



# Soil and Water Conservation Commission Minutes

DATE	LOCATION	START TIME	END TIME
May 17, 2022	Willow Lake Wastewater Pollution Control Facility Keizer, Oregon	8:34 AM	3:37 PM

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

### Oregon Department of Agriculture (ODA) Staff Present

Isaak Stapleton, Director Natural Resource Programs; Marganne Allen, Soil and Water Conservation Districts (SWCD) and Water Quality Program Manager; Karin Stutzman SWCD Program Lead; Eric Nusbaum SWCD Operations Specialist; Sandi Hiatt SWCD Grant Administrator; Mike Badzmierowski Soil Health Specialist; Kevin Fenn, Compliance Lead; Renita McNaughtan Administrative Specialist

### Advisors Present

Kyle Gorman Water Resources Department (Bend); Jason Jeans Natural Resources Conservation Service (NRCS); Jan Lee Oregon Association of Conservation Districts (OACD); Courtney Shaff Oregon Watershed Enhancement Board (OWEB); Gene Foster Oregon Department of Environmental Quality (DEQ); Austin Reimer, Oregon Department of Forestry (ODF); Ron Alvarado, NRCS

### Visitors

Brenda Sanchez, District Manager, Marion SWCD; Randy Williams, District Manager, Wheeler SWCD; Jason Kesling, District Manager, Harney SWCD

### Call to Order

The regular quarterly meeting was called to order at 8:37 am by Chair Barbara Boyer on May 17, 2022.

### Approval of Minutes

Stan Dean noted the February 15, 2022, work session minutes read as transcripts and requested summaries instead and noted several areas with inaccurate information. Chair **Boyer suggested tabling the approval of the February 15, 2022, work session minutes until the next meeting.** Draft minutes of the February 16, 2022, meeting was presented for approval. **A motion was made by Stan Dean to approve the minutes with no changes or corrections. Seconded by Jerry Ward. Al Hrynshyn abstained. Motion passed unanimously.**

## Discussion – Next Steps after Final ORS 568 Review

**Chair Boyer** asked for thoughts from the commission members on next steps. There was discussion regarding covering highlights rather than going into details. Stan Dean suggested three topics: Parking Lot, Director Eligibility, and Commission Redesign (i.e., recreate as an advisory body to multiple agencies; redesign as an oversight role for SWCDs; or leave as is.) Commission should look at all three and come to alignment; all three also require legislation. Doing nothing is a choice, however someone else may pick this up and run with it, which puts the commission at a disadvantage. Discussion followed as to how it would be taken to the legislature and putting together a dedicated group to develop concepts; starting with director eligibility and work to a compromised proposal that the districts can accept.

**Chair Boyer suggested the Commission meet with the OACD Board in November with specific proposals to discuss. Prior to that meeting, the Commission will hold a work session in the summer.** Discussion around Director Eligibility as one definite option for meeting with OACD Board in November. Using past work session minutes as reference to help narrow down the options to present. **Chair Boyer requested that Sandi Hiatt send those work session minutes to the Commission members.**

## Ag Water Quality Program Introduction and Updates

**Natural Resource Programs Director Isaak Stapleton** reported that Director Taylor announced she has been nominated by the President to be USDA's undersecretary for trade and foreign agriculture affairs. Staff is excited for Director Taylor, but she will be missed, and this also means more changes for the agency. The Governor will appoint a replacement. Isaak noted the Board of Ag met in person for the first time in a while with several board members meeting for the first time in person. The Department of Ag Salem building has become more secure with each department door locked. When the public visit the agriculture building, there is now a check-in process on the first floor and only one public entrance (west side off the parking lot). On Thursday, Isaac will be presenting to the Environmental Quality Commission regarding the Memorandum of Agreement between ODA and DEQ that is currently being updated.

