

**WHEELER SOIL AND WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS MEETING MINUTES**

August 26, 2021

6:00 PM

Meeting location: The Rock in Spray, Oregon

To join the meeting from a computer, tablet or smartphone:

<https://global.gotomeeting.com/join/510604413>

To dial in using a phone:

United States: +1 (872) 240-3212

Access Code: 510-604-413

The board meeting was called to order by Chairman Holmes at 6:05 p.m. by the clock on the wall.

Directors

Jeremiah Holmes

Kale Haberman

Anna Thomas

David Hunt

Wayne Lindquist

Assoc. Directors

Employees

Cassandra Newton

Brooke Moore

Randall Williams

Daniel Goodell

Others Present

Debbi Bunch, MJDBCWC

Gabe Williams, RSI

Kathleen Cathey, Sen. Wyden Admin.

Malcolm McGeary, Sen. Wyden Admin.

Gabe Williams, RSI

OLD BUSINESS

RIVER DEMOCRACY ACT 2021: Kathleen Cathey and Malcolm McGeary from Senator Wyden's Office signed into the board meeting virtually to provide details of Senator Wyden's River Democracy Act and answer questions. They provided a short, written summary of the River Democracy Act, a copy of Senator Wyden's letter to the Association of Oregon Counties (AOC), and a list of Proposed Wheeler County Wild and Scenic Rivers. *This documents are included at the end of these minutes.*

Malcolm McGeary, Senator Wyden's Natural Resources Director provided the following as a rundown of Bill 192:

The Bill seeks to do two things: (1) protect and enhance water quality and fish habitat, and restoration opportunities along river corridors, and (2) require extensive wildfire risk mitigation, planning and implementation along river corridors. The Bill would designate roughly 4,500 miles of rivers as wild and scenic. We solicited nominations from Oregonians via a letter sent by Senator Wyden in 2019 and 15,000 nominations were received for rivers across the state; then, based on those nominations, it was reduced down to the miles currently included. Feedback is still being accepted for modifications to the proposed designations and Senator Wyden's Office is meeting with multiple agencies to learn of on-the-ground specifics considerations for sections to be removed from the Bill.

The following are paraphrased questions and responses that took place during the session.

1. **Does the Bill include both public and private lands in the corridor on either side of the river?** The Bill will not affect any private land or private rights that the landowner would have under state or local laws, or any private contracts on federal land. The river management plan would only apply to federal land near the river.
2. **If a person owned property along the river and wanted to build or change any structures within the designated corridor, would there be any extra hoops to jump through in order to get that done?** No, the local rules and zoning laws would not be preemptive by federal law.
3. **There is already a certain amount of the river that is designated wild and scenic and there are additional permitting requirements that have to be met in order to build or change structures within ½ mile of the**

river. Yes, that is the State Scenic Waterway Designation that is being referred to. The federal government has no ability to designate a state scenic water right. The John Day River was designated wild and scenic by Congress in 1988 and subsequently after that, the State designated it as a scenic water right. The State scenic water right is what affected the state and local zoning requirements. This would not affect any private lands in respect to state or local regulations. It has language on page 16, line 17 of the Bill that says nothing in this Act or an amendment made by this Act affects private property rights. The Wild and Scenic River Act has a clause about how the River Management Plan that the federal government – Forest Service or BLM – would only affect forest service or BLM land.

