



# Soil and Water Conservation Commission

## Minutes

DATE	LOCATION	START TIME	END TIME
May 4, 2021	Via Go to Meeting	3:00 PM	4:20 PM

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

### 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

Chris Farrar, board member, Clatsop Soil and Water Conservation District; Jan Lee, Oregon Association of Conservation Districts

### Welcome and Introductions

Vice Chair Jerry Ward opened the meeting at 3PM explaining that Chair Boyer was unavailable and asked that he Chair the meeting. Vice Chair Ward started the roll call and welcomed Chris Farrar.

### Back to Basics – ORS 568

**568.550 General power of board of directors; erosion control covenants; interagency cooperation; land use regulations; department rules. (1) The board of directors of a soil and water conservation district has the following powers.** **Ward** – starts out pretty broad - the “general powers of the board of directors, erosion control covenants, interagency cooperation, land use regulations, and department rules.” Covers a lot of things and gives directors and SWCDs a lot of broad authority. Under first provision, board of directors of SWCD has the following powers: a through v. **Nusbaum** – one thing he tries to do in new director/employee training, is to talk about the way special districts work, can only do what is explicitly outlined in their statute. Not only their powers and authorities but is also their limitations. It has come up, where districts have been offered an opportunity to do work, but they had to turn it down because it is not explicitly provided for in this statute. This is something to keep in mind. If you’ve read Stan’s comments, he does point out “...natural resources, what about other types of things...” There are some very particular things that does prevent Districts from doing things they might think they could do. **Ward** – read Stan’s comments; he gave a lot of good thinking “what ifs,” but I read this from my banking background prospective and it spells out what can and can’t be done, with some broad language here and there. **Hrnyshyn** – it is a legal document, it’s got to be specific. That’s one thing I’ve been learning in this government business, which is different from the business world and academic world, things have to be very detailed. **Bailey** – that brings up the subject that we are identifying things that should be changed or could be

changed or included. We have to be careful that we are not spending too much time on specifics; just identify them until we get to the point of revising them. That's a whole different process and a big process that takes a lot of staff and board time. It's going to take a lot more time to come up with a new document if that's what you want to do. Then you have to be realistic that there are other people that have different ideas of what we should and shouldn't do and then you get into a debate to get legislation changed. Sometimes you have to swallow things that are already there because the burden of making the change is more of a risk than dealing with what you've already got. **Ward** – well put Ken. I looked at this as informative to understand what the law says. Jot things down and yeah it would be nice to have this or that, but when it comes down to it, that's another whole process. Do we really want to open this up and go through the whole process? For right now, I'm looking at it as educational. Things that probably really need to be changed are pretty small. **Bailey** - some of the things that really need to be changed are things we can't really change. (Ward and Nusbaum discussed Nusbaum going through statute section by section.) **Nusbaum** – remember, the way they write statutes, the little (a) is above the capitalized letters. We will go through by the lower case letters. First one is “(a) *To secure surveys and investigations and do research relating to:*” and it lists some very specific types of natural resource issues. Stan's comment is “*if it's not plants and wildlife, soil quality, or forest surveys, can the district do those type of surveys if it's not listed there?*” That's a good question. It might be possible in other areas to do that under different statutes. **Ward** – I was really surprised that it led off with surveys and investigations. **Nusbaum** – I wondered if it had to do with helping NRCS do soil surveys. Maybe a primary thing that happened back in the 40's and 50's and it was the first one written. That's purely conjecture with no evidence to back it, but if you look at the first few, (b) has to do with demonstration projections and (c) is prevention and control measures. Those could have to do with soil erosion issues back in the day. **Allen** – looking back to the very first policy statement, 568.225 for its policy, the legislature sets a broad policy for conservation and then it basically talks about how soil and water conservation districts are established to enact that broad policy. If that broader policy statement is here, does this statute serve to narrow it down? **Nusbaum** – from my understanding, it has to do with taking money from a nonprofit for economic development and the lawyers get involved. They interpret statute as a broad policy but you have to be given explicit authority to do things. Every special district has a general power clause. **Hrynshyn** – how much reading between the lines is allowed? When you say specific, just how specific? I'm looking at (a)(C) where it says “*All phases of the conservation, development, utilization, and disposal of water;*” you could argue pretty much anything falls under this or are you not allowed to do that? Where do you draw the line? **Nusbaum** – think like a judge and lawyer...I took a class on statutes where they talked about the order of progression of how a judge interprets statute; they do their best to read exactly what is written. As far as definitions, they go to a very specific version of Webster's or Merriam's dictionary. If you can make the argument that something related to water conservation in a forest then, yes, you probably could. It depends on what lawyer you talk to and ultimately it will be the judge. **Hrynshyn** – if there are changes to be made, maybe we should be updating the wording to include whatever modern practices are going on in the districts we represent and that's where the updates need to happen. When was this statute updated? From the wording, it looks like it has been awhile; maybe that's what needs to be looked at. Where does it stand in today's world? **Ward** – looking at (A) through (D) as one long sentence; there are subsections that it deals with “*...surveys and investigations...research relating to...soil erosion...water and sediment damage; (C) ...conservation, development...disposal of water; and...preventive measures, control measures and improvements needed.*” So that's all under the heading of soil erosion, water, and sediment damage. Specifically, that's (a) (A) (B) (C) (D). To read it literally. **Nusbaum** – remember this is only related to surveys and investigations. This is not related to actual work on the ground. **Ward** – That comes later. **Nusbaum** – Exactly, and that's much broader later on. **Collins** – I can say that just looking at this to start with, you can change how this is categorized as far as upper case, lower case; that seems very odd to me. If it was 1 a, b, c, d; 2 a, b, c, d, it would make this feel more fluid. **Nusbaum** – JimBob, unfortunately, all statutes follow the same convention. Talk to your legislator. **Bailey** – this is just legislative language. **Nusbaum** – we can move on to (b), which is about conducting demonstration projects. (c) is about carry out preventive and control measures on land within a district. Stan does say “*what about improving natural resources?*” I think he was talking more broader in terms than using “*preventative and control measures.*” (d) “*To enter into written agreements with and, within the limits of appropriations duly made available to*