**SWCD/Ag Water Quality Program Manager, Marganne Allen** introduced the new SWCD Program Lead, Karin Stutzman.

**Jerry Ward** welcomed Karin and stated that the Commission is looking forward to working with her.

**SWCD Program Lead Karin Stutzman** thanked the Commission and then shared some of her background as the district manager with the Polk SWCD and the partnerships she developed in that capacity. She also shared some SWCD webpage information and new ideas for the district guidebook updates, (i.e., future updates will be online only). Karin shared that Connect is coming September 6-8, which a hybrid conference and is currently accepting abstracts until June 10. AgWQ Program updates - only current SIAs that are already established will be managed for 2022. Additional SIAs will not be introduced until additional staffing can be added. **Courtney Shaff** noted that the OWEB Board will act on the 2021-23 SIA technical and monitoring grant funding for other uses. None of those funds have been spent to date. There was discussion regarding alternative uses for the SIA funds and if the funds were still viable if new staff were onboarded shortly. **Karin Stutzman** continued her update with the Ag Ditch Channel Maintenance Program (ADCM). There was discussion regarding the number of applications that have been received in the ADCM program, staffing, the current focus, a phased-in approach, and the potential of the program. **Kevin Fenn** noted that part of the plan is to develop an outreach process for the phased-in approach where the SWCDs will become the face that works with the landowners in the notification process. Also, there are currently three notices: 1) Yamhill, 2) north Salem by Keizer, and 3) west of Salem. **Commission members** suggested additional ideas such as including Boards, and to remind Boards and staff of SWCDs that ODA is there to help implement, explain, and improve. Karin continued to introduce other program areas of ODA that she might give updates on at future meetings as well as current hot topics.

**Discussion regarding the SIA position and the status of that position.**

**Discussion regarding the process for director appointments for the Commission.**

## Advisors Reports

**NRCS – Jason Jeans** sitting in for Ron Alvarado. Portland designated as one of 17 cities around the country for re-initiation for USDA's Peoples Garden. Partnering with a local group and close to an announcement; urban conservation work with SWCD partners engaging in rooftop garden, container gardens, community spaces, and traditional vegetable gardens. A subcommittee with FSA meets during Oregon Tech Advisory Committee to help support the work of FSA pilot urban county office committees and the USDA's vision for innovative and successful production in the nation's urban areas tied to food deserts and food insecurity. Beginning farmers and ranchers' joint effort with FSA, RMA, and RD and in-the-know webinars to bring these agencies to put out program information. Website, active conservation implementation strategies with an interactive map and active funding opportunities around the state. RCPP projects, joint chief projects listed. RCPP application closed and anticipating Oregon to have the most apps around the country. Received nearly \$7million in ALE (agricultural land easement) funding, which has done a lot through partnerships around the state. Discussion followed.

**OWEB – Courtney Shaff** reported that they have an Oregon Ag Heritage Program Coordinator and Taylor Larson will be moving into that position on June 1<sup>st</sup>. She talked about the retrospective capacity that is ongoing and noted she and Eric would give an update or detailed presentation on that work in late fall or winter if the commission are interested. Their last two climate listening sessions

seeking input from stakeholders that have interest in the work that OWEB funds. Total of 6 sessions seeking input on potential future climate related grant criteria and there is also a survey. Staff are interested in meeting in one-on-one conversations as well. Giving Board a brief update in July and OWEB will be discussing whether to move forward with rulemaking associated to include climate criteria in our restoration rules. July board meeting will be in-person and will continue to have remote options as well as and live stream on YouTube. Some highlights of the July board meeting are rebalancing spending plan, receiving second year of PCSRF funds, awarding focused investment partnerships, awarding next cohort of FIPS in July. Site visits associated with applications OWEB received in May for open solicitation grants. OWEB has a publications specialist on staff who be doing live and paper publications and has been doing a good job of highlighting stories on the webpage. Contractor working with OWEB for DEI training is doing targeted interviews with underrepresented populations to get some of their input on the climate criteria being considering.

**ODF – Austin Reimer** reported filing in for Nate Agalzoff. Forest Resources Division in process of rule writing and revision for the Private Forest Accord. Senate Bill 1501 is the Private Forest Accord policy piece, and it will update some of the Forest Practices Act. Some changes include: increased stream buffer size, new standards for forest road design, and more attention of trees on unstable slopes. Another part of it is Senate Bill 1502 the small forest landowners tax credit, which would offer small landowners a tax incentive with the amount of the credit being proportional to the volume of timber retained in riparian management areas that goes beyond the minimum retention requirements. More concrete details will be available later in the year. Online seedling ordering tool currently being developed (HB 5006) for small woodland owners; those affected by fire or other disturbance would receive priority in their order and will be distributed by ODF. Sustainable Northwest (SNW) is pursuing an NRCS a grant (RCPP AFA original conservation partnership program alternative funding arrangement), which would allow for those who haven't been able to take advantage of any forest restoration program to have opportunities for recovery efforts in each 2020 fire footprint. ODF is identified as a partner on the application and will allow SNW to allocate lump sum funds to SWCD and WC to do direct contracting where needed. We will know more if that application is successful just before the federal fiscal year, October 1<sup>st</sup> and that is roughly a \$3million ask. Updates with SB 762 – some highlights of completed items are the Landscape Resiliency program; awarded \$20million to nine mitigation projects throughout the state. Planned to treat 156,000 acres, which are at high risk for wildfire and should bring around \$15million in matching funds. For the Small Forestland Grant program, we awarded \$4.2million to 23 projects, which should support about 600 landowners across about 4,000 acres. Currently, with SB 762, working on wildland urban interface identification and statewide wildfire risk. Fire season outlook for 2022 the highest potential will be central Oregon and into the eastern part of the state with those areas is predicted to be above normal. Fire risk for June to be associated with dry and windy weather. In general, looking at a delayed start due to the precipitation we've received. Looks like northeast and northwest Oregon is predicted to be normal potential. Discussion followed.

