



Soil and Water Conservation Commission Minutes

Table with 4 columns: DATE, LOCATION, START TIME, END TIME. Row 1: August 24, 2021, Via Go to Meeting, 3:02 PM, 4:15 PM

Table with 3 columns: CHAIR, COMMISSION MEMBERS PRESENT, ABSENT. Row 1: Barbara Boyer, Jerry Ward, Ken Bailey, Tim Kerns, Stan Dean, Al Hrynyshyn, Jim Bob Collins

12 attendees

Oregon Department of Agriculture (ODA) Staff Present

Marganne Allen, Soil and Water Conservation Districts (SWCD) and Water Quality Program Manager; Eric Nusbaum SWCD Operations Specialist; Sandi Hiatt SWCD Grant Administrator; Renita McNaughtan Administrative Specialist

Visitors

Jason Kesling, Harney Soil SWCD; Barbara Pearson, Harney SWCD.

Welcome and Introductions

Chair Barbara Boyer called the work session to order at 3:02PM. She noted that she will be asking for opinions from the commission on what to do next after this session as this is the last of the ORS work sessions.

Back to Basics – ORS 568

568.554 Districts to submit program and work plans for department review. Chair Boyer - Any comments on this?

568.555 Name of district may be changed. Chair Boyer – didn’t Lower Willamette utilize this ORS when they changed their name? Hrynyshyn - Upper Willamette did; Eastern Lane and Central Lane merged to become Upper Willamette. Nusbaum – no it was several merged to become East Lane, and after a failed tax attempt, it was decided to change the name to Upper Willamette. Two Rivers was the most recent to use this; they used to be Josephine SWCD. Tualatin used to be Washington County SWCD and changed to Tualatin SWCD about 10 or 15 years ago. Chair Boyer – were you part of any of those processes Eric? Nusbaum – no, but Sandi what about Two Rivers? Hiatt – Manette did Two Rivers also Clackamas dropped the “county” in their name recently. Boyer – it’s simple, the process? Hiatt – it’s a fairly easy process for them; they just get approval from us and then go to the Secretary of State once it’s approved. Boyer – so does ODA have to do an approval also? Is there a protocol? Like Secretary of State and then ODA? Nusbaum - ODA first. If you read the line in the ORS “Upon approval by the State Department of Agriculture...”. Boyer – but the district must submit to the Secretary of State not ODA. Boyer – Alright, any other comments?

568.580 Annual meeting. Chair Boyer – any questions or comments on this one? Ward – the last word on that paragraph that says “...annual report and audit.” The word “audit” kind of surprised me; we have traditionally had our annual meeting in October and our audit has not been finished yet. In other districts I have seen where they have done a summary, an abbreviated statement not necessarily an audit; so that kind of jumped out at me. Nusbaum – when I teach my classes to new public officials and directors and when we talk to districts, and Sandi does this too, we remind them of this statute and say that you can’t have your annual meeting until you have your annual audit or financial review back. That is why more districts are pushing their annual meeting back into December or the new year. Ward – we just voted to have our annual meeting in October so I will make sure we have our audit by then. Nusbaum – I have been reminding everyone, as well as Sandi, that you can’t hold your annual meeting until the audit is done. Some districts are having an annual gathering because they already had a meeting set, and once they get their audit back, they have a five-minute meeting. Ward – district staff are probably on top of this, but it’s a good reminder for me. Bailey – Eric is there an official amount of time you should wait to have your annual meeting after you get your audit? Nusbaum – you should meet sometime within the fiscal year to review the audit from the previous fiscal year. For example, the deadline for your 2021 fiscal year for your annual meeting would be January 30, 2022. Bailey – it could be 11-month after the fiscal year. Nusbaum – I don’t know if anyone has noticed this - the district just calls the meeting, but it’s a meeting of the landowners, not the board. Dean – that was going to be my comment; why should it be a meeting of the landowners? We’ve had landowners versus general citizens throughout our review and here’s another case. Hrynyshyn – are landowners different than general citizens? Seems to me the public owns a lot of land in this state. Chair Boyer – Stan would you like to “parking lot” this topic? Dean – I think we should; we need to clean up landowners versus citizens throughout the entire statute. Bailey – there are a lot of citizens that are not landowners that should be

represented. **Chair Boyer** – If you're a taxing district, they still pay into that tax if they don't own land. Stan did you have something else to say? Dean – it says "after the creation of the first board..." I can understand after the first audit but why does it have to be after the first board? That's unnecessary. **Boyer** – that was my comment. I almost feel what it is saying - after new directors are sworn in is what it's meaning; but if that's what it's saying, it's a strange way of saying it. **Hrynyshyn** – I read it as after the establishment of the district with their first board of directors. **Nusbaum** – I am putting it in the parking lot.

568.590 Notice of annual meeting. Chair Boyer – any questions or comments? **Bailey** – this needs to be cleaned up; there are portions of the state that don't have a newspaper and general circulation. Need to modernize how they require notice and shouldn't be limited to this section it should be a statewide issue for all agencies. **Hrynyshyn** – better off saying a public notice rather than listing newspapers specifically. **Bailey** – the state needs to determine what is an adequate public notice and maybe the definition needs to be changed occasionally with changes in new technology. **Nusbaum** – I would say make it match what the state public notice requirements are, and hopefully, those will be changed. However, this is due notice, which is caused to be published like the elections notice. That's why it must be in newspapers, e.g., when you put something out for bid, and it must be published in the newspaper. It's along the same lines. It's a little more complicated then saying it needs to be a regular public notice. It's very different, but I will put it in the parking lot.