the board by law, to furnish financial or other aid to any governmental or nongovernmental agency or any owner or occupier of lands within the district, for the purpose of:" Essentially a preamble that says you can get into a written agreement and provide financial or other kind of assistance, government or nongovernment, or owner or occupier of the land; looking at (A) and (B) - this allows you to do projects on other people's land and receive money from other government or nongovernment entities. It is very specifically related to "soil erosion...water quality...watershed enhancement and improvement, fish and wildlife habitat...activities and other...resource management activities;..." Keep this in mind when we are farther down I will give the example where we ran into trouble because of some wording in this one related to wording in another section. **Bailey** - is there a discrepancy between (c) and (d) in missing an owner and occupier in (c) and owner or occupier in (d)? **Nusbaum** - that's a good question; I have no idea. That's interesting; it could be because the renter says go ahead with the project even if the owner says no and visa-versa. Where the previous one you would have to get the permission from both. **Bailey** - I would think on a written agreement you would want to have it the same. Although I'm not sure. **Nusbaum** - Stan asked about a definition of non-governmental; it includes private, nonprofit, profit corporations, anything that is not government. (B) "Carrying out district responsibilities..." is related to policy and then the ag water quality program, which is 568.900-933. (e) Allows you to accept gifts of property and money; receive income from the property. So if you own a big farm and wanted to rent out some of the pasture, as long as it is related to everything else, then you're allowed to do it. It also allows you to sell your property. This is actually one of the statutes which allows you to sell, purchase, receive gifts, bequeaths, grants. Later on it talks about conservation easement that could possibly be under this one too because that would be an interest in the property. (f) Talks about borrowing money and mortgaging district property; and about giving notice that you have to hold a public hearing. Stan did say "why do only landowners get the opportunity to be heard?" Probably a holdover from previous times or maybe because it's the landowners who pay the property taxes. I don't know. No comment? **Hrynyshyn** - Stan is 100% right! Every citizen is a land owner one way or another and if we are dealing with public lands you better believe everyone has a say in it. We can't dismiss what Stan says here about landowners. Every one of us owns a big chunk of land around here and we all have a say in how it is run. If anything needs updating we all have a say and some input in it. **Bailey** - I'm not sure this is a restriction to providing a public hearing for others; the sentence says that but if you're holding a public hearing it's not going to be limited to just the landowners. The landowners will have an opportunity to be heard at the hearing but so will everybody else. I agree the language is not good. **Hrynyshyn** - Can you guarantee if it is not in statute that everybody will have a chance to have their voices heard? **Nusbaum** - I guess if you really want to be lawyer-esque, you would say it's a public hearing, they can talk, but you don't have to listen if they aren't a landowner. **Ward** - in today's climate it would be foolhardy not to listen. **Nusbaum** - I could put it in the parking lot just to think about. **Hrynyshyn** - there is plenty of foolhardy going around right now. **Ward** - referring back to what you said earlier, the whole statute or the concept at the time was directed to landowners because it goes back to the origins of the SWCDs were to provide technical assistance to landowners. **Hrynyshyn** - especially ag landowners. **Ward** - agricultural landowners; that theme goes throughout this whole ORS 568 and I can see that all the way through and today our thinking is beyond landowners. It's all residents within our district; that's the way I think. **Hrynyshyn** - that's our constituents. **Nusbaum** - I'm going to put this in the parking lot about use of the term landowner throughout 568. **Bailey** - that also brings up the subject of having to be a landowner to be on the board and so forth. **Hrynyshyn** - that's a whole other item in the parking lot. **Nusbaum** - (g) is about issuing general obligation bonds. Yamhill is the only one that has issued a general obligation bond. (h) is about loaning out equipment; that's where Klamath and other districts have a no till drill that they rent out. This is the provision where they can do that. **Hrynyshyn** - on (h) I find the wording interesting given today's climate. "To make available, on such terms as the directors shall prescribe, to landowners or occupiers within the district..." think about what the word occupier means in today's language and how is that going to be interpreted? **Nusbaum** - interesting question. **Bailey** - and there again, that is the ability to lease out equipment. If it's not specifically mentioned, it would not be allowed to provide that service. **Nusbaum** - (i) - "To construct, operate and maintain such structures as may be necessary or convenient for performance of any of the operations authorized..." essentially by this statute. So again, this allows for the district to have or build their own building or farm, allows instream structures for carrying out water quality issues, dams if its water

quantity issues, any of those kinds of things. Allows construction of structures. (j) is about developing “...comprehensive plans and specifications for the conservation of soil resources...control and prevention of soil erosion...publish plans...and bring them to the attention...” of landowners. Stan said this is related to “conservation of soil.” His interest is “what about all other natural resources?” I don’t have an answer for that, and he also noticed that (k), (l), and (m) are also the same. **Collins** – I think that (j) is written very interesting where it says “occupiers of the land.” So does that mean if you have someone squatting on your property that they have the right to do conservation on the property? **Nusbaum** – it says “and” so it would be both. **Collins** – so the owner and the squatter would have rights. **Nusbaum** – (k) has to do with erosion control, erosion prevention and allows you “to take over, by purchase, lease or otherwise...erosion control or erosion prevention project,...undertaken by the United States or any of its agencies, or of this state or any of its agencies.” This could be like a dam, which can be said about erosion control. I do think there is this comment about its related to soil and acting as an agent for the United States but it doesn’t talk about acting as an agent for the state of Oregon, just for “the United States, or any of its agencies,” which I image relates to the NRCS. **Bailey** – maybe it already assumes you are an agent for the state of Oregon. **Nusbaum** – if you look at (l) it specifically says “the United States and any of its agencies, or of this state or any of its agencies...” and (m) actually just says United States and its agencies. If you look at (n) it lists the United States and agencies and state and agencies. (n) is good it allows you to get NRCS money, it allows you to get OWEB money, it allows you to receive money from federal and state government. **Bailey** – why shouldn’t (m) be the same as the other two? **Nusbaum** – (m) or (n)? **Bailey** – (m) – it doesn’t list state. I would think it should be more consistent across all three of those issues that you could be an agent for the state or federal government. **Nusbaum** – that could be a problem in the future as we will see below. **Ward** – should (L) be lower case instead of upper case? **Nusbaum** – yes probably, it could be when I copied and pasted it, it automatically changed it, or a mistake on the legislative website. (o) is a catch all; that is “to sue and be sued in the name of the district, to have a seal,” which some districts have a seal, some don’t. It allows you to exist in perpetuity, it allows you to do contracts; this explicitly allows you to enter into any contract in any way. If this wasn’t in here, you might have problems doing any of your work because you couldn’t enter into any contract. It allows you “to make, and from time to time amend or repeal, rules not inconsistent with ORS 568...” So there is your authority to write rules if you would like to do so as long as they are consistent with the rest of 568. The only district that I am aware of that ever wrote any rules was related to wind erosion under another part of 568. I believe Klamath had rules for their county related to wind erosion. I don’t believe they do anymore or they don’t enforce them. **Bailey** – is that a way of getting around if you want to do something (recording unclear) make it happen if it doesn’t conflict with something else? **Nusbaum** - at the local level. This would be an interesting one to have a legal opinion on. It’s actually kind of vague. What exactly does that mean? How far could you push that? (p) has to do with purchasing insurance; pretty straight forward. Allows you to pay for insurance. (q) – place liens. (r) - this is where we ran into something interesting about “written agreements with, coordinating activities with and providing assistance to landowners managers and residents within the district and federal state and local governments, relating to natural resource issues including but not limited to...” and it lists them. There is contracting authority if you read Stan’s comments under (d) which includes governmental and nongovernmental activities, so that’s very broad and allows you to do that. But (r) omits nonprofits. This is where Curry SWCD had a problem, under economic development based on natural resources and the nonprofit that gets the majority of the money for the farm to schools from the state of Oregon, Department of Agriculture to implement farm to school programs. They wanted to give money to Curry SWCD to develop a website to connect farms and schools and hold some food fairs, etc. Two different lawyers deemed the omission of nonprofits or nongovernmental entities in this would not allow them to accept money for doing that kind of economic development. Stan’s notes say “request was submitted to OACD in the summer of 2012” to solicit the legislature to fix this. It is something that has caused some issues with districts wanting to do particular activities. We don’t know if that was a purposeful or accidental omission. It does have the list here that you can enter into written agreements with and coordinate activities with and it does say “relating to natural resource issues, including but not limited to...”. It is a really nice broad statute. **Bailey** – I can’t think why nonprofits were left out. **Nusbaum** - I’m pretty sure it was accidental. You don’t want to say nonprofit you want to say nongovernmental entity. I’m actually going to put that one in the parking lot considering all the heartache it has