**OACD – Jan Lee** reported that they have been working with the natural resource agencies looking at budgets for next year's legislative session as well as program options. Working with a large range of partners on building a carbon sequestration program for Oregon. Spent time with Mike Badzmierowski at ODA to assist in completing the USDA grant for a state Carbon Sequestration (CS) program. OACD did an inventory of all the districts to build a list of district equipment that might be available to aid with implementation of a CS program. She noted that they're continuing to build the CS public website and are hoping to have it open in late summer to provide tools and information; also developing a demonstration project that will be emphasized on the hub as well. They are continuing to provide educational webinars. Oregon Conservation Partnership website will direct you to recordings on YouTube: <https://www.conservationpartnership.org/webinars/>. Discussion followed. She noted they have an active easement and acquisition program in the Clackamas Soil and Water District, and they've designated **Jason Faucera** to be the lead. They are seeing a notable number of legacy easements, where people plan when they can no longer farm their property. They have not used NRCS or OHP yet but are looking into the availability of projects that would give access to those funds.

**Vanessa Green** – provided an update on the Connect conference – September 6-9, 2022, at the Equity and Inclusion Team; Six tracks identified. DEI theme throughout. Call for abstracts has gone out and are due by June 21<sup>st</sup>.

**Water Resource Department (Bend)- Kyle Gorman** reported that the program is in the middle of mass hiring. Southwest Oregon remains in drought, while the Northwest has improved compared to last year. He pulled up a map of the drought monitor as of May 2022, and there was discussion regarding what counties fell where on the scale. Prineville Reservoir is still at a record low level this year, so water conditions for both the Ochoco Irrigation District and the North Unit Irrigation Districts (NUID), which supply the Wickiup Reservoir, are severely curtailed this year. North Unit Irrigation District is looking at a duty (which is a seasonal amount of water per acre) of .45 feet, so less than a .5-acre foot per acre for the district. House bill 4061 passed causing a change to water hauling and enforcement penalties. Effective June 3<sup>rd</sup>, a new law takes effect essentially saying that a penalty can be as high as \$25,000 for someone not following the rules with water hauling associated with cannabis. **Ron Alvarado** commented that NUID and Ochoco are upcoming for watershed program funding. They're set to undergo construction to modernize their main irrigation infrastructure.

**NOWC- Vanessa Green** reports that the Oregon Conservation Partnership has a webinar coming up that will feature a panel of experts speaking on water acquisition rights. If somebody is not able to physically attend, they can find a recording on the NOWC website and on their YouTube channel. **Jim Bob Collins** asked for elaboration on water acquisition. **Vanessa** responded that is being led by NOWC's partner COLT (the Coalition of Oregon Land Trust), so she's not the point of contact. Although, she does note there's

some developments pertaining to rules and regulations as well as creating an entry for conservation districts and watershed councils to work with landowners on water acquisition rights.

**DEQ – Gene Foster** reports DEQ is submitting the Nonpoint Source Annual Report to the EPA that documents the nonpoint source efforts in the state of Oregon to fulfill Section 319 of the Clean Water Act. DEQ is also in the process of submitting the Nonpoint Source Management Program Plan, which is a five-year plan for implementing programs to address nonpoint sources of pollution. Gene noted DEQ is set to begin discussions about the gaps in the Coastal Nonpoint Control Plan with the EPA and NOAA. These gaps have previously caused penalties to the 319 funds for the last several years under the Coastal Zone Reauthorization Act. Gene continuing to work on the TMDL's, the Coquille, and the upper Yaquina as well as the TMDL replacement project areas that were part of a court ordered schedule. **Barbara Boyer** asked if they have a deadline to submit the new Nonpoint Source Management Program Plan to the EPA and NOAA. **Gene** responded that the target time is mid-June.

