go. She was having lunch with a state representative named John Huffman.

"He's really a great guy," Najjar remembered Hayes-Gorman saying. "You should really contact him."

Najjar didn't understand. Why was a person with the power to force change at AmeriTies telling her to buy face masks and call her state representative?



Unseen to Najjar, Huffman worked to minimize the impact of her TV appearance.



He contacted Gov. Kate Brown's staff, saying the pollution Najjar and others complained about did force people indoors — but only two or three days a year.

Yes, he said, he believed Najjar's kids got sick. But he told advisors to the governor, who oversees the Department of Environmental Quality, that he didn't want the children's experience to "skew reality."

"Two episodes should be monitored, but not given the weight of a couple dozen folks getting sick at the same time," he wrote in an email.

The same week Najjar and Hayes-Gorman spoke, Oregon signed the deal with AmeriTies. Hayes-Gorman scheduled a community meeting to unveil it. With activists from Portland expected, Huffman persuaded The Dalles police chief to send an officer.

Najjar asked Hayes-Gorman if residents could speak. When Hayes-Gorman raised the idea with Huffman, he wasn't happy.



A historical view of the rail tie plant, which has passed through multiple owners in the last century. (Photo: Oregon DEQ)

“I have never said this will be a forum for people to make position or political statements and have a bitch session,” Huffman told Hayes-Gorman by email.

“Lay out the plan and answer questions, that’s all that was ever promised.”

Huffman suggested giving the residents a total of five minutes, early on. “Get it out of the way,” he said.

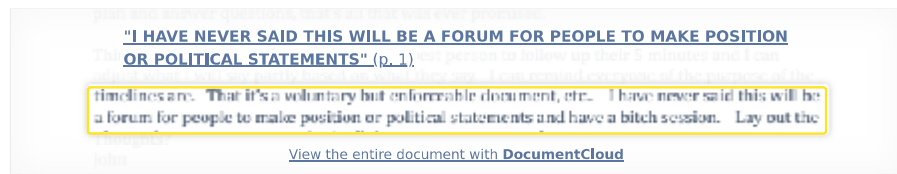
When Najjar continued pressing for public involvement, Hayes-Gorman looped Huffman into the email exchange. The state lawmaker had a curt message for Najjar.

“I’m not sure what impression you are under,” he told her. The meeting was to brief residents, not gather their comments.

It was Najjar’s first contact with the man Hayes-Gorman had suggested would be helpful. Najjar seized the moment.

“Our beautiful community is suffering and we need your help,” Najjar told Huffman by email. “My children’s lives are at risk. Please be a voice for us.”

Huffman’s response was pointed. He said the state had followed a process “to make sure state/government agencies don’t bully citizens or businesses” and to protect AmeriTies workers “that have a voice, none of which are showing health concerns.”



He ended by accusing her group of complaining about the smell on days the wind blew away from their homes.

“Tell your associates that false reporting does not help,” he wrote.




When the night of the meeting arrived, the audience was angry. Not everyone realized the state had already inked its agreement with AmeriTies.

Najjar and another activist gave brief statements when their five minutes arrived. Others in the crowd shouted at state officials, outraged that they’d been excluded from negotiations.

The state had given away a lot.

An early draft said AmeriTies would have to explore additional controls if “unpleasant” odors continued. The final deal included only “highly offensive” odors. The early draft said AmeriTies would face penalties of \$250 a day for violating the agreement. The final version deleted the reference to fines.

DATA POINT: Per resident, corporate interests gave more to winning Oregon legislative races than in any other state. [#PollutedByMoney](#) 

In the end, AmeriTies pledged to take 10 steps toward pollution control. Seven were things the company was already doing. Two required the company to simply study new controls. Just one, switching to a new creosote formulation, had a strict mandate — and the deadline was more than a year out.

The department’s director at the time, Pete Shepherd, opened the meeting by telling the crowd — the people his agency had left out — that he knew “the importance of listening to people speak from their heart in the place where they live,” according to The Dalles Chronicle.

When Huffman began his remarks, the Chronicle reported, an unidentified resident blurted a question.

“Don’t you take money from the railroads?”



Good things happened afterward for the people who helped shape the state’s deal with AmeriTies.

Hayes-Gorman, the environmental official, was rewarded with praise from Huffman in an email to Gov. Brown’s office. “She has been awesome!” Huffman said. “Very responsive!”

The department’s top lobbyist in Salem lauded her work, too, telling Hayes-Gorman that “your efforts and outreach have helped our relationship with Rep. Huffman.”

Hayes-Gorman said her interactions with Huffman weren’t unusual and that she felt no pressure. “We were informing him and keeping him apprised,” she said. “He would not have been involved in any of the negotiation points.”

Ferrioli, who took \$4,500 from Union Pacific during his career, said his intervention “didn’t have daggone to do with who owned the property or who’s the beneficiary.” It was meant to resolve complaints about the smell and save jobs at AmeriTies.

Union Pacific didn’t address specific questions about the AmeriTies deal. It said in a statement that the company “works with elected officials who understand the economic necessity of Oregon’s transportation infrastructure.”

The day the deal was finalized, Huffman told Hayes-Gorman he was meeting Union Pacific officials in a week.