568.600 Legal counsel; delegation of powers; assistance to department. Dean – in 568.600(3) the last clause "...and shall assist the department in carrying out its recommendations." that could be interpreted very broadly. If you say "shall" it's mandatory with ODA's recommendations but recommendations aren't mandatory; there's conflicting messaging here. Does that mean that SWCDs must do what ODA says in everything? It's unclear. **Nusbaum** – it's like the other section that says the department may approve everything; there's a little parallel from that one to this one and it is vague. **Hrynyshyn** – would directives be better wording than recommendations. **Dean** – but Al, is directives what we think is best? **Hrynyshyn** – Are there certain directives that come from ODA that we should follow? As opposed to recommendations that are maybe suggestions that are not necessarily binding? **Dean** - what if (and I'm not saying ODA would do this) ODA said our priority area is FAs, and we want you to spend all your money on FAs and don't do anything else in the rest of your county. This language could be used to say that the district shall do that because ODA recommended it. Should ODA have that much power over everything the districts do? I'm not saying that it would happen and that it's been a problem but theoretically it is a problem. **Nusbaum** – that's where I said there is a parallel with the preamble statute that we looked at; the very first one. "ODA may approve all contracts, budgets, projects..." ODA has that authority; one reason for it is when we are working with districts that have issues and need a firmer hand. It's a tool we use and is more about making strong recommendations with some force behind it. The first part "The directors shall make available to the State Department of Agriculture all records and information pertaining to the district..." **Bailey** - this sounds like it needs to be a parking lot issue. There are a couple of things that need to be worked on and I agree there are quite a few things our district does that really have nothing to do with the Department of Agriculture and it just muddies the waters. **Nusbaum** - under state law, state agencies, local governments, government entities cannot request public records from another government entities, but this trumps that, and not only does it trump it, but it also just says all records. Unlike public records law, which would have all the exclusions, there are no exclusions. This has nothing to do with public records law this is completely outside of it because normally we couldn't request records from another government entity, except through this. Anything we wanted you'd have to give us whether you thought it was excluded or not. **Ward** – I read this, and it set me back that ultimately, all districts are subject to the authority of ODA in all matters even though this is broad. Districts can tax and have all these powers in 568. Still, we are under the control of ODA and that struck me funny and that I don't like that, and it can be very helpful, and it can be abused too. Stan – I felt that same way; it's very powerful. Many districts are doing work in forestry, that's in non-ag resources, in urban areas, and this language says we will do whatever ODA wants, but we have responsibilities that are broader than just ODA's scope of work. **Ward** – exactly, Stan, like for Tualatin, with our tax district, we are making a big push into the urban to nonlandowners as well as forestry, etc. The urban population, we are making a big push into servicing those people that are in the urban setting that are in apartments that don't own land. We are trying to serve all constituents of the county not just landowners. **Chair Boyer** – don't you feel that this section actually needs to be changed to meet public record law? The consensus among the commission members was – Yes. **Nusbaum** – What would happen then is that ODA could never ask for any records unless it's stated somewhere else, like asking for the annual workplan, which is fine. That would be the result of that. **Chair Boyer** – I think we would like to explore that, and this should be in the parking lot. **Bailey** – I think it sounds like something could be done with the scope of work contract and the payment with the Department of Agriculture.

568.610 Records; audits. No comments.

568.620 Consultation with county or municipal representatives. Dean – "The directors shall invite the legislative body of any municipality..." that's a wide-open statement to have a designated representative. Most municipalities aren't going to want to spend staff time on it. **Nusbaum** – it just says "invite" it doesn't mean they have to attend. They don't have to participate, it's just an invitation. **Hrynyshyn** – the question I had was, who gets to designate the representative? Is it the invited body or is it the SWCD...? **Nusbaum** – it says "the legislative body...within the district to designate a representative..." **Chair Boyer** – in our county they have one of the county commissioners as the designated liaison of our district. **Dean** – we have one in Jackson. **Nusbaum** - it says in the last part – it explains why that it's there. "...which may affect the property, water supply or other interest of such municipality or county." It's about inviting any other landowner who could run for the board or attend the meetings to be an advisor because they are also landowners that are affected. **Bailey** – we have done that a little differently in communicating with the county

commissioner. They aren't interested in attending our meetings, but the chairman of the board and district manager will meet with the county commissioner once a year and give an update on what we have done. **Ward** – if you read the statute, it doesn't talk about attending the board meetings. It asks the municipality or county to designating a representative to advise and consult with the district. That says to me they are welcome to come to the meetings, but if something comes up during the board meeting that pertains to "property, water supply or other interest of such municipality or county" the gentlemen of the board know who to go to at the county, or at the state or at the municipality to be advised on certain things.

568.730 Officials may enter private lands. **Nusbaum** – this is one where I say just because you can doesn't mean you should. **Bailey** – it does say you have to notify the landowner first. I guess at that point you take your chances at what way you want to go.