**caused. Ward** – it does use the word “resident” within the district. I don’t know that nongovernmental agencies are resident within the district. **Nusbaum** – (s) “*To conduct outreach and conservation education activities.*” Pretty straight forward. (t) “*To provide financial assistance, including but not limited to loans and grants to implement activities and projects...*” (u) “*To hold patents, trademarks...*” (v) “*To hold conservation easements...*” That was a new one that Larry put in in 2009; and that’s all of section (1). Anymore comments on section (1)? Anything that you think should be added to section (1)? **Collins** – I find it pretty interesting that a lot of this is with erosion control and about sediment controls so I image it puts this in the realm of water quality issues but I see very little wordage in here including improvement specifically to irrigation improvement or water usage improvement. It really leaves the water element at a very minimum description. Does anyone else see that as a potential problem or as a surprised maybe? I’m taken back that I don’t see that here. **Bailey** – I’m not surprised and I agree with what you’re getting to; I think you hang your hat on irrigation improvements which is all related to water conservation, environs and so forth. (Recording unclear) any erosion control, so you tie it to something else but you shouldn’t have to. **Nusbaum** – everything in here at 568.900-933, which is the ag water quality rules, is pretty broad and covers water quality, but you’re right, it doesn’t explicitly talk about water quantity issues. **Collins** – is that because they are trying to make sure we don’t have any say over water resources? Is that where the line is being drawn, ODA is doing erosion issues but water resources is water, more or less? **Nusbaum** – I would guess two things; the emphasis on soil erosion issues has to do with the initial formation of SWCDs and the initial focus in the 30s, 40s, and 50s and then adding in the water quality issues when the Ag Water Quality Act came around so that was added in. It would be up until the last time this was updated, no one thought about water quantity issues being included. **Putting it in the parking lot. Bailey** – maybe needs to be broader than that. The concept was just soil erosion when that was the issue. The update has not been complete. Today if we were to start over again we would have a lot broader definition of conservation; it would include water, soil, wildlife, and plants. It would include a lot of things if it were to start today. Maybe those are the areas we need to address as well; wildlife and natural plants is an issue and getting rid of basic species are not part of our program anymore. **Collins** – I agree Ken, we need to make it broader. Our conversations about having water storage becoming a conversation to utilize for ag benefit, or more importantly, to augment the lack of flows for wildlife benefit as we get into more of a rain regime versus a snow regime. I don’t see written into this document that says that very well, because as we go forward, it is a very hot topic and there are a lot of agencies that believe that needs to change so we can have some capacity to hold back water. As we go forward the next 10 years and we see this play out, we might need to add some wordage in here to give us the ability to help develop those rules, and to make changes, and to be able to create grants and make policy to help support those ideas. **Nusbaum** – you are in luck because as we get to 568.552(1)(a) its own water quantity section of powers. **Ward** – I went back to page one of our discussion, looking at 568.550(d)(A) it talks about “*soil erosion...water quality improvement, watershed enhancement and improvement...wildlife habitat...*” Is that what you were talking about? **Nusbaum** – No. **Ward** – what Jim Bob was talking about it talks about it at 568.550(d)(A). **Nusbaum** – right, it does say, “*fish and wildlife habitat...and other natural resource management activities...*” that is very broad. **Ward** – going back to what Jim Bob originally said, I agree the whole thing seems the initial focus is erosion control because that is the second phrase in the very first general summary of 568.550. **Collins** – as long as the wording is there so that we don’t get into a lawsuit at some point that says we don’t have the ability to do the water quantity improvement, I’m good with it. Like you said just put it in the parking lot. It would be nice if we had some more wordage in there if we get sued that we would be protected is my only concern. Just being sure that we don’t have any issues because at some point in time someone is going to look this over and find a reason for us not to be able to do those things. **Nusbaum** (2) – this one states that it’s the directors may require contributions and agreements with landowners or occupiers to any performance, any work done, or covenants and agreements for permanent use of their land to prevent and control erosion. Again, I think this was written back when it was specific to erosion issues; it does just say erosion it doesn’t say soil erosion; it could be any kind of erosion wind or water. Stan says he wonders “*why it’s just for landowners and occupiers why it’s not all services it’s just about control erosion.*” **Bailey** – that brings up a question I have when it talks about the directors may require...; is it not the district that is requiring, it’s not the directors. The directors act for the district. **Nusbaum** – that’s why I thought it was really

interesting that it says directors. Again, this could be a paragraph that is a hold over. **Bailey** – it just brings to mind that there may be other similar references throughout the document that we may want to look for consistency. **Nusbaum** – (3) is about coordinating activities and being able to sign MOUs in order to not duplicate. (4) “...*may not adopt land use regulations under ORS chapter 197, 215 or 227.*” Even though the other part says you can’t write rules under the land use laws it does allow you to have “*the standing of an affected property owner*” if there is a public process. It allows you to participate in public hearings related rules, regulations, goals, plans, which is good because that is not given at every kind of government entity to have that kind of standing. **Bailey** – that goes to Stan’s comment – “*Do we need a power to advocate in rulemaking or legislative actions in accordance with state laws?*” If that gives us a standing as a property owner, it should solve that issue. **Nusbaum** – it allows you to participate in a public process. **Bailey** – it gives you the standing as if you’re a landowner. **Nusbaum** - The way I’m reading this, it’s not specific to the legislature, it’s related more to state and local government outside of the legislature. It talks about administrative rules not statutes. Statutes are the purview of the legislature. Administrative rules are the purview of state agencies but they also do regulations and goals like the LCDC goals. It does allow you to have that public standing.