His campaign recorded a \$1,000 contribution from the company six days later.

It was the biggest of six donations that Union Pacific gave him over the years.

Huffman’s Union Pacific money went into the same campaign account that paid \$41,850 to his wife, Korina, for bookkeeping and other campaign work over a decade. He directed another \$18,250 from the campaign account to his property

management company, Huffman Investments, for campaign office rent and storage during his time in the Legislature.

Huffman told The Oregonian/OregonLive the Union Pacific donation had nothing to do with his involvement in the deal, even though he acknowledged the timing made it look like it did.

“The optics don’t look great. You’d have to be silly to not see the optics of it, but there’s no connection. There’s just no connection,” Huffman said.

“Does it look odd?” he said. “Yeah, it does. Did I influence any of the outcomes? No.”



The true test of the AmeriTies agreement was whether or not the air smelled better.

Two months after the agreement was signed, new data showed concerning levels of naphthalene in the air. AmeriTies agreed to speed up its deadline for switching chemicals,

Industry contributions

Per lawmaker, Oregon is one of the highest-ranking states for contributions from a wide array of industries.

Industry	Per lawmaker	Oregon rank
Finance, Insurance & Real Estate	\$68,572	9
Energy production & distribution	\$34,695	6
Construction	\$28,748	7
Communications & Electronics	\$24,465	6
Nursing homes	\$22,133	2
Timber	\$21,416	1
Beer, wine & liquor	\$18,689	5
Restaurants & lodging	\$18,424	2
Drug-makers	\$17,120	3
Business associations	\$15,277	4
Soft drinks	\$13,112	1
Farming	\$12,778	6
Grocers	\$12,530	1
Tobacco	\$9,189	4
Hospitals	\$8,653	9
Food processors	\$3,600	3
Railroads	\$3,581	6
Trucking	\$2,962	5
Waste management	\$2,781	5
Chemicals	\$2,349	5
Fish processors	\$1,612	1
Health care products	\$1,128	4

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moving to a different creosote formulation in late 2016 and diluting it with seed oil.

Testing in 2017 found average daily naphthalene levels down by about half from a year earlier. But the level closest to the plant was still 38 times higher than what the state considers safe to breathe over a lifetime.



Creosote storage tanks at the AmeriTies plant. (Jesse Burkhardt/The Dalles Chronicle)

Plant records provided to the state also show AmeriTies made rail ties on fewer days when testing occurred in 2017, in part because the facility stopped production for 12 days straight.

Thompson, the plant manager, said the company's demand was lower in 2017, giving the plant more time to close for annual preventative maintenance.

Two former employees said it was unusual for the plant to close for so long in summer. One said the plant never stopped summertime production that long during his 38-year career there — not even during a worker strike.

An attorney with the Oregon Department of Justice told environmental regulators residents could file a lawsuit arguing the state hadn't allowed public engagement in the deal. But the deadline to sue was nearly past by the time the attorney, Paul Garrahan, provided his confidential advice.

The environmental agency didn't tell the public about its appeal rights. No one sued.

Townsppeople did sue AmeriTies, claiming its smell devalued their property. In a May 2018 settlement, the company agreed to spend an additional \$250,000 on pollution controls. The plaintiffs' lawyers were paid \$500,000.

Residents were promised a combined sum of \$750,000, divided among every household that opted in.



A plant worker wearing a respirator loads fresh wood in the pressurized cylinder where it is infused with creosote. Former plant employee Mike Kennedy, right, said workers in the 1960s just held their breath. Kennedy has undergone cancer treatment at Oregon Health & Science University. (Photo, left, courtesy Dalles Chronicle)

Unhappy about the deal and worried about their children, Najjar and Cronkright gave up on The Dalles and now live in Hood River.

Mike Kennedy, the former rail plant worker, lived on the bluff above the plant for decades. He moved, too.

Kennedy, 74, was diagnosed in 2010 with a rare form of bile duct cancer he suspects was caused by chemical exposure at the plant. Back in the 1960s, Kennedy held his breath amid fumes so thick he could see them. When his skin burned, he slathered himself in calamine lotion. Today, workers wear protective gear and respirators.

After his diagnosis, he said doctors gave him 18 months to live. Kennedy eventually decided to sell his home, but it sat on the market for years. The smell, would-be buyers said. Before he moved, he sent a complaint to the Department of Environmental Quality. Into the AmeriTies files it went.

Kennedy got a form letter back.

It was missing punctuation.



Some of the more than 1,300 complaints filed against AmeriTies.



Dry gorge winds swirled one sweltering spring evening last year as health officials gathered in a dimly lit community auditorium in The Dalles to present their latest study. They concluded the plant's pollution could cause physical health problems and contributed to a slight increase in cancer risk for town residents, but not enough to constitute a public health hazard.

The officials said more work needed to be done. More sampling. More negotiations. More studies.

As the bureaucrats prepared for the meeting, a tow-headed boy, no older than 12, stood high on his dirt bike, riding along the bluff above the rail tie plant. Under the late-day sun, the boy popped wheelies and coasted on the downhill. His hair fluttered in the wind.

The air around him smelled, unmistakably, like mothballs.

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