Hrnyshyn – it says "...prevent injury to growing crops or livestock." What about existing legal infrastructure like fences and bridges?

Nusbaum – think about when this was written. Law enforcement doesn't have this authority. They must get a warrant before entering the land. This doesn't have anything about being refused or getting permission whatsoever in this statute. **Allen** – I question whether this is in alignment with the constitution. I have seen this language in statute before. This is currently being discussed in another venue and it raises the question of how much statute trumps other things. **Nusbaum** – so I should put in the parking lot – may not stand up to a constitutional argument. **Ward** – last three words in the first long sentence – "invested by law." It would have to be lawful. **Nusbaum** – no, because the vested-ness is related to responsibilities in this sentence. It is whatever responsibilities you are vested with. The responsibilities are the powers you are vested with as a board. **Bailey** – how do you explain that to an irate landowner? **Nusbaum** – like I said, just because you can doesn't mean you should. **Allen** – I'm tracking, in parking lot or not? **Chair Boyer** – yes, for more clarity.

568.780 Certain public agencies to be deemed owners. **Dean** – just that they use the word "landowner" at the end so that goes into the whole bucket with all the places we use landowner. **Nusbaum** – it references any government entities, as landowners, must follow the ag water quality rules too, 568.900-933. This is one case where you do want to reference the rights and duties of other landowners under 568.

568.790 County funds for personnel and other uses. **Stan** – two questions: why is it the court of the county makes the appointment of funds? And why is it necessary personnel include county extension agents? **Nusbaum** – county court is what commissioners are called in most of eastern Oregon. **Bailey** – Eric, they are not the same thing. It's a different type of classification of county governmental. **Nusbaum** – the county court function is the same as a commission. **Bailey** – many have the county court, and some have changed to a commission. **Nusbaum** – for purposes of understanding, a county court is functioning as a commission. **Bailey** – it should be a county administration or something else unless it lists both. The language should be changed. **Dean** – what about the extension agent? **Hrnyshyn** – just says may provide doesn't say they have to. **Boyer** – it's just seems weird that they are called out in it. **Dean** – should go through OSU not us. **Bailey** – that piece should probably just be dropped out because in practice that is done. **Nusbaum** – it also limits it to one county extension agent. You can't fund two or more. **Bailey** – the county or the district could hire someone else but just called them something else. **Hrnyshyn** – the county may provide for one. If you need more than one, then you got to come up with the money from somewhere else. **Nusbaum** – this has got to be one of those one that historically, before 1961, it made sense. **Ward** – back then the county extension was funded by a district or the county. **Chair Boyer** – good point Jerry. Anything else on this one? **Dean** – when you say anything else? Are we determining if this goes into the parking lot or are we dismissing our discussion? **Nusbaum** – usually if it comes up and there are questions, I'm putting it in the parking lot. The idea is that you can go back and choose the ones you want to focus on, and it's a list to think about if/when there is a revision of 568. I'm keeping tabs on ones that you may want to change in the future.

568.801 Stream control and management projects; application; designation and implementation; rules. **Nusbaum** – this statute gives ODA a huge amount of oversight, but ODA doesn't follow this. **Dean** – has anybody done this? Is this a necessary section at all? **Nusbaum** – how many projects has Jackson done with streamside erosion control and have they applied to ODA for this? **Dean** – we've done a lot of streamside erosion control. **Nusbaum** – exactly, and how many times have they followed this statute and made an application to ODA for this? ODA don't follow this one at all. **Ward** – Tualatin hasn't. Tualatin district does a lot of work with Clean Water Services, and we're in a key partnership with them on for shade on the Tualatin River. I don't know that an application has ever been submitted for that. **Nusbaum** – I think this is one to put in the parking lot about taking it out. Since I've been with ODA, we have not made anyone apply, even before I was at the district. It probably made sense before OWEB and GWEB, which is probably when it was done. It looks like it was in 1981, which is pre-OWEB and GWEB. This could be how projects were vetted to make sure they didn't do more damage than good. **Dean** – it may have predated DSL and Army Corp of Engineers' involvement in it. **Nusbaum** – exactly, that's what I was thinking why it was in here. Why it wasn't taken out in 2009 I don't know. At this point DSL does all of this, the Corp does it, and OWEB and their chemical review teams. **Boyer** – alright, we will get more clarity on that one. Marganne, if we were to suggest taking this out, it must go before the legislature, right? **Allen** – that is correct, it would be a legislative concept. This is perfect timing really, I could get you more information about firm timelines, etc. **Chair Boyer** – yes, please.

568.803 General obligation bonds; refunding bonds; special taxes. **Chair Boyer** – any districts that have used this? **Nusbaum** – I thought Yamhill had tried. **Chair Boyer** – we tried, we failed. **Nusbaum** – Yamhill is the only district that I know that has tried. Doesn't mean that there haven't been any others in the past that have tried. **Chair Boyer** – any questions or comments?