#### **586.552 Power of directors to manage and control water resources and projects; authority of Water Resources**

**Commission. Nusbaum** – (1) – says that, in addition to everything we just talked about above, and within the money you have to do it, you have the power: (a) “*To plan, construct, maintain, manage, administer or control any works of improvement for flood prevention or for the conservation, development, utilization or disposal of water upon lands within their respective districts upon obtaining the consent of the landowner as defined in ORS 568.210, and the land occupier as defined in ORS 568.210, of such lands.*” This is where it explicitly allows you to do water quantity as well as quality projects because it is about flood prevention, conservation, development, and utilization or disposal. That’s really broad. Anything related to water, use of water, and the conservation of water. Where it says planning, construct, and maintain, you could build a dam. Where it says disposal of water, you could build and manage a water treatment plant. **Bailey** – does that give you authority over other agencies that require permits to do such things? **Nusbaum** – go down to the bottom where it says “*authority granted under this chapter shall be subject to the authority of the Water Resources Commission...*” Whatever you do it has to go through the Water Resources Commission. **Bailey** – or if it’s a federal issue the feds get involved as well. **Nusbaum** – take a look at (c) “*To manage, as agent, or to take over, by purchase, lease, or otherwise any flood prevention, drainage, irrigation or agricultural water management project or any combination thereof, undertaken by the United States or any of its agencies, or by this state or any of its agencies.*” So, if the state or federal government wants to hand you an irrigation project, like in Klamath, the BOR could hand over the whole irrigation project to the district if they wanted to. So these are pretty broad. This is related to irrigation, conservation, irrigation improvement projects, conservation project, developing irrigation projects, dam building; it’s very broad. **Bailey** – but subject to the criteria quality of construction of whatever agency was doing it. **Nusbaum** – that’s true for any sticks and stones in the creek project. Anything you do, building your own building is subject to building codes. Just because you’re given the authority to do something, you still have to do it within the confines of all other statutes, rules, and local regulations. Jim Bob, does this satisfy your irrigation improvement projects? **Collins** – yes, this makes a lot of sense and I like what it’s saying for the Water Resources Commission. Our district, and a lot of others around our area, really need building projects with Water Resources combined. Water Resources needs a bump in their funding so they can help us add the personnel to go through the paperwork, but they are pretty taxed right now. **Nusbaum** – I’m always fascinated by statute, like 550 and 552, it would allow the district to own or build a dam or any kind of water infrastructure, which could be something districts do in the future. **Bailey** – it depends on resources; more logically it would be the Corp of Engineers, or BLM, or state of Oregon Water Resources builds something and contracts with the district to operate it or manage it. **Nusbaum** – it does say in the preamble of one that “*within the limits and appropriations and other moneys duly made available to*” SWCDs. They address that very specifically there Ken. **Bailey** – and things are happening now. **Nusbaum** – well you are doing those deep irrigation wells and that would probably fall under this statute. **Bailey** – the district is doing them, but they are doing them primarily as a result of grants from Water Resources who pay the bill. **Nusbaum** – right and all the authority to do that is under this 552. That’s all we are going to go over today. **Ward** – well done, good discussion, and

good review. **Bailey** – all we need now is two or three hundred thousand dollars and for staff time and a year’s time of work and we can get this all upgraded. **Ward** - you bet; the real work is to be done yet. **Bailey** - that’s in the ballpark of when we created the Oregon Ag Heritage Commission, which was complicated but maybe not as complicated as this one. Starting from scratch it took us basically a year, about and two to three hundred thousand dollars of staff time, and many, many meetings for the commission members to put it together. So that’s the magnitude of what we’re looking at. **Ward** – good reminders. Any further comments. **Chris Farrar** – I was wondering if there was a definitions page. Many of the categories, some of which were questioned today, the meaning of an occupier, the meaning of a landowner, and things like that. I sit on the county planning commission in Clatsop as well as the soil and water. I know that definitions are a big deal and there are specific places in our county statutes; it’s like a dictionary. You go through there and every kind of term you find in a planning document is defined fairly well. I was trying to figure out if there wasn’t something like that to go with these sections of ORS statutes. **Nusbaum** – yes, the very first section 568.210 has all of the definitions and they do include landowner and land occupier. **Allen** – I just put those in the chat box if you want to take a look at it. **Farrar** – was this in the handouts? **Nusbaum** – no, for each time we do this, we only send out the section we are working on. **Farrar** – the only other question I had. If there was an issue that came up that a legal action was going to be taken for or against a conservation district. What court handles that? What is the legal hierarchy for decision to define whether a district overstepped its authority? **Nusbaum** – there have only been a couple of districts that have gone through lawsuits and those were mostly employment. Whatever lawsuit a district would go through, or many times it’s a disciplinary action before it goes to court, it’s going to be in the appropriate place for that kind of action. Employment issues go before BOLI and then circuit court, I imagine; ethics violations go to the ethics commission. It’s just going to depend on what type of lawsuit you’re talking about. **Ward** - any other comments? **Hiatt** – I sent out the information to all the commission members for tomorrow’s meeting with the login. We are starting at 8:45. **Ward** – last I heard from Barbara, said she will be at the meeting tomorrow. Thank you all for joining and the active discussion. See you all at 8:45.

Meeting adjourned at 4:20PM.

# Soil and Water Conservation Commission

## Minutes

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May 5, 2021	Via Go to Meeting	8:45 AM	11:10 AM

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

### 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

### Advisors Present

Jan Lee, Oregon Association of Conservation Districts (OACD); Courtney Shaff, Oregon Watershed Enhancement Board (OWEB); Gene Foster, Oregon Department of Environmental Quality (DEQ); Jeremy Baker, Oregon Conservation Education Association (OCEAN), Sam Angima, Oregon State University (OSU)

### Visitors

Whitney Collins, Baker SWCD; Chris Farrar, Clatsop SWCD director; Cassandra Newton, Wheeler SWCD; Erin Kilcullen, Deschutes SWCD

### Call to Order

The regular quarterly meeting was called to order at 8:45 am by Chair Barbara Boyer on May 5, 2021.

### Approval of Minutes

Draft minutes of the November 16 and 17, 2020 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.**

Draft minutes of the March 23 and 24, 2021 meeting were presented for approval. **A motion was made by Al Hrynyshyn to approve the minutes with no changes or corrections. Seconded by Jim Bob Collins. Motion passed unanimously.**

**Natural Resource Programs Director Page** thanked everyone for their support during ODA’s budget hearings. She reviewed Director Taylor’s presentation of the multiple emergencies during 2020, including COVID-19 and wildfires, and the impacts they had on the agency, customers, and partners; Director Taylor also presented the 2021-23 biennium budget at the budget hearings. Page explained that ODA programs shared the impacts of budget shortfalls across the agency, by holding positions open or redeploying staff to avoid layoffs. The presentation shared work ODA staff performed on top of their daily work, such as administering a grant program with OWEB to protect farmworkers and help farm businesses comply with OSHA rules to prevent the spread of COVID 19, distributing personal protective equipment (PPE) to farm businesses and farm workers, and developing a state meat inspection program, as well as many other



notable actions to support state, county, and local agencies and businesses. Agency staff continue to adapt to changing situations and requirements to comply with state guidelines; telework continues as well as limitations on travel and restrictions on in-person meetings. The start of the state reopening will begin September 1, 2021 and a task force of state agencies are working together to see what the reopening would look like, with Lisa Hanson as a member. The agency continues having challenges with finding labor to support the packing and food processing plants in the shipping point program; the pandemic has also exacerbated this issue. The agency is starting to fill some positions that have been held vacant. There is a long list of recruitments to work through agency-wide in addition to seasonal staff.

