

**Soil and Water Conservation Commission**  
**February 11 – 12, 2016**  
**Regular Quarterly Meeting**  
**Willow Lake Water Pollution Control Facility**  
**5915 Windsor Island Road N, Keizer, OR 97303**

**Thursday, February 11, 2016**

**Soil and Water Conservation Commission (SWCC) Members Present**

Chair Barbara Boyer; Vice Chair Tim Kerns; Gary Jensen; Mel Omeg; Marilyn Rice

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

Ray Jaindl, Natural Resources Program Area Director; John Byers, Soil and Water Conservation Districts (SWCD) and Ag Water Quality Management (Ag WQ) Programs Manager; Manette Simpson, SWCD Program Lead; Eric Nusbaum, SWCD Operations Specialist; Sandi Hiatt, SWCD Grants Administrative Officer; Anne Friend, SWCD Program Support; Theodore Bunch Jr., Pesticide Analytical Response Center (PARC) Coordinator

**Advisors Present**

Ron Alvarado, Natural Resources Conservation Service (NRCS) State Conservationist; Courtney Shaff, Oregon Watershed Enhancement Board (OWEB) Capacity Coordinator; Ryan Gordon, Oregon Department of Forestry (ODF) Family Forestland Coordinator; Mark Saelens, Oregon Association of Conservation Districts (OACD) President; Jerry Nicolescu, OACD Executive Director; Alex Sifford, Network of Watershed Councils (NOWC) Interim Executive Director

**Visitors Present**

Randy White, Jackson SWCD; Brian Lightcap, West Multnomah SWCD; Whitney Collins, Baker County SWCDs; Tom Straughan, Umatilla County SWCD; Pat Fitzgerald, Yamhill SWCD

**Call to Order**

Chair Barbara Boyer called the regular quarterly meeting to order at 12:35 p.m. on Thursday, February 11, 2016, welcomed everyone and asked for introductions.

**Pesticide Analytical and Response Center Presentation**

Theodore Bunch Jr., gave a presentation on the Pesticide Analytical and Response Center (PARC). Theodore outlined the Oregon Administrative Rules that are related to PARC and gave details about member agency responsibilities, incident reporting, pesticide registration fees, and statutory authority; he reviewed the recent fee increase that the Oregon Legislature approved for PARC and the Pesticides Program to expand outreach and education for Oregon citizens.

**Approval of Meeting Minutes**

The SWCC reviewed the minutes from the November 2, 2015, regular quarterly meeting held in Eugene, Oregon. **Gary Jensen moved and Tim Kerns seconded the motion to approve the minutes from the November 2, 2015, SWCC regular quarterly meeting. The motion carried unanimously.**

## **Advisor Reports**

### **Network of Watershed Councils (NOWC)**

Alex Sifford reported that the recruitment to replace Ryan Gordon is taking place. The Network has their first outside advisor from Oregon State University and outreach activities are progressing. The Fall Conference was a success and he is currently working on CONNECT 2016 at Salishan Spa and Golf Resort, April 19-21, 2016.

### **Oregon Association of Conservation Districts (OACD)**

Mark Saelens reported that the first announcement has been made for a series of district-only phone calls with OACD; these phone calls are one communication avenue for districts to express concerns and issues; they are moving forward with upgrading the email system and improving the email List Serv; it is changing to be more streamlined and dedicated to specific topic lists; notices will be sent out to let people know what is occurring. The National Association of Conservation Districts (NACD) national conference in Reno, Nevada was successful this year; drones were a hot topic with an example policy that encourages drone use for agriculture purposes; also much discussion about waters of the US. The next annual conference will be in Denver, Colorado.

Jerry Nicolescu reported that as Mark mentioned, communication upgrades are continuing at OACD; the website is updated and working. The Coalition of Oregon Land Trusts (COLT) is doing an assessment of the Oregon Conservation Partnership members, which include NOWC, OACD, OCEAN and COLT; the purpose is to identify roles, responsibilities, and how to work together as a partnership. Jerry reported he has been busy at the Legislature this session; there are more drones than private pilots in the U.S. so he is watching that legislation; Senate Bill 1517, the wetlands bill is still moving; OACD opposed the original bill; there have been amendments and should be coming out of committee; the session ends March 5<sup>th</sup>.

### **Oregon Department of Forestry (ODF)**

Ryan Gordon reported that he is now the SWCC liaison for ODF; Jim Cathcart has moved to the West Multnomah SWCD; they are currently evaluating the Private Forests Division structure with plans to hire a new manager soon; Ryan is the Family Forestland Coordinator, which is a new position with primary focus on increasing capacity to provide technical assistance to family forestland owners statewide. He is working with Polk and Yamhill SWCDs on a CREP-related research project; ODF partners with NRCS to provide technical assistance to landowners interested in NRCS forestry-related cost share programs, and Ryan will help coordinate this work. The Private Forests Division is currently working through a rule-making process related to riparian rules and stream buffers in Western Oregon. The Division will be working on HB 3013, which allows landowners to create wildlife food plots under the Forest Practices Act. The Division will also have a presence at CONNECT, and is making a small contribution to the event.