568.805 Special assessments; improvement bonds; objections by landowners. **Nusbaum** – another just because you can doesn't mean you should. This is a very powerful tool that districts have never used but could be a great way to fund large scale structural

project where the landowners want to do but can't raise the cost share, but the district could raise a bond that the landowners could pay it back through a tax over time. It's an interesting tool that has never been used. The written rejections to the proposed assessment must be done by at least 50% of the landowners of property who are liable for 60% of the total assessment. **Hrynyshyn** – it's almost seems like it's written where it could never happen. **Nusbaum** – that would be if you did not work with the landowners. If you had several landowners along the Long Tom or the Willamette who are wanting to do a big project but can't afford the 25% match from OWEB. If they bonded it, the landowners are only paying \$1,000 over 10 years, they could afford that through their taxes over time. It's essentially a loan. **Hrynyshyn** – but it seems that getting 50% of the landowners... **Nusbaum** – this is 50% of the landowners who are part of the project. So, if you talk to ten landowners and they say they want to do this, and this is how we want to do it, you won't have any objections because they are all on board. But if you have 11 landowners and one objects, he's not going to be 50% of the landowners. It's not 50% of the county. **Hrynyshyn** – okay that makes sense. I was reading it as 50% of the total constituency. **Bailey** – this section and 803 are nice and are good to have but you're never going to use them so why are there? In today's world opposed to 20-30 years ago, we have so many finance options we don't need this kind of detail in statute that we couldn't go out to the public to get investor capital to do a project. **Nusbaum** provided an example of how this would work for a large project when the landowners did not have the capital up front and how the district would be involved. There was discussion back and forth. **Ward** – as a district I might be concerned that you'd be substituting the credit worthiness, or the powers vested with the district to issue a bond supported by the cash flow of assessment on those specific individual landowners affected by this project. There is no secondary source of repayment, and this is not spread over the whole county of all taxpayers and landowners. So, it is a very narrow cash flow repayment, which I would be hesitant. I could see why it would be scary to use versus the next paragraph which gives a tax warrant over all county residents. It spreads out the obligation and the cash flow. **Dean** – I tend to agree with Jerry. I think as a district I would be a little scared about budgeting the assets of the district to back up the assessment of the district in case something goes wrong. I think there may be circumstances where this could be the right tool, and I don't see anything wrong with leaving it in here even though it may be rarely, if ever used. **Bailey** – I don't disagree, I'm just saying there are a lot of other financing options a group of landowners could get together and look for a venture capital guy and give him some collateral on a note; and there are other options as well. **Nusbaum** – this could be a lower interest rate option. The other thing is if one of the landowners sells his property, the new landowner will be stuck paying the bond. It's like any other property tax.

568.806 Ad valorem tax; budget; collection. **Chair Boyer** – any questions or comments? No comments.

568.807 Electors authorizing taxation; election date. **Chair Boyer** – anything on this one? No comments.

568.808 Taxing district to file legal description and map. **Chair Boyer** – No comments?

Chair Boyer – anything on any of the statutes to revisit or something we missed? Alright, Marganne. **Allen** – our lead legislative person, Jonathan Sandau, got back to me. He said we would need to have a legislator to carry it and submit it to committee for you and it would need to be done by November 19th of this year if you are looking at the 2022 session. **Bailey** – I think we would have an issue. We've got so many things we've talked about changing; are we going to do it piece-meal, one at a time? I don't think the legislature will go for that. I think if we are going to do this, we must look at the whole thing and come up with a plan of what we are going to do, which is going to take most of a year to determine what we want at a minimum. So, we would be looking at a two-year project. **Commission members agreed.** **Nusbaum** – we have documents from when Larry Ojua did the revision in 2009 so there are templates on how he put that together. **Bailey** – we need to make some determinations of things we would like to change, but once you bring up some of these subjects, it will bring in other parties. Then we will have a bigger mess than we started out with. **Chair Boyer** – Eric, I feel like the parking lot should be almost two categories: one language cleanup and one revision. Is there another column I'm missing? **Nusbaum** – we have 27 different items, and most are about language cleanup or major changes. A change of statute is a change of statute; is it minor wordsmithing or a major change? But even minor wordsmithing can end up being a major change. **Chair Boyer** – so Ken, do we need to go down the column at our next work session? **Bailey** – we need to decide each one, one at a time going down the list and go from there. **Dean** – I think there is a couple of threshold questions here. How we organize things isn't quite so important but in aggregate, is there enough things here that are important that we feel is worthwhile to open the legislation? Remember at the beginning of this discussion we talk about once you open legislation you don't always get what you want. Sometimes there are unintended consequences, things get thrown in that you don't like. Is there enough that is important to take that risk? The second threshold question goes back to the director eligibility. Is it likely that somebody else is going to open legislation anyway and we are going to have to go there? **Nusbaum** – there are a couple that are overarching: this one about the commission being under ODA; consistency of the use of landowners; director eligibility was a major topic. The idea of the parking lot was originally for some of the big issues you want to tackle at future meetings, but also this list of other things that have come out of it in terms of perhaps changing that. What are statutory changes you may want to look at whether they are wordsmithing or dropping a whole section, or what are some overarching big picture, meaty topics. **Bailey** – what we need is what will cost the department in staff and time to go through the efforts before we get into the details. We need to have some idea what it's going to cost before we get too far down the road. **Chair Boyer** – Eric, can you send us the parking lot list? **Nusbaum** – I will clean up the list and send it out. **Dean** – also what can ODA staff carry on this or not? Remember they must be careful about getting into the legislative arena. They have to work their way through the executive branch to get there. Is this something that ODA staff can carry or does it need to go over to OACD? And does OACD need to be the champion on it? **Nusbaum** – it was clear that Larry did the changes last time. **Ward** – this was a good exercise going through piece by piece. These are things we maybe kind of a want to change; we could distill the parking lot into things we want to change...or do we want to go through that full lengthy process and