The Governor's 21-23 budget added additional positions to ODA's budget which are a diversity, equity, and inclusion coordinator; an emergency preparedness coordinator; and a soil health baseline research funding request to fund OSU to complete soil health datasets for the rest of the state that aren't already available. A soil health position didn't make it into the Governor's budget for ODA but NRCS will be funding the position for two years if it is included in ODA's legislatively adopted budget.

**Chair Boyer** said you were talking about sharing employees with other agencies?

**Page** said she was talking about sharing where other program areas held positions open in case there wasn't enough funding for Lottery and General Funded staff. For example, Weed program staff were moved to help out with the Hemp program due to projected lottery dollar shortfalls. Also, one CAFO inspector helped out the shipping point program since they were so short staffed. Page said this was just another area where there has been staff sharing, noting that soil and water conservation districts and other agencies have also had similar funding challenges.

**Chair Boyer** said you mentioned the meat inspection ask with a heavy emphasis because of COVID, but didn't that come before COVID?

**Page** said there had been legislation during a couple of sessions previously to establish a state meat inspection program so it was not a new idea but the pandemic and a backlog in meat processing took the interest to a new level. During the June 2020 special legislative session during the pandemic, the program got created.

**Water Quality Program Manager Marganne Allen** thanked commissioners, district staff, and others for attending and acknowledged that she had been over ambitious in thinking the reappointment policy would be ready by this meeting. However, she will have the policy ready to present at the August 24-25 commission meeting. Allen thanked the commission for the discussion and advice at the last meeting on focus areas and the districts for their participation on the questionnaire and feedback, which provided thoughts and feelings of where the initiative was and needed to go. The grants scope of work has been adapted making the initiative optional for districts to focus funding in a particular watershed area. Allen said that mostly the feedback has been positive, with some concern expressed that ODA was shifting toward programs with a more regulatory emphasis.

**Hrynshyn** asked if the focus areas were going to remain optional and what is the long-term standing on this?

**Allen** noted that the plan is to implement making focus areas optional for the biennium and beyond, especially since the technical oversight is no longer available due to staff cuts to the program.

**Chair Boyer** asked if this would be revisited for the next biennium and possibly survey the districts again?

**Allen** stated it is always healthy to revisit to see how it was working for the districts and how it was working for ODA. She then noted that resources are being reallocated to the Klamath area for two SIAs; the upper and middle Sprague due to the importance of the water resources in that area, social issues, riparian conditions, water quantity concerns, water rights, the dams, algal blooms, etc. This allocation of resources may affect the schedule of other the SIAs.

**Chair Boyer** asked how many SIAs will be affected?

**Allen** said we are slowing down in central Oregon and may revisit schedules and take the time with conversations and outreach to help build bridges for success. We are developing an annual operating plan to better quantify, describe work, and help make more informed decisions when opportunities and new work came in. Last year the Natural Resources programs worked with Mass Ingenuity to build a process management system to describe the core work in a less siloed way across the entire program area. Allen said she is a core process owner for fostering collaboration operating process;

collaborating with the commission and districts are examples. No measures have been developed yet. She said Eric is operating another process – by taking inventory of key documents of the SWCD program of when they were created, when they were last updated, and when they should be updated. He also has a schedule for updating the guidebook. As metrics are developed, the commission will be engaged in the conversation.

**Chair Boyer** said this is the first time I've heard about this Mass Ingenuity?

**Page** I think I've mentioned it and I asked Marganne to mention it today. Updates have been provided to the board of ag, but this is an example of needing to mention it more often. We started this to standardize customer service with program areas and to better manage programs because we are measuring key processes. Marganne had experience in this area at Dept of Forestry, and the experiences I've had being audited in the Food Safety program really illustrated the benefit of being able to better track and manage them. This might be worth a future agenda item to go through the processes and share what has been built out.

**Chair Boyer** said I like that as a future agenda item.

**Allen** mentioned that Connect is next week and I will be speaking with ACWA (association of clean water agencies) next week about areas of ODA to collaborate with our urban partners for clean water topics; also a reminder that in June, myself and Barbara will be talking to the Tribal Cultural Resources Cluster to help promote the work of the districts and how to have a deeper engagement with the Tribes in their work and involving them in the work of the districts. Stephanie mentioned we have a position opening, Tyler Manitsas, who was our Ag Ditch Channel Maintenance Specialist, is fulfilling his dream of moving to Wyoming and farming; he will be missed.

## Advisors Reports

### OWEB Update

**Courtney Shaff** reported on the SWCD capacity grants, and has been doing great work with Sandi and Eric, doing some training. She has worked with OWEB staff to put together a one-pager for budget guidance for districts as they start moving to next biennium to submit online applications through the OWEB system; and thinking about eligible and ineligible expenses. The OWEB Board in March discussed the overall spending plan for 21-23; they have a tentative amount of \$7.56 million for district capacity grants. The OWEB Board will officially award that amount at the July 27-28 board meeting; she and Sandi will work together to award funds and get grant agreements out. The districts are able to bill back to July 1, 2021 once they get their grant agreements but they won't be able to submit their first billing until they receive a signed grant agreement. We will work collectively to move that through as quickly as possible. The 19-21 district capacity grants do go through 7/31/21, so there isn't a gap in funding. We started making them 13-month grants to allow for spreading the money out a little bit farther. I do encourage districts to be aware of OWEBs budget guidance document of eligible and ineligible expenses. We have run into a couple of challenges with districts billing things that are not eligible; district capacity grants do have to follow OWEB Measure 76 guidance. We worked with NRCS and awarded 11 NRCS technical assistance farm bill grants to districts across the state. We met two weeks ago and reviewed applications and grant agreements should be going out in a few weeks. It was exciting to receive additional funds from NRCS to continue that program and it has really helped local NRCS offices and beneficial to our districts. OWEB is continuing to work through fire grants that we awarded in response to the Labor Day weekend fires. There are fire grants in all the major fire areas and those folks are working through many of the urgent needs in those communities across the state. We are planning on announcing another round of Focused Investment Partnership Implementation Grants, announcing that offering sometime in July and awarding those grants likely in July 2022. It takes about a year to run through the application, evaluation, and interview process; more information coming soon. We are also planning another round of Partnership Technical Assistance Grants, which support existing partnerships and allows for writing a strategic action plan; will open in June and be awarded in January 2022. Budget-wise, working through budget process and hoping to restore a few positions and hopefully hire a few positions early next biennium. We are looking to potentially hiring a DEI contractor that will work with OWEB board and staff on training and advancing DEI aspects of the OWEB strategic plan next biennium.