### ODA- DEQ Memorandum of Agreement Update

**Marganne Allen** noted that the purpose of the memorandum is to keep transparency with the public about how DEQ and ODA work in collaborative efforts to meet their legal responsibilities relating to agricultural nonpoint source pollution under the Water Quality Management Act. The goal is to update this memorandum by the end of the calendar year as the last time it was updated was 2018. Discussion regarding funding, project timeline, and which agency enforcement should take place.

### Land Use Updates

**Jim Johnson** introduced Barbara Boyer as a new member of the Land Conservation and Development Commission. They also have a new director Dr. Brenda Bateman. Some court cases of importance to note - The Yamhill County 'Stop the Dump' case has changed the interpretation of farm impact tests that stemmed from that decision and has been key in several other land use decisions. In Shaper vs Marion County, the decision by Marion County to allow the runway to expand into exclusive farm use (EFU) lands was appealed due to the implications to agriculture in this rural area. The important elements of this case are that state agencies must make decisions consistent with statewide planning programs and that airports are not just rural use because they're located in a rural area in the land use planning. Another case appealed to the Court of Appeals is One Thousand Friends vs Clackamas County. Essentially, Clackamas County made the decision that if property owners have an existing house in an EFU zone, property owners could put short-term rentals on the land without getting any approvals. The court says that short-term rentals may be allowed in the EFU zone but that property owners must go through the proper review and permitting process. Central Oregon Land Watch vs Jefferson County is based on Metolius expanding the urban growth boundary by 62 acres. The city is arguing that the subject property has the wastewater treatment plant on it therefore they should have jurisdiction and want to bring it into the urban growth primary. As the city is surrounded by farmland, the court argues that just because Metolius owns the land doesn't mean jurisdiction is a reason to expand an urban growth boundary. Friends of Marion County vs Marion County and Seasons at Red Oak Farm Agritainment Co is an agritourism case. There's a 74.5-acre plot with a barn on it that would like to charge a farm experience fee although they don't have any ongoing farm operation as defined in state statute. The outcome was that Agritainment is supposed to be a subordinate accessory to the primary use of the property as a farm not the other way around. Columbia Riverkeeper and One Thousand Friends of Oregon vs Columbia County and the Port of Columbia County is regarding 837 acres of agricultural land being rezoned for industrial use. This is its third time being overturned noting that the port failed to apply farm impact tests to show how the rezone would or would not affect surrounding agricultural uses. Discussion took place regarding the last two times this case was overturned. The city of Dayton is revising their comprehensive plan to recognize the importance of agriculture to their community and have been updating some policies to protect that. There are three proposals for large scale chicken CAFO's. All three are going to operate on EFU's, which is permitted. The ODA will not issue a capital permit for any of the farms unless there is a land use compatibility statement from local jurisdiction. Discussion regarding public opinion about what should and should not be allowed on high value farmland. Discussion regarding water rights pertaining to CAFO's, whose jurisdiction that falls under, and speculation regarding how long it might take for moisture in the soil to build back up after the past few years of drought. Discussion regarding an action plan to prevent gentrification causing job loss on agricultural lands in rural areas.

### Legislative Update

**Jonathan Sandau** reported on some new technical legislative concepts. One being on behalf of the Oregon Invasive Species Council as they are not able to get risk management insurance through DAS (Department of Administrative Services). The other focuses on rewording the motor fuel quality statutes as they point back to a CFR that hasn't existed since the EPA changed it in 2020. Discussion regarding legislative concepts that are no longer being pushed through. Some requests for the new budget include \$450,000 to be added to the base budget for the noxious weed work that ODA previously got one time funding for in 2021, an aquatic noxious weed specialist position, some technical positions in the Ag Water Quality program, and a soil health position. Discussion regarding the need for the staffing budget ask for new positions while there's extra program vacancies.