4. **What is the difference between the list of designations that Kathleen provided and what is written in the text of the Bill?** The list should sync up with what is in the Bill. There is a 17 mile section of Bridge Creek that flows into the John Day, a few scattered sections of Lower Rock Creek, Cottonwood Creek and Bear Creek that are all in Wheeler County. It is mostly the southeast portion of the county.
5. **In the delegation on the public land, what does it allow for management – as far as weeds, fire, spraying, etc. along the river?** All of those activities would still be allowed. The Bill requires Forest Service and BLM to work with a local working session to develop and implement a management plan. *We* are looking to maybe make that more specific in terms of juniper removal and invasive grasses issues. The idea is to allow active management in those areas to reduce wildfire risks. The only restriction would be that it would requirement the agency to design and implement the plans in ways that would not degrade any of the values for the river. It does not restrict the use of equipment, it can allow commercial timber sales, and it could allow juniper removal or spraying for invasive species.
6. **What benefit does it bring to the community and those who are using the river?** Are you asking what the community would get out of this Act? **What is the idea behind this and what being accomplished by passing this River Democracy Act because it is already public ground?** Yes, good question – It is water quality, fish habitat, and wildfire risk management and mitigation. (Cathey) The agency would be required to do fuels reduction, so if someone has a grazing plan they would be required to look at wildfire risk which could include thinning, prescribed burning, or could require local fire departments be included in the management plan to help coordinate during a wildfire. There are multiple benefits; but if there are concerns about any of this, you need to let us know about specific segments and the specific concerns.
7. **Is there any funding tied to this Bill to assist the Forest Service and BLM to do the extra planning sessions and processes?** Yes, *we* are working with the Forest Service and BLM for language that would make it easier for them to implement the planning of this. *We* are still waiting on their technical assistance but *we* are trying to streamline this to give them the maximum amount of flexibility in how they are implementing the planning piece of it. *We* just got \$8 billion additional funding for the Forest Service in Biden's Infrastructure Bill that can be used over the next 7-8 years. *We* are still fighting for the Forest Service for tens of billions of dollars in reconciliation. In addition, this Bill also includes an annual \$30 billion per year grant program over ten years specifically for Oregon watershed enhancement, mostly for post-fire restoration.
8. **Who is the managing agency over the 4,700 miles included in the Bill?** It would be whichever the current managing agency is, so for Bridge Creek it would be BLM and for Rock Creek or Cottonwood Creek it would Forest Service.
9. **How does that work for the public land interface in terms of the ½ mile corridor? Would that extend onto the private land in areas were the public land is not ½ mile wide?** It would have absolutely no impact whatsoever on private land. There is only one segment that flows through private land in Wheeler County, which is Bridge Creek. The others are designated in sections that do not flow through any private lands.

10. **Is there any discussion from the state in whether this would open the door for them to designate wild and scenic?** No, *we* have not had any discussion with the state regarding that. The state could theoretically designate wild and scenic whenever they wanted to. This Bill would not affect their ability to do a declaration.
11. **Will the grant funding would only be available to the Forest Service or BLM?** It will be split between agencies for restoration work in Oregon.
12. **Would it be available for private landowners along the designation areas?** *We* did not put any restrictions on the grant program other than it would be used for restoration activities and specifically where drinking watersheds are impacted. (Cathey) If passed, this Bill could create opportunities for using NRCS funding for private lands to combine with this funding for federal lands.
13. **Will there be any restrictions to firefighting activities?** There is a 5 part plan incorporated into the Bill for wildfire planning and management – before, during and after the wildfire. (1) Requires agencies to develop a risk reduction plan, (2) Requires implementation of the plan, (3) Open additional federal funding for state and local governments to do first response, (4) Funding for law enforcement and SAR, (5) Establish grant for restoration activities. (Cathey) I recently spoke to Malheur about a wildfire they had inside a corridor. Dozers and other equipment were permitted to be used which aided in the ability to stop the wildfire. This Bill will not restrict any wildfire fighting activities.

Endorsements have been received from Rouge Watershed Council, Deschutes Watershed Council, Molalla Watershed Council, and Deschutes Basin Irrigators. In addition, over 200 business across the state has expressed support for the Bill.

In respect to water rights, nothing will affect current water rights or the state's ability to administer the state laws.

