



Oregon

Kate Brown, Governor

Department of Environmental Quality

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January 27, 2020

Kristina McNitt
Oregon Forest & Industries Council
P.O. Box 12826
Salem, OR 97309-0826

Dear Ms. McNitt,

Thank you for the opportunity to speak with you and representatives from your organization on January 8th, 2020, and for reaching out to discuss issues of concerns of the Oregon Forestry & Industries Council. I apologize I wasn't able to meet with you all in person.

I understand DEQ's April 2019 letter regarding permitting requirements for Restoration Fuels, LLC's proposed use of conversion technology has created concern that DEQ has changed its solid waste policy regarding certain wood products. Specifically, we have heard concerns that DEQ now intends to treat all wood products unconditionally as solid waste, regardless of whether they are intended products of a manufacturing process, and without any analysis of applicability of the definition of "solid waste."

To be clear: DEQ has not changed its interpretation of state law. By-products or secondary materials produced by forest products manufacturers, including planer shavings, chips and sawdust, are not "solid waste" by default. There are factual circumstances where chips, planer shavings, and sawdust would be considered solid waste, but an analysis of specific circumstances is required to make that determination. That analysis requires a determination of whether a material or product is solid waste, then a determination whether regulation under a solid waste permit is required. For a material to be a solid waste, Oregon law states that it must be "useless or discarded." When making that determination, DEQ considers factors such as whether the material must be reclaimed, processed, altered, transformed, mixed, purified, etc., in order to be defined as useful. If a material has not entered the waste stream and is produced and managed in a manner that is consistent with a normal production process, the material is not a solid waste.

Our position regarding Restoration Fuels, LLC and its need for a solid waste permit is based on our factual understanding of the overall makeup of the material to be used in that process. The implication in our April 1, 2019 letter that planer shavings or wood residuals are *automatically* a waste and subject to solid waste disposal site permit requirements was inaccurate and is not indicative of a statewide policy change. We regret the alarm that this has created for your organization's members.

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DEQ will be reaching out to Restoration Fuels, LLC to continue dialogue regarding whether any of the specific materials proposed for use in its process fall within the definition of "solid waste." If Restoration Fuels, LLC has any additional information regarding its feedstock content, DEQ staff will consider that information at that time.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Whitman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Whitman
Director

Cc: Annalisa Bhatia, Senior Legislative Advisor
Mike Eliason, General Counsel and Director of Government Affairs, Oregon
Forest and Industry Council