### River Democracy Act Presentation

**Randy Williams** reports that this bill is proposing 4,700 additional miles of Oregon be designated as Wild and Scenic Rivers and that existing corridors be expanded to a half-mile on each side. Information can be found on Senator Wyden's website. It has not gone before a subcommittee or committee hearing. The additional miles in question are broadly scattered through the state. Discussion regarding motive of senator sponsors, the lack of a map being drawn to represent which areas are going to be affected, and how elevation could change total acreage. Questions regarding who is taking the lead on the river evaluation and monitoring.

### Public Comments

Whitney Collins noted that they had just completed their bi-annual reviews and the measurable objectives had been added to their area plans with no prior conversation with the district. Also, the EQC is planning to bring in the Powder Brownlee TMDL and circumventing the process and passing what is there. Just wanted to highlight a couple of examples of concerns of what is happening in our area with a lack of communication. We are also having a severe shortage of contractors in our area and there is a money problem. Would like to see a cost-of-living increase in our Scope of Work. Haven't had to lay anyone off yet, but that is only because they are able to work from home.

### Next Meetings – August 15-16, 2022 - Eugene, Upper Willamette SWCD November 2, 2022 - Newport - OACD Conference

Jim Bob proposed to have a speaker present on how agricultural deferral tax exemptions work. Discussion regarding potential location and date of the next meeting.

### SWCC Member Reports

Ken Bailey mentioned a groundwater reclaim storage project Wasco County designed that when it gets above a certain temp that irrigators do not irrigate. Recharge program takes water out of the creek filters it and puts it down a hole and saves it for the next summer. Google funded. Object is not to pump it out for irrigation, but to pump it back into the creek. Ground water is warmer than the creek water and it generally stays in a bubble, and it stays cold, and you put it back in the creek and it cools down the creek. Mosier Valley second depot is finished and has taken two of the largest irrigators out of the Valley. Second program of about 20 wells co-mingling and losing water. Then got another \$900,000 last session and basically looking to do that again. Labor costs is a real thing; purchasing robots could save \$500,000 a year but robots are not cheap.

Al Hrynshyn reported the transition from no money to a lot of money is like rebuilding from scratch. Working on policies, district from 3 to 9. Still looking for people to fit the positions we have. Have made significant hires. Former conservation spec. is now program mgr. Media and outreach ed specialist. Clearing our plate of old work and working on a grants program; grants program for local farmers market program; environmental education outreach; consortium private; holiday farm fire rehabilitation. Busy, active, growing and still learning what we can and can't do. Haven't had time to work with the other districts. Former budget of \$200,000 to current budget of \$3million.

Jim Bob Collins reported that they had some openings on local board. Outside of drought, had some rain. Budgets are tough, and river democracy act, the NRCS money bought a lot of people with ideas. Curious to see who gets funded.

Jerry Ward reported going through budget process. Budget Committee had some that had other agenda like climate change. As district grows, must have documentation, policies in writing. Trying to hire IT person, very expensive. First in person board meeting in recent years, budget committees are virtual.

Tim Kerns reported that the weather change has been nice. Reservoirs are critically low. Last spring was very dry, and we were very lucky we didn't have any fires in the area I report for. The labor shortage is a real problem and I find myself working a lot harder than I want because I can't find any help. Having a bit of a crime wave in the area also. Fuel is so valuable, it's getting syphoned, and batteries stolen.

Stan Dean reported that we used to have Basin Team meetings and tried to start them again with mixed results. Had a rep from ODAs, some from NRCS but didn't get people from the districts in our area to send anyone. Going to try to keep going again this fall. Jacksons SWCD had wildfires a couple of years ago and we restructured our jobs to focus on post bio recovery in a couple of areas, we got OWEB and ODF funding and a couple of grants. When you go into those situations, you make contact with new landowners, and it has helped with outreach. Had front desk person leave and unable to find anyone to even apply for the job. Looking to hire another conservationist sometime in the next year and looking at what we need to do to compete.

Barbara Boyer reported that Yamhill SWCD hired a great office administrator who is fabulous. She is doing the job of two. Tried to hire an operations manager and that didn't work out and we renamed the position, did a salary analysis, and had to bumped up the salary for the position. Our number one is leaving us and has been working on his exit plan. He will be taking an extended leave this summer for about six weeks and will leave at the end of August. We will miss him, but he did announce it about two-week ago.

We're excited about the two candidates we have and if we need an executive director and a district manager, we don't know. Larry may come back for special projects as a contractor. We did our long-range plan this year, and one of our goals is to reach out regionally to other conservation districts and talk about land use and other applications that are happening.

Meeting adjourned at 3:37PM.