open it up to other things, unintended change; I think we are headed in the right direction to distill it down to what are the key issues and is it worth going through the process to make the changes. **Allen** – if we are the carrier, we would have to have approval from the Governor’s office to carry the legislative concept, and then in that event, we could commit staff time. If it’s carried by someone else, we are in a reactive mode, doing fiscal analysis and things like that and then we could not dedicate staff support time, is my understanding. Eric, I’m assuming the last major updates happened while ODA was the carrier? **Nusbaum** – yes, I believe we were the carrier. **Dean** – that would be nice if it worked out that way, but what if there were some of these items where the commission feels differently than ODA about what should happen? If there are differences of opinion, it would be difficult for ODA to carry through. **Allen** – that is where the agency would first have to decide if they wanted to try to move it through the governor’s office then we would have to see if the governor’s office gave approval. It’s all contingent upon those things, and if or some reason the agency does not, then you’d be looking to have someone at the legislature to carry it through and working through OACD. **Chair Boyer** – would it be beneficial to have Jonathan Sandau come and talk to us after we go through the parking lot list and then ask him to come to our following meeting? **Allen** – I can ask if he can be available. **Chair Boyer** – it might be getting into legislative session. It would be in March because our next meeting is in November? **Allen** – I was just thinking I needed to review our schedule. **Chair Boyer** – it was just a thought, I’ll put it in my notes. **Bailey** – I think we need to be prepared for something to happen in 2022, but for the majority of what we are talking about, we need to look longer than that. We need more time to draft down this parking lot to what we really want to do. We should be prepared for director eligibility that somebody else might do, that we want to get ahead of it. We may want to look at a single item of that importance that we need to deal with. Even among ourselves, we might want another couple of meetings before we know which way we really want to go. **Chair Boyer** – so Ken, do you think our next work session is just director eligibility? Kind of revisit that topic again because we haven’t touched on it in a while. **Bailey** – I think we need to do that, if not the only thing at least the major thing. I think we can also review to the parking lot and Eric can give us a presentation on what’s in the parking lot and recommendations. But I do think we need to get on the ball with director eligibility before somebody gets ahead of us. **Chair Boyer** – so that would be homework for everyone between now and November’s meeting. Let’s really give that some thought and come prepared. Ken, I agree, we were waiting to get through the whole statutes and now we have. **Bailey** – I think it will take more time than people think. I went through the Oregon Ag Heritage Commission rulemaking process, and it took about six months and meeting about six times to come up with rules. We are talking about statutes here, which is a whole different ball game and going from there to present to the legislature. **Allen** – I was going to suggest that knowing the level of interest that might happen with director eligibility, that to be very deliberate in calling that out. You may have several people interested in attending and listening in. Are you thinking about reporting out on the different meetings that you and I have attended? **Chair Boyer** – right, and I also think that maybe even the part of the group that did the intense review, have us all together for a couple of ours for our next work session for a couple of hours before our next commission meeting like we are doing today. **Allen** – thank you, Sandi just put in the Chat that November 16 and 17 is our next work session and meeting. **Bailey** – it would be great if that work group could have a recommendation or a series of recommendations or a couple of options. I don’t want to see the commission start at ground zero. If the work group could make a couple of proposal that we have choices to make or decisions to make. **Chair Boyer** – okay, thank you Ken. Anything else on this topic? Marganne, did I understand that ODA is going to a new format for virtual? **Allen** – that is correct. September 13th the office is transition to Microsoft 365 and Teams will become the virtual format. **Chair Boyer** – anything else?

Meeting adjourned at 4:15PM.

Soil and Water Conservation Commission Minutes

DATE	LOCATION	START TIME	END TIME
August 25, 2021	Via Go to Meeting	8:45 AM	11:10 AM

CHAIR	COMMISSION MEMBERS PRESENT	ABSENT
Barbara Boyer	Ken Bailey, Tim Kerns, Al Hrynyshyn, Stan Dean, Jerry Ward	Jim Bob Collins

Oregon Department of Agriculture (ODA) Staff Present

Stephanie Page, Director Natural Resource Programs; Marganne Allen, Soil and Water Conservation Districts (SWCD)/Water Quality Program Manager; Eric Nusbaum SWCD Operations Specialist; Sandi Hiatt, SWCD Grant Administrator; Renita McNaughtan, Administrative Specialist; Brenda Sanchez, Natural Resources Policy Specialist.

Advisors Present

Courtney Shaff, Oregon Watershed Enhancement Board (OWEB); Jan Lee, Oregon Association of Conservation Districts (OACD); Corey Owens, Natural Resources Conservation Service (NRCS); Cynthia Warnock, OCEAN and Wallowa SWCD; Ryan Gordon, Oregon Department of Forestry

Visitors

Jason Kesling, Harney SWCD; Nancy Hamilton, East Multnomah SWCD; Karin Stutzman, Polk SWCD

Call to Order

The regular quarterly meeting was called to order at 8:45 am by Chair Barbara Boyer on August 25, 2021.