14. **How would it affect new water rights?** It would totally depend. *We* worked with Weyerhaeuser on language for temporary permits. It should not affect any existing contract and the designations are fairly flexible, so it would be ultimately be up to the final management plans. *Our* intent is not limit the tools, but just to use the tools to the best extent possible.
15. **What is the timeline for commenting on specific sections?** There is no set timeline right now without knowing what the committee schedule will be. *We* are working through the Bill with multiple agencies and still making edits. If you have comments or concerns, *we* ask that you submit them as soon as possible.
16. **Where are the comments and concerns submitted to?** Email Kathleen Cathey at Kathleen_Cathey@wyden.senate.gov or Malcolm McGeary at Malcolm_McGeary@wyden.senate.gov. (Cathey) My door is open and I am generally easier to get ahold of than Malcolm. *We* would appreciate any feedback about this session or the Bill, especially if you have specific questions or concerns.
17. **Is there a map available that better displays where each of the designated sections are?** The current map available has no location identification and it has been difficult to determine the locations based on the Bill text. *We* are working on one, but it is changing regularly with edits being made to the designations. *We* are concerned about a map being made public that is constantly changing.
18. **Can you at least provide a better map to the District of only Wheeler County segments?** *We* will see about getting one to you or at least a better description of the locations.
19. **Was there anything designated above the town of Mitchell?** There is nothing above the town of Mitchell. There are a few rivers on the other side of the mountains from Mitchell that flow into the Crooked River. Bridge

Creek is only the portions below Mitchell that flow through BLM. Any portion of rivers that border private has been excluded.

Malcolm McGeary and Kathleen Cathey both thanked the Board for their time and interest in learning more about the River Democracy Act. Prior to logging off of the meeting, they advised that they are available to discuss anything further, if needed.

AGENCY REPORTS

Mid John Day – Bridge Creek Watershed Council, Debbi Bunch: Debbi advised that she provided a one-page report at the beginning of the meeting and directed everyone's attention to the last item in the report – EPA's and Department of Army's intent to revise the definition of Waters of the United States. She stated that she attended a virtual meeting which written recommendations are accepted through September 3rd. Debbi explained that EPA and DOA are looking at going back to the pre-2015 designations and she offered to send the link to the scheduled meetings and/or comment submission.

Chairman Holmes asked if anyone had any further information regarding the intent to revise the definition of Waters of the United States. Randy advised that in the past he has seen this process approximately three times in the past 25 years. He advised that in the early 2000's EPA and DOA went through this process and it entailed naming numerous dry gulches and it did not pass. He stated that as this proceeds, there may be an opportunity for the District to review what the designations will be, but that the process is long. Chairman Holmes suggested that Randy look into the opinions of the Oregon Cattlemen's Association and the Farm Bureau to potentially draft a letter for submission before September 3rd. Randy advised he will also reach out to Oregon Association of Special Districts.

RSI, Gabe Williams: On behalf of the Board, Chairman Holmes extended condolences and appreciation of Matt Williams' service to the Board and community to Gabe and his family. Gabe thanked the Board and advised he has been in and out of the office the past few weeks, so his update is short. He stated that Pine Hollow culverts and Derr Meadows is close to being completed, and he provided Brooke a budget for the Kinzua Culvert FIP application.

DISTRICT STAFF REPORTS

District Manager, Randall Williams: Randy advised that he provided a monthly report. Randy welcomed Daniel Goodell to the team. He stated that he will be taking the lead on the Weed Program and has been training diligently on all District programs. Randy also advised that the District was able to locate a new pickup and it is present outside for anyone who would like to see it.