### **Oregon Watershed Enhancement Board (OWEB)**

OWEB awarded over \$12.7 million to six Focus Investment Partnerships Implementation grants at their January Board meeting; these are multi-year investments for large-scale habitat improvements. In addition OWEB awarded over \$900,000 to eight Focused Investment Partnership Capacity Building grants for strategic action plan development, organizational development, and outreach. OWEB funds both SWCDs and watershed councils and in response to questions raised by the OWEB Board, developed a document outlining OWEB's expectations

when councils and districts work closely together. OWEB supports collaboration amongst councils and districts, but expects clear distinctions between the two organizations when they are applying to and receiving both Council Capacity and SWCD Capacity grants. OWEB also recently announced another round of Building Capacity grants. These grants were offered last biennium to watershed councils who wanted to explore changing their organizational structure, mergers, collaborations, or other unique approaches to operations. This biennium the grant is offered to not only watershed councils but also to districts who may want to think creatively about how to operate with local partners, there is \$140,000 available for this offering.

### **Natural Resources Conservation Service (NRCS)**

Ron Alvarado reported that at the NACD conference Chief Weller used Oregon efforts as examples for partnerships. Ron wants to be transparent with what Oregon NRCS is doing; he has moved Oregon away from 'random acts of conservation' to a strategic approach to conservation; he gave a presentation on how the strategic approach works, beginning with an overview of how farm bill program funding works; he explained that nationally states do not get equal shares of funding and the Chief has funding discretion; Oregon was given \$42 million for NRCS programs across the state; the strategic approach includes District Conservationists working with the Local Working Groups, which include SWCDs and other partners, to identify local project priorities; for Fiscal Year 2016 Oregon received \$18.8 million for Conservation Stewardship Program (CSP) from a total of \$150 million nationally. Discussion followed about focus areas and the monies that are allocated for Oregon; Oregon NRCS spends about \$100 million on 'bricks and mortar'; they are working on cooperative working agreements between SWCDs and NRCS and his focus is keeping boots on the ground; his intent is to have agreements in place by July. At the national level, there is NRCS discussion with the core partnership to get back to conservation planning; Conservation Boot Camp will be offered with some seats available for SWCDs.

### **Natural Resources Program Area (NRPA) Update**

Ray Jandl reported that ODA is assisting the Oregon Water Resources Department (WRD) in providing the Corps of Engineers estimates of agricultural water demands for current (2014) and future conditions for their Willamette Basin Reservoir Study; Margaret Matter (ODA Water Resource Specialist) is working with WRD, the Army Corps of Engineers (Corps), agriculture groups, and other interested parties on the water supply study in the Willamette Basin; the Corps is asking for agriculture water demand for the future to assist with planning of use of reservoir supply; the agriculture industry has asked to participate in the current ongoing evaluations. Margret is also working with WRD on extensions for agriculture water reservations established in the 1990s; those reservations are starting to expire; there are approximately six areas for which ODA was able to establish reservations; WRD is doing temporary rule making to extend the reservations. The Confined Animal Feeding Operations (CAFO) Program approved the Water Pollution Control Facilities (WPCF) permit and the National Pollutant Discharge Elimination System (NPDES) permit is almost finished; these are five-year permits and allow operators to operate in compliance with the Clean Water Act. The Pesticides Program is working hard with compliance actions, gypsy moth eradication in the Portland area, etc. ODA is urging people to pay attention to the labels and to follow the instructions exactly when providing training and outreach.

### **SWCD/Ag WQ Updates**

John Byers reported that a district that had a long-time outstanding State Revolving Fund loan

with DEQ has finished paying off the loan. He gave an Ag Water Quality Program update presentation on the four tools the program is using: Focus Areas, Strategic Implementation Areas (SIAs), Complaint-Based Compliance, and Individual Voluntary Projects; there is at least one Focus Area in each district with the districts choosing an assessment method that worked for them, resulting in diverse metrics, which resulted in difficulty in aggregating information statewide; the purpose of the Focus Areas is to assess current site capable vegetation (Status) in specific areas and then measure percent change (Trend – moving the dial) after implementing projects. He provided information regarding the status of the Ag Water Quality Area Plan review process statewide, including the Area Plans transition to the new chapter format; as part of the new format, the goal is to include measurable objectives; the proposed long-term measurable objective goal is to achieve 90% site capable vegetation to meet Oregon Revised Statutes to prevent and control water pollution from agricultural activities, achieve and maintain water quality standards, meet Total Maximum Daily Loads (TMDLs) for agricultural load allocations and ensure Ag Water Quality Management Area Plans have a schedule to implement measures. Also discussed was the selection of the next six SIAs which will be selected in the next few months; the current plan is to have at least three on the coast; ODA is trying to select quickly to give districts time for preparing grant funding applications. John reported this round of SIA Open Houses are completed and the turnout has been outstanding; landowners have gone home and started looking at their land differently to make sure they stay in compliance into the future; having the districts present at the Open Houses has been successful with landowners, and they have been very receptive to working with districts. The prioritizing of Ag Water Quality complaints that are coming in to ODA was also discussed. A discussion followed about the concerns around the process.