**Chair Boyer** asked if the budget guidance document was new?

**Shaff** said no that every biennium we update it, but we have always had a budget guidance document of what are eligible and ineligible expenses and it's posted on our website. We usually do a couple of trainings on it every year. For the districts, we created a really simple one-pager that gives examples of the eligible and ineligible expenses, gives guidance on best practices for reporting, when submitting expense tracking sheet in order to facilitate just getting funding quicker, and make the process move more easily. When we transitioned to OWEB running the program, we really tried to make it a slow transition, and make it so the districts did not feel too much change. But in some ways we did a disservice to districts by not being more transparent, that the funds were coming directly from OWEB and that there were a lot of resources available to districts on OWEB's website that helps understand what's eligible and ineligible. So lessons learned and we are just trying to make sure we are getting that information out.

#### **OSU Update**

**Sam Angima** said president Alexander King resigned April 1<sup>st</sup> and the interim president, Becky Johnson, from the Cascades campus, will start June 1 for one year. We are looking for a prominent extension director with interviews to start in about two weeks. Regarding the state budget we are asking for continuing service level (CSL), which will allow for extension to hire three to six positions. We have many vacant positions, e.g., the college of ag sciences has 28 positions that have been vacant over the last six years, which means we are not able to serve the people of Oregon adequately. One area we are inadequate is in Agricultural Economics. We have lost about 5 full FTE in the last five years meaning we are not able to provide timely information to producers to continue to make a profit in the farm, make good decisions, and prepare for succession planning. We are hoping that we are going to get CSL; if we don't, the gap keeps growing. Also, we know that the Oregon Organic Coalition has a bill in the legislature trying to get additional positions for OSU and ODA. We offered a position for extension organic forages starting August 1, 2021; very exciting that we might get someone to help our organic livestock/dairy growers make timely decisions. I will be offering a statewide hemp position to a candidate that we hope can start June 1; this position has been frozen for the last year. COVID impacted many programs and we have had to make changes; we are allowing face-to-face programs as well as field days starting this month going forward. They are based on OHA recommendations and instead of making decisions from Corvallis, we are making decisions based on the county risk levels. This month we were planning with our partners across eastern Oregon to have irrigation field days but then COVID spiked. Instead of canceling, we decided to have the partners put on the irrigation field days, even though we aren't hosting them, our faculty are attending to help answer any questions. They are set for Klamath, Harney County, and central Oregon this month (May); very exciting to have these going on. OSU received a grant from the Farm and Ranch Stress Assistance Network, which provides farmers and ranchers with stress assistance resources. They have a first aid resources hotline, a national suicide prevention hotline, and of course they have first aid kits and they are also available in Spanish. Have your local soil and water conservation districts get in touch with your local extension agent in the area and ask them to extend these resources to you for your constituents. The Network of 14 Western States are offering funds to programs that deal with farmers to help with translation of materials especially for migrant farm workers and others in the communities. Please get in touch with your local extension offices they have this information available to share with you.

**Collins** said giving some mental aid is awesome because help with stress management is needed in the ag communities, but what they are stressing about is their financial situations. Do you know if the services they are offering will help them look at financials or look at some way to deal with it, or is this just an aid to help them process what's going on mentally?

**Angima** – I think the stresses are very different from farm to farm; this is a resource for mental health and to help them to connect to these resources they may not know exist. I don't think there is any form of financial aid coming in, just small grants to help us do that connection.

**Collins** said that it's good to build a connection for people that can help them as well as the SWCDs and other avenues available. Having another resource for the ag community is great.

**Hrynshyn** asked if Sam had any insight into the ballot initiative in Lane County for extension funding?

**Angima** said it's been five years since the last levy and the idea was to bring back full programs to the extensions in the county. This would be another five year levy that the commissioners' supported instead of a permanent levy.

**Chair Boyer** asked if the hemp position is for research? What does that position look like?

**Angima** said the hemp position is essentially a functional backup position because the other two are administrative positions and this is a 100% extension funded position. Extension staff do research, and this will be located in Southern Oregon at Central Point but will serve the whole state. We are trying to determine what the bigger need is? Is the bigger need in IPM? Agronomy? Plant breeding? So that decision is being made.

**Chair Boyer** I was excited to hear field days was coming back. With the restrictions and limits on people, have you thought of doing the same field day, two in a day? One in the morning and do the same in the afternoon so more people can attend?

**Angima** said actually we did that for the Olives Day this past month. We limited it to 80 people and it was done on alternate days and then we divided them into manageable groups; we can also expand the number of days we do them.

**Chair Boyer** said she was really excited about grants for translation of materials.

**Angima** said it is very exciting; sometimes we forget some groups of people, like those who can't read English. With the emphasis on groups and partners who we are not reaching, there are grant funds to do that now.

#### **OACD Update**

**Jan Lee** reported they are doing considerable work in the working lands area. We have established an OACD statewide committee with regional representation; recently the committee put together a survey and sent it out to the districts and we got a great response to the numbers for that; we are summarizing it and it will be made available soon. As a result of the survey and level of interest, we are preparing a handbook for districts to develop working lands program, and we hope to combine that with a workshop at our annual meeting, which this year will be November 9-10. We don't know yet if it will be virtual or live, but one way or another, we will have one. We have also been working with DEQ on the cap and reduce program. Our main priority there is to make sure that sequestration credits are part of the mix. We are also working more with the global warming commission they are doing a study now with working lands that's due out in June and that will provide a quite a bit of information that will help our program. I understand that they are actually mapping areas where sequestration may be of value and working on policy commitments to put those in place for program. OWEB has done a lot in this area; board members of OWEB have a Climate Action Committee and have recently committed to spending \$125,000 starting next July on some of the policy areas on working lands. Of particular interest too is that they are looking at their various grant programs to include climate action. OACD has spent a quite a bit of time lately on climate mitigation and working lands program to move forward in that area. Last week we did a webinar on the Joint Chiefs' Project. The NRCS national director and the national director of the US Forest Service each year spend around \$50 million on projects nation-wide; bringing together forest and agriculture interests in a basin that can provide strong partnerships. This year \$5.5 million was given to Oregon with part given to Deschutes projects that deal with fire and forestry and another part was given to the Lake County/Fort Rock area that they had begun an earlier project. I would encourage you to look at the website for the Joint Chiefs' Project; there will be another application process coming up early next year. In addition, we have been working in the legislative arena; most of bills we are following are in ways and means while the state determines the state revenue, which will be announced on May 19; after that, the bill should start moving again. We testified at the ODA budget hearing to bring back the SWCD manager position that Manette held that has been on hold for 2.5 years. We requested that the committee enter a budget note indicating that as Lottery dollars become available, this position would be a position to consider being funded. We need a strong partner at ODA that will assist in a number of programs; including clean water programs and SIAs, which is a small piece that the districts do.

**Chair Boyer** commented that she was happy to hear that ag is part of the answer not the problem as it was touted in the last round. She was also pleased to hear about the areas of mapping for sequestration.