Approval of Minutes

Draft minutes of the May 4 and 5, 2021 meeting were presented for approval. **A motion was made by Ken Bailey to approve the minutes with no changes or corrections. Seconded by Al Hrynyshyn. Motion passed unanimously.**

Ag Water Quality Program Updates

Marganne to discuss legislative/budget, TMDL Reporting, Focus Area Update, ODA Reopening. Describes struggles and uncertainty/adjustment due to the fires, pandemic, etc. Trying to work through the challenges with each of the districts. Highlights of legislative session include statutory authority to phase in ag channel program rollout, maintained monitoring dollars, gained a position. Phased Ag Channel Rollout (HB 2032) Will require rulemaking, specify regions and timing. Plan to reconvene the previous rule advisory committee. Finer details of timelines soon. Starting the first phase of ag channel specialist interviews. Asking for more notices, only one has been received. Need more landowners to participate. Program within eligible agricultural channels of the Willamette valley. Advised to go to the ODA Website for more information and getting the word out. Barbara asked about what the word "notice" means. Marganne explains it as paperwork describing where the channel is located, how much work will be done, and proximity to different resources including wetlands. Reply to applicant will be within 45 days. ODFW is required to designate periods of time in which this work can be conducted. If submitting a notice, you can ask for a variance in the time given. The time periods that are looked at are a six-week period typically in the late summer or early fall. Vary by region. It depends on how the water behaves in the part of the state. Information regarding the project has been given out to several districts and during Connect. Finding new ways of getting the information out. Funding documents for the Soil Health Position are under review. The position description has been drafted. This is a great time to think about budget requests. People are requesting that ODA has more dedicated resources regarding climate change. Need to work closely with OWEB. Asking for feedback. It's very important to up the resources. Potentially an ODA Climate change specialist. A long-term climate change plan should be set up. Asking for involvement. It would be a good opportunity for the Ag sector to do their part in climate change.

Legislative budget. WQ maintained funding for ODA local partner monitoring, Ambient WQM on ag lands w/ DEQ, Klamath Lake water quality monitoring, and two WQ positions (regional water quality specialists). WQ gained one SIA capacity position, and \$650k SIA capacity (Tech Asst). SWCD maintained funding for one SWCD position (SWCD support capacity). The SIA position will allow more small watershed work each year. Position will track contract implementation, conduct compliance assistance work, assist with applying for grant resources to support on the ground restoration work.

The \$650k is available for local partners and will provide regional tech assistance to support landowners. Asking for input on where the priorities of new positions and funds for new staff. Opened to discussion.

- Can be used for fire recovery,

- Should be SWCD focused,
- Can help projects get moving faster,
- Ideas or comments welcome.

DEQ Total Maximum Daily Load (TMDL) Reporting update. TMDL is the tool DEQ uses for WQ concerns. ODA is the lead on ag lands (TMDL role w/ DEQ). SWCD is the lead on WQ technical assistance, education, and outreach. Willamette Mercury TMDL: The final TMDL issued by EPA in Feb 2021. The next step includes implementation plan (over 18 months) These are not big policy changes. This is for controlling erosion, and improved reporting. Happy to say that ODA and ODF will be working together. This will expand basins, parameters, and tools. This could help integrate DEQ and other metrics for water quality concerns. Want to really focus on discussing, not only on what we've done, but what more we can do. Including riparian conditions, bare ground in winter, exposed bare soils in rainy conditions. For example, soil erosion topics overlap with other work including regenerative ag, sequestration, fire recovery, etc. ODA reopening has been postponed. Now has the option to attend in-person events. (Staff will wear masks, staff do not have to attend in person events, remote attendance options are appreciated.)

Advisor Reports

NRCS - Cory Owens: Environmental quality incentive program conservation incentive contracts. Oregon joined other western states to pilot this new program. Can apply practices and enhancements to specific locations on the operations. 45 practices and enhancements available. Application deadline was mid-July. Exceeded the 7.5 million allocations by 2 to 3 times. There was a strong response with little outreach. The majority of interest was in forestry, irrigation, livestock watering, and things relating to wildfires. There was about 1.1 million for the Klamath basin. And hoping for a little more money to stretch the program. Closely watching the drought situation. Trying to use all the farm programs available. Closely watching the wildfire situation as well. Looking at all options. Trying to expand the forestry base as well. The other major effort is in the watershed planning, the PL566 program. Actively involved in 25 projects. Want to really look at the Klamath area. Audio quality was not good, more info can be provided by local NRCS reps and Sandi Hiatt.

OWEB - Courtney Shaff: Program did a great job at getting grant agreements done. Everything seemed to go smoothly. Were able to get more NRCS grants. 11 grants at \$650k. Grant cycles that are open include partnership technical systems grant (applications due in October, and rewarded in January 2022), focused investment partnership solicitation (consultations, now through October. Applications due in January, rewarded in July 2022, Open solicitation grant awards will be in April, technical assistance restoration and stakeholder engagement due in November. All the grant programs are opening back up. Trying to build up staffing. Currently in hiring process for climate and water position (helps with coordinating climate change into OWEB practices both internally with staff, and externally with partners). Closed the announcement for a hiring a partnership coordinator and just gained back in budget. Just brought on an ISS5 position (helps with online application). In the process of reviewing responses to hire a DEI contractor. Kicking off the process of retrospective analysis of capacity investments. Stakeholder engagement is the most underutilized application type. Working out the logistics of the new fire policy position (More info early September). This is the first year for OWEB to receive general funds rather than lottery funds.