### **SWCD Staff Updates**

**Manette Simpson** reported she attended the OWEB subcommittee for the Focused Investment Program (FIP) partnership applications review meeting; many districts are in partnerships; it's a very competitive process with many applications but limited funds. She, Eric, and Sandi attended the annual Special Districts Association of Oregon (SDAO) conference; topics are always relevant for elected officials and district management; she encouraged attendance in 2017. 2016 is an election year so Sandi is preparing for November.

**Eric Nusbaum** reported that he has been conducting manager trainings, working with OWEB to review capacity grant applications, attending annual meetings, and has been attending training so that he can further help districts. He has created a new employee orientation and could use the SWCC's help in getting this out to the districts. He will be doing training sessions at CONNECT.

**Sandi Hiatt** reported that the Scope of Work quarterly reporting has moved to an electronic submission and reports came in quickly for the 2015 second quarter; there is one district outstanding and one district was granted an extension.

### **SWCC Member reports**

**Gary Jensen** reported that they have hired new staff, their annual meeting is done, and they are working on McKenzie River restoration with a dedicated staff member.

**Tim Kerns** reported that things are tense right now on the east side because of the occupation; there is a safety issue for district and NRCS staff when using the district's vehicle with government license plates. They held another successful Annual Meeting in January. The Powder

Brownlee Ag Water Quality Plan passed. All the wild fire reseeding is finished; they were able to triple the acreage covered because they partnered with NRCS for \$500,000.

**Marilyn Rice** reported that she brought a Lake County newsletter on Sage Grouse work and an annual report from Curry County SWCD; sediment reduction is a really important water quality issue and continued NRCS funding is important. Curry County has an excellent K-12 program for conservation; Oregon Forestry and Industries Council (OFIC) is a good forestry resource for schools; there are a lot of free materials for teachers to access. She reported that the 2016 Environthon topic this year is invasive species and Marion SWCD is the contact.

**Mel Omeg** reported that he is seeing better cooperation between watershed councils and districts, and doesn't think he can recall when partnerships have worked as well as they are right now.

**Barbara Boyer** reported that it is plant sale time of year; Polk SWCD's presale went up, and then they did a big raffle at the end to make sure all of the plants found homes; the Yamhill SWCD plant sale was a huge success with 270 preorders and was held at the Heritage Center. She reported that her districts are doing well; there is creative thinking, recruitments, and other good things going on.

#### **Public Comments**

There was no public comment.

Chair Boyer adjourned the meeting at 4:38 p.m. to reconvene tomorrow morning.

#### **Friday, February 12, 2016**

#### **Soil and Water Conservation Commission (SWCC) Members Present**

Chair Barbara Boyer; Vice Chair Tim Kerns; Gary Jensen; Mel Omeg; Marilyn Rice

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

Ray Jaindl, John Byers, Manette Simpson, Eric Nusbaum, Sandi Hiatt, Anne Friend, Sunny Jones, Cannabis Policy Coordinator; Jim Johnson, Land Use Planner; Mike Odenthal, Pesticide Enforcement Lead

#### **Visitors Present**

Amanda Borup, Oregon Liquor Control Commission (OLCC); Whitney Collins, Baker County SWCDs; Randy White, Jackson SWCD; Jane Keppinger, Marion SWCD; Gene Foster, Oregon Department of Environmental Quality (DEQ)

#### **Call to Order**

Chair Barbara Boyer called the regular quarterly meeting to order at 8:34 a.m. on Friday, February 12, 2016, welcomed everyone, and asked for introductions.