**Lee** said a lot will be happening in that area in the next couple of years.

**Collins** asked Jan if she has been seeing any research looking at grazing grass lands and how that helps with the carbon sequestration? Are they looking at using science behind that discussion and showcasing it? Living it, I know it does but we need to have that documented showcasing it.

**Lee** said that right now the discussion is around the policy of making sure ag and forestry sequestration is included in the overall program and then programs will have to be developed under that scenario. I know the federal USDA has some programs that they are implementing for sequestration. There is something on grasslands and I will send you that information.

**Angima** said OSU has been doing listening sessions; most stakeholders in that area gave ideas of what to do in the next 10 years. Sequestration came up in every group - How do we contribute to that? How do we make profitable grazing systems so they can support smaller animals? We had a listening session with the faculty at the college of ag and they gave input. The Dean was sending the compiled ideas for more stakeholder input and is still in process.

**Page** said that ODA collaborated with OWEB and ODF to send comments to USDA in response to its recent request for feedback on its climate change strategy. We commented on the importance of technical assistance as well as research, among other topics.

### **OCEAN Update**

**Jeremy Baker** reported that Connect is going to happen, but it has been a tricky process taking last year's Connect sessions, cancelled due to COVID, and move it into a virtual format this year. He said we had an incredible and diverse planning team this year, which will ensure we have a content that is relevant to agency partners, as well as staff and board members that will be in attendance. Kathy McQueeny from Clackamas SWCD; Deb Brimacombe a board member from Columbia SWCD; Kelly Timchak the Lower Rogue Watershed Council coordinator; Julie MacSwain NRCS partnership liaison; Miranda Gray South Coast Watershed coordinator; Lauren Bennett public affairs office at NRCS; and Jan Lee was a big help. This year is different because it is virtual, but we feel it is a very good virtual platform to provide all of the information. Conference planner, Daphne Plump, is trying to figure out a way to have some tools available to get as much of the networking piece into Connect as possible; that is one of the high points of Connect is the people being able to interact with each other. If any of you have signed up, we request your patience as this is new for us, but we will have a lot of take aways.

**Boyer** said 200 signed up that is impressive! How does it compare to in-person numbers?

**Baker** said if we were looking at Connect from eight years ago, we would be overjoyed. However, it's not bad considering in 2019, which was an off-year, we had just over 300 participants. We are two-thirds of the way on a virtual offering as we would be on an actual in-person event, so we are happy about 200. We don't have the exact offerings that we always hope to have every year; we try to have a number of tracks with four to six offers per track and we weren't able to do that this year. Considering where we are at and what we are dealing with, we are happy.

### **SWCC Member Reports**

**Al Hrynshyn** reported that Upper Willamette doesn't have a lot going on, they are still pending the outcome of bridge loan application. We've been told that hopefully we will be closing by the end of this month. There is not a lot of projects we can do until we know our funding situation. We have taken applications for our financial officer and for a conservation specialist and that hiring process will begin soon. Those positions will be funded pending the deposit of the bridge loan. Interviews will probably start soon. Lots of meetings, getting organized, and rewriting policies. Not a lot going on in the districts I represent; everyone is still working with the fallout of the fire recovery and getting geared up for summer work.

**Tim Kerns** reported that OR OSHA has called their temporary COVID rule a permanent rule until it gets suspended, and I am curious how we advise districts to handle this. One of the things that concerns me the most is requirements of adequate ventilation in the buildings; many of our districts are housed in buildings that we have no control over. I wondering if the Department or OACD has thought about how we advise the districts to address the OSHA requirements as these rules become permanent. What are we going to need to tell the districts?

**Chair Boyer** asked if they are specific in the requirements for ventilation? I'm not familiar with it.

**Kerns** said I'm not seeing any specifics yet and that is what I'm wondering. It would be nice if someone were here from NRCS as they are the host of many of our districts. I don't know about specifics as far as ventilation, but it seems it would be costly to figure it out and do an audit on a ventilation system.

**Chair Boyer** said thanks for bringing this to our attention, I was unaware of it.

**Jan Lee** said that special districts is working on this issue. All of the special districts, even beyond the SWCDs tried to lobby against this rule. Also, special districts asked the legislature to intervene, but OSHA wouldn't give them enough time to do that.

**Jim Bob Collins** said Partnerscapes, was postponed until this year, is the nationwide convention that we were going to hold in Oregon in order to showcase Oregon conservation works on the Deschutes. They haven't officially called it off yet, but normally, the federal agencies have to send their requests for travel by now, and because of what Tim said about OHSAs COVID rule becoming permanent, there is not a moratorium anymore on when we can see that expire as far as social distancing, etc. We probably won't be able to hold Partnerscapes this year as I'm on that committee, and myself and another individual are both in favor of saying we are going to have to tell them to hold it in another state. Maybe in two or three years we can apply again to host it. The people that normally come to this convention are federal agency personnel and the current administration may not be allowing travel yet. At the local level, we are still looking for a director for Wheeler; the one we had left earlier than we anticipated so we were left scrambling. We have started the interview process with some individuals. SIAs are still a touchy subject out here we are not in favor of going down that path, especially when we have a well-documented area of focus with OWEB. It's my district but I stayed out of it and only offered some guidance and my prospective. The people are afraid of SIAs, and as Marganne was saying, it wouldn't hurt to visit and view the practices going on here and look at what we have done is a great way to handle it. If you would like more information, request it from the district but not the landowners specifically. I would be happy to talk about solutions or make introductions to districts that are reluctant and are looking for options that are more landowner conversation friendly.

**Chair Boyer** asked Jim Bob if he thought the firewall is not working between the regulatory and the voluntary?

**Jim Bob** said we had an experience where it wasn't working; specifically Wheeler SWCD where there was a landowner who lost a lot of creek frontage and needed some TLC. We had some overstepping by ODA that really separated that relationship. When talking to a couple of other districts, the feedback from their boards is they are fearful of losing people who are on the fence. We are not tax-based so we have to do our programs off of adding more projects. We want to keep doing good work going forward, keep staff employed, and keep working lands profitable. We are afraid of creating a rift that causes us to stop doing good work. That can be said for all of those districts that are hesitant.

**Chair Boyer** said things are slow and there isn't much to report at the district level. Yamhill SWCD was approved for two more (WWMPs) Willamette Wildlife Mitigation Programs through Bonneville Power and we will be adding another 400 acres to our portfolio. We have submitted another application for next year and then we are going to stop because that would put us over 3,000 acres of owning or managing in Yamhill County. It is proving to be challenging to be large landowners, but it is still exciting times at our district protecting working lands and conservation work in Yamhill County.