OSU - Sam Angima: Sam is on vacation. No report given

OACD - Jan Lee: Bad audio quality. Will call in via telephone

NOWC - Vanessa Green: No report given

OCEAN - Jeremy Baker unavailable. Cynthia Warnock to give report: Hired two contractors. Administrative support (helps organize and keep matters up to date, working on Google docs, assist in Connect planning, manage directory, emails, and logins, and maintain calendar). Contractor, a deliverables contractor, (responsible for implementing all facets of NRCS technical assistance contract, includes tracking, monitoring, and following up on the progress of all deliverables. Tracking action items and strategies that emerge from the board. Do the reporting and communicate to all stakeholders involved). Also hired a contractor to organize the 2022 Connect training. Will have a meeting next week because of the virus and shutdowns. Originally scheduled for the spring of 2022. Want to have an idea of in-person training or virtual training, so rescheduling for the fall of 2022; may be necessary before signing the contract with the contractor. Scheduled a date in October for a strategic planning meeting. This was supposed to be in person, now decided to have a virtual meeting.

OWRD - Ivan Gall/ Kyle Gorman: Not available. No report given.

ODF - Ryan Gordon: Fire season update. Have had above normal temperatures, below normal precipitation, and that is predicted to continue through September. The long-range prediction is showing above normal significant fire potential through September. It was an early season. Stats YTD - ODF protected lands, 191 fires from lightning. The 10-year average is 201. Those fires have burned 167k (almost 168k) acres. The 10-year average is 31k acres. YTD human caused fires is 720 fires. Almost 21k acres. The 10-year average is 492 fires for 22k acres. Seeing 1.5 times more human caused fires. Have been able to keep 94% on ODF protected lands to 10 acres or less. Have had 17 deployments. Cost at \$115 million gross. \$57 million dollars net. The net cost results after subtracting out reimbursements. Some of the biggest concerns are complex fires in the central Cascades. Continue to be at PL5. Resources are stretched thin. Post fire restoration is focused on capacity internally at ODF and support capacity with partners (including water consoles, SWCDs, and other local organizations that are working directly with landowners). A lot of funding available but lacking the capacity to help people access those programs and walk through the steps necessary to get forests replanted. Legislation approved \$5 million to ODF for seedling supply. Looking forward to working with OWEB. The funding is specific to the 2020 fire season, would

like to develop a foundation and capacity for post fire restoration in the future. Would like to put together a reforestation strategy (specifically for seedlings) for Oregon and all lands, addressing mechanics and logistics. Partnered with the Farm Services Agency (FSA) for implementation of EFRP. There are a lot of signups and asks regarding the 2020 fire season, ice storm, and for this fire season as well. The capacity is a huge challenge especially on the FSA side for the implementation and administration. ODF will receive a significant amount of funding from FSA. The Bootleg fire was significant with many non-industrial landowners impacted. Great communication with NRCS regards to post fire restoration. Would like to help the private landowners as well. Senate Bill 762 (fire omnibus bill) included significant investments into fire mitigation and suppression within ODF, state fire marshal's office, office of emergency management, etc. Specific items to ODF include wildfire risk mapping, continued development of the certified burn manager program, some changes in statute around prescribed fire, received funding for the development of landscape scale mitigation program, a small landowner mitigation program, continued and enhancements to smoke detection systems statewide, as well as a significant investment in capacity at ODF both permanent and seasonal positions. It's been a challenge to keep positions filled during fire seasons. Update on Senate Bill 1602. Most of the provisions went into effect January 1, 2021. Finalizing the notification system, the enhancements in FERNS will go live mid-December 2021. Forest accord conversations are ongoing with deadlines this fall and will turn into policy through the Governor's office. Once crossed over the \$50 million threshold of net costs, the state of Oregon has an insurance policy with Lloyd's of London, and we are currently using that policy. Helps between \$50-\$75 million in net expenses annually. Internally ODF bares the gross costs and expenses until reimbursements.

OACD - Jan Lee: Annual meeting will be held on November 9th and 10th. Open attendance. No longer will be held at Eagle Crest and has been converted to a virtual meeting. Senator Golden will be speaking about Senate Bill 762. Currently working on the Oregon Global Warming Commission report, which will set up a state carbon sequestration program. A final document will be available in the first week of September after the Governor's office review. DEQ climate protection plan regarding rules, have asked members to respond to rules with information to support carbon sequestration. Developing the working land handbook, which will be provided at the annual meeting. Will also have a forum on the advocacy program. Looking to fill the SWCD position at ODA to help with the partnership.