#### **OLCC – Regulation of Recreational Cannabis**

Amanda Borup gave a brief background of her position and a presentation about implementing legalization of recreational marijuana in Oregon. OLCC is responsible for licensing producers,

processors, wholesalers, retailers, labs, issuing research certificates, and marijuana handler permits; they coordinate with Oregon Health Authority, Department of Revenue, and ODA; House Bill 3400 allows local jurisdictions to opt out of licensed marijuana activities; many counties have opted out for unincorporated county areas; cities can decide and develop ordinances; the law is specific about addressing the mature flowering plants only; there is not a restriction on how many non-mature plants. OLCC requires a water right permit or certificate number, verification the water is from a public or private source or is exempt water use before processing licenses. There is new legislation with House Bill 4014 that is in House of Representatives now; it will remove residency requirements and adds a micro tier for small scale producers; it allows OLCC to license a specific area instead of entire farms; it also allows the state to enter into an agreement with the tribes. OLCC will have a cannabis tracking system to ensure accountability; there is an entire section in the OLCC administrative rules on transporting the product and what will be required. Discussion followed about licensing and how to help people be more informed.

### **ODA – Cannabis and ODA**

Sunny Jones gave a brief background on her career and a Cannabis and ODA presentation; she reviewed the state agencies involved in the regulations; OLCC or OHA do the licensing, not ODA; ODA Food Safety Program will license edible cannabis products; retail facilities will need to be licensed also. The chemicals that are used to extract will be tested for by labs and will have to be licensed through OLCC; will not be licensing of domestic kitchens; cannot use the word “organic” in reference to cannabis because it is a federal term. She outlined the requirements surrounding pesticides used on cannabis. The ODA Weights and Measures Program is responsible for licensing scales. Challenges include co-existence with hemp, recreational, and medical marijuana cross-pollination. Each state agency has list serves to help contact people when information needs to be shared; ODA is working with Colorado and Washington states. Discussion followed about the different agency roles and challenges.

### **ODA – Agriculture Land Use and Cannabis**

Jim Johnson gave a presentation on cannabis, land use, and right to farm; he reviewed House Bill 3400 (2015), Section 34 that includes notwithstanding any other provision of law, marijuana is: a) a crop for purposes of “farm use” per ORS 215.203 (land use) and b) a product of farm use as per ORS 308A.062 (property tax); he reviewed what a farm use is, including intent to make money; medical marijuana is not for profit; Oregon’s right to farm law per ORS 30.933 has two major components: a) immunity from private action and b) prohibition against regulation by local governments; only provides protection for qualified farming practices from private nuisance or trespass actions but does not deal with other compatibility issues such as noise or odors; he encouraged anyone with questions to give him a call; this is a very complex subject and there is much confusion.

### **ODA – Pesticide Complaints and Cannabis**

Mike Odenthal introduced himself and his role with ODA. He gave an overview presentation of the enforcement program; he described the issues with drift and how an investigation would be conducted; he reviewed briefly the procedures that are followed when a cannabis investigation is being conducted; they talk with the complainant, applicator, landowner, and others that can provide pertinent information. Discussion about pesticides and cannabis followed.

## **DEQ Update**

Gene Foster gave an update on the litigation for the water quality temperature standard and temperature TMDLs; EPA disapproved the Natural Conditions Criterion and DEQ has not started any revisions to the existing temperature criteria; the temperature TMDL litigation is still in the courts and DEQ and the other litigants are waiting to hear from the judge on next steps. DEQ is continuing TMDL work with dissolved oxygen (DO) and bacteria in the mid coast; they are working on percent load reductions and implementation planning. NRCS is working with DEQ as part of the Local Work Group meetings; DEQ values local stakeholder input. They are continuing work on TMDLs in several locations throughout the state where data is being collected and evaluated for channel morphology, riparian vegetation, bacteria, DO, temperature, and nutrients. DEQ is working in the southern Willamette on quantifying conservation by connecting in-stream water quality with restoration and landscape conditions. The 319 grant program received an 80% cut to the pass-through grant for 2015 funds; EPA just released the 2016 319 budgets for each state; it is anticipated that the funds available for pass through grants in 2016 will be minimal. DEQ is continuing to work with ODA Ag Water Quality Program on evaluating landscape and riparian conditions so the terms mean the same thing agency to agency. DEQ wants to use status and trend data to determine what condition to attain given environmental variability – is it getting better, worse or staying the same; they want to identify the future condition to meet beneficial uses. Gene and John agreed the agencies are working together to meet water quality goals.

## **SWCC Strategic Plan Review and Update**

The members unanimously agreed to postpone this topic until the May meeting.

## **Manager Training Presentation**

Eric gave an overview of the manager training that he provided to SWCDs and watershed councils around the state; he focused on employee coaching and time management topics; the training and conversations were very successful overall; the intent of the training was to provide a place and time for managers to discuss topics of common interest together.

## **SWCC Meeting Wrap-up**

### **Follow up assignments**

- Will review the Strategic Plan at the May meeting
- Manette will invite Margaret Matter to the May Meeting
- Manette will work with Upper Willamette SWCD for the August meeting in Eugene

### **Upcoming Meetings**

- May 23-24 in Wilsonville
- August 15-16 in Eugene

Chair Boyer adjourned the meeting at 12:30 p.m.