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Agency won't discuss field burning this month

By Diane Dietz

*The Register-Guard*

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The Lane County Board of Commissioners has been pushing the state Environmental Quality Commission to declare an immediate ban on grass seed burning - but the chances of a ban dimmed significantly on Tuesday.

The state commission has insisted since June that logistically it could not act before its August meeting.

But the agenda for the August meeting was released Tuesday and the discussion of Lane County's request isn't anywhere to be seen.

An attorney pushing the county's case for a ban - based on studies showing lung and cardiac ills associated with breathing particulate in smoke - said he was disappointed that the state agency didn't put the issue on its agenda.

"They need to make this decision. Delay is as bad as a negative decision because burning will continue while they're delaying," said Dan Galpern, attorney with the Eugene-based Western Environmental Law Center, which is working in concert with the county.

About 150 grass seed farmers burn about 50,000 acres of grass seed straw in the Willamette Valley after harvest each year from July through September.

The farmers say the practice is necessary to keep their grass seed - sold for lawns, golf clubs and pastures - pure enough to compete with other grass-growing corners of the globe.

They challenge Lane County's health claims, saying that woodstove smoke in the winter poses a far bigger threat to public health.

Andy Ginsburg, the state staff member spearheading the issue for the Department of Environmental Quality, said the commission plans to talk with its attorney about field burning in a nonpublic session next Thursday.

The purpose is to get legal advice about whether the commission has authority to ban field burning, Ginsburg said.

The environmental commission asked for just such an opinion in June, but apparently the legal analysis was not forthcoming and will not be available until next week.

Ginsburg said he doesn't know whether commissioners will make an unscheduled decision regarding field burning after the early morning closed discussion with their attorney.

"It just depends on how black and white it is, and unfortunately - based on my reading of the statues - it's not going to be black and white," he said.

He said the state staff has no recommendation for the commission.

The five-member panel is a citizen body appointed by the governor to establish policy and rules for the state Department of Environmental Quality. The members are a Pendleton tribal prosecutor, a Portland environmental consultant, a child development expert from Salem, a former legislator from Ashland and a civil engineering professor from Corvallis.

Lane County contends the commission has the authority under a state law meant to protect the public health.

The county cited the case of a PeaceHealth employee with a rare condition which causes her vocal chords to constrict when exposed to smoke in the air, thereby shutting off her ability to breathe.

On July 11, the first day field burning was allowed and smoke rolled into Eugene, the woman had to take medicines and eventually seek urgent care because of the smoke, according to a letter signed by Commissioner Faye Stewart on behalf of the county board.

"Please let the people of Oregon know that you will protect them now, not sometime next month after perhaps the majority of the field burning season is over," the county board concluded in the July 24 letter.

Two days later, EQC Chairwoman Lynn Hampton responded with a letter, which said in part: "I and my fellow commissioners are very concerned about the health effects of exposure to fine particulate, including short-term exposures from open field burning." Hampton wrote that she was moved by the story about the PeaceHealth employee.

The Lane County Board of Commissioners have discussed pursuing a lawsuit if the state won't stop field burning.

Commissioner Bobby Green said Tuesday that four state entities have now failed to act - the Environmental Quality Commission, the state Department of Environmental Quality, the Department of Agriculture and Gov. Ted Kulongoski.

"We've done what we said we would do as far as trying to go the administrative route," he said. "It's not on their agenda, and we have no way to influence that at this time."

## **STATE MEETING**

The Environmental Quality Commission meets monthly in Portland to consider issues such as Lane County's request for a ban on field burning.

**Where and when:** Thursday, 8:30 a.m. to 4:30 p.m. at the EcoTrust Conference

Center, 721 N.W. Ninth Ave., Portland

**More information:** [www.deq.state.or.us /about/eqc/eqc.htm](http://www.deq.state.or.us/about/eqc/eqc.htm)

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