Randy advised that he spoke with Jama Hamel from Boise and she is willing to do a virtual or in-person overview of the AgriMet Program to discuss the weather stations, as well as visit some potential station locations. He explained that the stations provide readings every 15 minutes and results are viewable online. Randy stated that Jama advised it is approximately \$8,000 per station for installation and the annual maintenance is \$1,600. He stated that funding sources would require consulting with District partners. Chairman Holmes asked the Board if it would be possible to consider having Jama do the presentation later in the winter, possibly January. He stated that schedules are busy with cattle this time of year and the District is gearing up to the plan the Annual Meeting. He also stated that if pushed until January, the District would have time to speak with partners prior to scheduling the meeting. Debbi advised that AgriMet stations are a strategy that have been identified by the Lower John Day Working Group and she believes that if postponed until January, the LJDWG would be further in its planning process. Chairman Holmes stated to table this until January to allow the LJDWG time, speak to District partners about funding, speak to Vice-Chairman Collins about potential locations, and schedule the overview. Director Lindquist asked who funds the current stations in Powell Butte, Baker, Burns, etc. Randy advised that the funding comes from different sources for different stations, such as BPA, SWCDs, and other sources. He explained that in Boise, one organization funded six different stations while working with grain growers and the maintenance funding is one large pool used for all six sites.

Office Manager, Cassandra Newton: Cassi apologized for not having a written report. She stated that the office was closed for ten days the past month due to COVID exposure and Randy advised the team that reports could be presented verbally.

Cassi advised that she spoke to Eileen Eakins, a lawyer for special districts, regarding Debbi's question during the executive session training of whether an individual may request an open meeting mid-meeting after choosing an executive session. She stated that Eileen advised that there are no specifics of this written into law, but she recommended that the executive session be immediately adjourned with no further discussion; then, a new meeting be scheduled and properly noticed to allow public to attend.

Cassi stated that the training her and Randy attended with Eileen was the Board of Directors and Management Staff Training, which was recently approved as in-person training; however, it has been reverted back to virtual training due to COVID mandates. She advised that the directors are encouraged to attend, and trainings will be recorded and available on September 9th.

Cassi explained that the Butte Creek Riverscape project that Brooke has inherited managing has been a challenge due to federal permitting issues with BDAs and everyone's projects have been delayed due to this issue. She stated that the District has chosen to postpone the implementation of to 2022 due to the uncertainty of getting the work window extended and out contractors being available to finish the project this year since the same contractors are implementing Gilliam's project which is being completed late this year. She further stated that the District is simply not familiar with the full process to get through it smoothly and efficiently in a rushed timeframe. Cassi advised that the hurdle we currently facing is the lack of a timeline for when the permit will actually be approved. Cassi stated that Brooke can provide greater detail since she is leading the whole project, but essentially the District needs a federal agency to take the lead on the project if we want permitting completed faster than NOAA's estimated one year timeline for establishing a process. She advised that Gilliam was able to have NRCS take the lead on their BDA project and used their project implementation as an example for all others to be approved by. Cassi stated that Brooke is in contact with USFWS and has requested them to take the lead on Butte Creek Riverscape project and we are hopeful that we will get the permit approved before the end of this year, but definitely before July 2022 for implementation. Cassi stated that her point of bringing this topic to the table is the relationship with John Day Basin Contractors (JDBC). She explained that JDBC did business with the District in the past but after being forced to carry an extraordinary amount of expenditures long-term, they chose to no longer do business with the District. She advised that this was not a fault of the District, it was the fault of a funding source and was out of the District's control; however, due to being a small business and the difficult position the situation put on JDBC, the risks were too high for them. Cassi explained that Chase requested a bid from JDBC because of their extensive portfolio and references with BDA projects. She stated that it has been rough on Brooke, Randy and her to keep JDBC devoted in the project because this permitting issue has caused some strain on their business – not just with our District. Cassi advised that JDBC has been retained by District staff remaining in constant communication with any updates, both good and bad, as well as the fact that the District paid out the Mob Fee prior to the knowledge of the permit being flagged, so all materials/supplies for the project have been prepared and staged which means JDBC is already highly invested in the project. She further advised that JDBC has expressed their interest in not only continuing this project but bidding on future projects. Cassi stated that the last conference call that Brooke and she had with JDBC, they asked them to review their books and advise of any expenditures they have above the Mob Fee. She received notification that all materials and supplies have been prepared and staged, which means the remaining \$10,000 of materials and supplies is owed. Cassi stated she was not comfortable signing an AP form for payment of the remaining \$10,000 in addition to the Mob Fee since the District is not able to be request reimbursement until the permitting process is completed. She further stated that she directed the approval to Randy who requested the decision be brought before the Board. Cassi advised that she does not feel this payment to be a cause for JDBC to terminate contract for this project but she does feel that it could hinder their decision for bidding on future projects with the District.