ODA NRPA Process Management Presentation

Stephanie Page: A slideshow is displayed during discussion. Discussing terminology of a management system. ODA programs already use a management system in one way or another. It's an easy way to monitor trends that develop and how to address them. Gives the ability to see if process is effective in doing our work or if there needs to be improvement. Gives the ability to move resources around if necessary. The programs within ODA utilizing the management system include, ag water quality, confined animal feeding operations, fertilizers, pesticides (licensing, registration, and compliance), soil and water conservation districts, pesticide stewardship partnership, and PARC. There are currently over 13,000 licensees in pesticides, over 14,000 pesticide products registered, and 1,000's of fertilizer products registered. As well as collaboration, stakeholder engagement, and customer service. ODA was prompted to start the system for the increase in collaboration, due to positive past experiences, and to track key metrics, improve customer service, track work backlogs, and have conversations about trends. Around 2013, ODA merged the pesticide division and the natural resource division. The process management system helped standardize certain aspects of the programs and track the cleanup of backlogs. Even if the trends are not positive, it helps fix the problem at the source. The basic process in implementing a management system is as follows; 1. Request for proposals. 2. Hire a contractor. 3. Assemble cross-program NRPA team. 4. Identify mission and core processes. 5. Identify some metrics. 6. Continue to work on some other metrics. The program must be sustainable. From the management program, ODA currently has a map of core work, customer service and inspections/enforcement measures built out, working on buildout of other measures, collaboration measures will be built in the future, and quarterly business reviews. Stephanie presented a visual NRPA Fundamentals Map. Describes the five core duties of ODA. List includes, Fostering Collaboration, providing Compliance and Technical Assistance, Conducting Inspections, Investigations, and Enforcement, Issuing Permits, Registration and Notification, providing Customer Support, and Resolving Inquiries. Current questions that are being addressed:

1. Is there a consistent incoming complaint process?
2. Is there a routine inspection compliance rate?
3. What's the time spent on education activities.

Future areas for measure buildout are: Issuing permits, registrations, and notifications. And fostering collaboration.

Asking for input on possible measures we should investigate? Please contact Stephanie for any comments or suggestions. A few opinions mentioned: Collaboration isn't necessarily something to measure and fix. Measure Collaboration to solve how well other things are being done. Two types of collaboration to measure (formal and informal). Make sure the measurements are focused. Staff may focus on achieving personal and group goals, rather than focus on ODA goals. These programs need to be coordinated if trying to complement partner goals such as OWEB.

SWCC Appointment Process

Marganne Allen: Purpose of the process is to support the consistency in SWCC appointments. Establish standards aligned with SWCC statutory purpose and agency core values. The history has been traditionally informal. This will create transparency for anybody interested. A few key components are purpose, policy (statute and rules. Including candidate criteria and SWCC input), and

procedures (All appointments would involve an open recruitment process including reappointments. Also allows nominations). The criteria for candidates should align with SWCC values and purpose. The ODA director has the final authority to make the selection/appointment. Asking for input. A few opinions mentioned. Would like to see a procedure for recommendations/feedback from SWCC commissions on candidates. Public process? Transparency is vital. Term limits? (Statute does not have term limits). Are we fixing something that's not broke?

Break for Public Comment

No advance requests for public comment submitted. No public comment.

Call for upcoming meeting agenda items

Chair Boyer: OWEB water vision update on policy position and water vision (maybe February meeting), Ryan Gordon update (fire, policy decisions/changes, wildland urban interface), Parking lot for 568 (work session), ODA role in sequestration in natural and working lands, climate, Jim Johnson (new legislation on land use), legislative process with leg concepts, schedule topic of Director eligibility.

SWCC Member Reports and Wrap up

Stan Dean: Illinois Valley has issues with water use/shortages and illegal diversions. Will attend board meeting and board will consider the model OACD advocacy policy. Jackson soil water get board members up to speed on climate. Line up four one-hour sessions about general climate info, sequestration in ag/forestry and urban environment. Bridge into overall strategic plan.

Ken Bailey: Wasco County, specifically the 15-mile drainage in the Dufur area, the underground water storage project is moving forward with the preliminary design setup. Project is for excess water in the spring and pump the water out into the creek during the summer. Has had major funding from grants. Another issue is the groundwater situation. Received a \$1 million a few years back from legislature to redo domestic wells. That project has been completed. Will continue the project with additional funds. Also wanted to create deep wells to ease stress on aquifers. Both deep wells have been completed. The first well was 1,200 feet deep, the second was 1,500 feet deep. The first well is successful, and now the second well is getting pumps installed.

Al Hrynshyn: East Multnomah is looking for a grants program manager and an outback and education coordinator. Taking applications to mid-September. Marion is hiring a new conservation planner, may have a new District Manager, and has moved into their new office in Stayton. East Multnomah is doing education outreach. Info on their website. Clackamas is setting up a small farms school on September 15th. Info on website. Upper Willamette bridge loan came through. Hired three conservation techs, still looking for a financial officer, and office manager. Have moved into new office in West Eugene. Still involved in fire recovery. Rebuilding capacity.

Jerry Ward: No update

Tim Kern: Dry. Water rights are becoming hot topic. No big fires as of now.

Barbara Boyer: Mercury TMDL - county commissioners have asked district to take on plan development. County commissioner would like to do wildfire prevention workshops.

Newsletter Topics

Plans for new commissioner recruitment, completion of ORS review. Budget information from ODA (input on manager position and roles). SWCD position.

Adjournment at 11:10 a.m.