**Page** said I want to thank Jim Bob for bringing up the compliance issue, specifically; I think because it was a multi-program issue, that was part of the problem. I know this will not completely address the district's concerns, but I wanted to comment a little on that situation. A lot of the complaints where we have frustrations afterwards, either on behalf of the person who complained to us, or from the landowner we are working with, is because the complaint comes in to a different program and either the Ag WQ program isn't involved, or the two programs respond separately instead of coordinating their response. That is something we have spent a lot of time working on over the last couple years in Natural Resources and trying to do a better job of. We have had other situations like that where a complaint might come in to the CAFO program and to the WQ program. Historically, we haven't always reached out to each other to coordinate, but we are really working on that and we have some great examples over the last couple of years of where the programs have worked closely together in terms of responding. We are trying to do a better job of that at the interagency level too;

for example, we've had hemp complaints come in that involved five different agencies. Instead of making either the complainant or the land operator deals with all of them separately, we are trying to respond more as a united front. I do think that's part of what went sideways in Wheeler County is that the AgWQ program wasn't involved and no one reached out to the SWCD. I do think we are working hard to get better at that and that is also what prompted us to do the process management system in the first place. I know that doesn't address all of the concerns and we have a lot of dialog ahead to address some of the bigger issues. Since a lot of your districts work with ODA on complaints, I did want to specifically describe that situation a little more.

**Collins** said I think it would be great if someone in your capacity partnered with the local ODA person and come talk to the districts. Having someone from ODA at your capacity to come in and give the districts confidence would be nice. Relationships need to be repaired in order to feel confident that they are not going to see regulatory issues brought onto landowners that will reflect negatively on them (SWCD). The districts want to be part of the solution, they don't want to be viewed as the people that affected their relationship with landowners.

### DEQ Update

**Gene Foster** reported they continued to work on the upper Yaquina DO and bacteria TMDLs and anticipate the public draft coming out in the next few months, with the public review comment process later this year. We will likely be re-engaging the stakeholder advisory committee for the Mid-Coast TMDLs as part of the Upper Yaquina DO and bacteria TMDLs. Also continuing to work on Coquille TMDLs for DO, pH, temperature, and bacteria. It has been a while since we engaged an advisory group in that area so we will be appointing a local advisory group for the Coquille TMDLs; likely early to late summer to go through the TMDLs, then public comment later in the year. The Powder and Burnt working on bacteria TMDL there as well as DO but the bacteria is farther along and will likely be issued before the DO is ready. That process will likely start late summer or early fall for public involvement process. The temperature TMDL replacement projects which are under a court ordered schedule for completion; in process of developing the base information and we had a successful call for data. Nearly all the data received has been QAQC'd and most of it entered into our DEQ WQ database for use. The website has the anticipated schedule for each project areas – first ones being in the lower, middle and upper Willamette, and then mainstem Willamette, and the Umpqua, and Rogue following. Redoing the TMDLs is taking about half of our resources available for TMDL development. EPA released their public comment draft on the Willamette mercury TMDL; EPA are considering this version final and they expect the water quality management plan that DEQ developed for our TMDL to provide reasonable assurance for their TMDL. DEQ sent letters to designated management agencies that are in the DEQ water quality management plan for the Willamette Basin mercury TMDL for starting the implementation planning process. For the Lower Snake River and Columbia River temperature TMDL, EPA had a public comment draft out. They are still revising that public comment draft, and once that is completed, then DEQ, working with Washington Ecology, will be developing a water quality management plan for implementing EPAs temperature TMDL for the Columbia River.

**Chair Boyer** asked with this whole Columbia treaty being negotiated, is there going to be any impacts from that?

**Foster** said EPA's analysis was under what the current treaty conditions are, but the person for DEQ is working on the water quality management plan is working through ODFW on those treaty discussions. We are keeping an eye on hearing about what's going on; when it comes time for implementation, we will be knowledgeable, if and when that treaty is completed.

**Chair Boyer** said it could change the amounts of water and it is going to have an impact at some point.

**Foster** said he agreed, and the other wild card is the four dams on the Columbia River in Oregon and how the Corp of Engineers might manage those to reduce the impact on temperature. It will be interesting as we work through the process with them on implementation what sort of strategies might be available to them. I don't know if there are many more structural things may be on the fish ladders when they heat up in the summer, but operationally there may be some things to talk with them about. Still early days in those discussions.

**Hrynshyn** said he keeps reading articles in the Capital Press about solution to salmon is not fish ladders its salmon cannons. Is this a viable alternative to fish ladders?

**Foster** said he didn't know the answer to that and ODFW would have the answer to that.

**Collins** said he had never heard about a treaty on the Columbia?

**Chair Boyer** said it's a 43 year old treaty between Canada and Washington, but Oregon was not at the table originally. In part of the treaty, Canada had to give 10 years notice if they wanted to change it and they are at year 3 or 4 of this renegotiation of the treaty and Oregon is at the table this time.

**Foster** said that the treaty is about water quantity; how much water gets released out of Canada into Washington for the Columbia.

**Boyer** said she thinks that they were producing too much power and they were thinking of decommissioning a couple of the dams, which would really affect us down here.

**Boyer** said before you move on Gene, at our last SWCD meeting in Yamhill, we had a county commission come and ask for our assistance because the county is the DMA for the mercury TMDL in the Willamette Basin. He asked for our help for them to develop their plan and. I wanted to make people in the aware in the Willamette Basin that whoever the DMA in their area that they may be coming and asking districts for help with the development of their plans. When I talked to Gene this week I was surprised that there were 150 DMAs in the Willamette Basin.

**Foster** – it includes federal, state, and municipal entities which counties and cities are part of that as well as water conveyance systems, they aren't named as DMAs but they are identified as having some responsibility for implementing the TMDL. For agricultural, ODA is identified as the DMA for agricultural activities. Counties are identified for activities of lands that they control and we have implementation plans from the 2006 Willamette TMDL from many of the counties in the Willamette Basin but we don't have one from Yamhill. There are, in either May or June, meetings occurring to meet with the DMAs and some webinars about DMA and TMDL plan development. We wouldn't be looking to the SWCD as a DMA because the DMA has legal authority or owns land that they have responsibility for; like Oregon State Parks and Rec. SWCDs are recognized as essential in implementing the TMDLs, but we don't name SWCDs as DMAs because that's ODAs responsibility under the AgWQ act. It's up to the Yamhill SWCD on how you want to engage the county but it would be the county that is responsible for submitting the implementation plan as a DMA. Also, the nonpoint management program plan, the five-year plan submitted to EPA on implementing programs that address nonpoint sources in the state of Oregon, and the way the rules and regulations are set up for the state of Oregon, it is a multi-agency, multi-entity collaboration; you will be seeing a public notice for that coming up in the next couple of months. We will be going out for public comment, but before we do that, we will have the state agencies that are part of that - ODA, ODFW, OWEB - giving them a look at the plan.

### Public Comments

No public comments.

### Next Meetings

ORS 568 – Miscellaneous; Taxing and Bonding Authority

Process Management System – Metrics

Cultural Resource Clusters Meeting

Re-appointments

### Future Meetings

ORS – Parking Lot

### Newsletter

Carbon Sequestration – Jan Lee



OSU/Farm and Ranch Stress Assistance Network – Sam  
Budget – Marganne/Stephanie

Meeting adjourned at 11:10AM.