Chairman Holmes asked if the \$10,000 is in addition to the Mob Fee and if the supplies will be useable next year. Cassi stated yes. Chairman Holmes clarified to the Board that the \$30,000 cannot be reimbursed from OWEB until the permitting process is completed, which will most likely be this fiscal year so the financials of the District would not be hindered. He asked Randy if he has a recommendation to the Board as the District Manager. Randy advised that he thinks the District wants to operate fairly and the money will be reimbursed to the District. He explained that all agencies are working to develop a programmatic review process and he has a high level of confidence that the permits will begin being approved, which means reimbursements will happen.

Gabe asked if the CR survey had been completed. Cassi stated no, not on Butte Creek. Brooke stated that one should not be needed if a federal agency takes the lead as CR support and ESA consultation and that NRCS will handle the CR of the area being fenced. Gabe advised that a CR survey will be needed for the vertical posts being installed. He further advised that USFWS will handle that through a Nationwide27 process that Dirk could assist with. Randy advised that he is in the process of obtaining qualifications from interested archeologists for a bidding process so the District can have CR surveys completed more efficiently.

Director Haberman **moved to approve payment to John Day Basin Contractors of the remaining \$10,000 for the materials and supplies of the Butte Creek Riverscape project**, Director Lindquist seconded the motion. The **motion carried unanimously**.

Conservation Technician I, Brooke Moore: Brooke advised that the ranking for the OWEB grant applications – one application ranked 4/9 and will be awarded this fall, the other one ranked as “do not fund” so she will be reviewing the evaluation once received and reapplying next cycle. She stated that she is continuing to manage all the other OWEB projects. Brooke advised that Gabe assisted with developing the budget for the Kinzua Implementation FIP proposal and Cassi assisted with the Butte Creek Phase II FIP proposal – both proposals were submitted August 26th. She advised that she has been compiling folders for CREP and will be taking those to Condon for enrollment in September. She stated that a meeting is scheduled with CTWS for the project on Canyon Properties and she meet with Zach Cunningham from CTWS assist with some CTWS monitoring which Randy and Daniel both participated in. Brooke stated that she will be scheduling a meeting with DelRae to review both the old and new RCPP contracts. She also stated that there are a couple post implementation status reports due this fall that she intends to involve Daniel with.

Director Lindquist asked who determines the distance between and elevation of the Beaver Dam Analogs (BDA). Brooke advised that it is determined by the engineer who designs the project. Cassi stated that there is sort of an instructional manual that is used as a guide because every project varies. Cassi asked Gabe for input on this. Gabe agreed that every project varies and stated that designs are mostly based from Michael Pollock’s research which is only one of about four methods, including the one RSI developed with BPA and ODFW located in the ODFW Fish Passage Review. He further stated that the BDAs with additional weaving and complexity must go to Salem for review and the determination of which method to use is based on the hydraulics and what the goal being accomplished is – vertical aggregation or lateral movement. Director Lindquist asked if the District could potentially be liable for someone’s water rights with all the BDAs being installed and tying up a lot of water than would otherwise flow downstream. Gabe advised that the water usage is not viewed in that manner because it is not being diverted for beneficial use. Gabe explained that beneficial use is a key component as to if a water right will be affected, for instance unless a BDA causes the water to divert into a ditch for irrigation then there is no liability from Water Resources Department. Director Lindquist stated that the BDAs are damming the creeks causing plant life to flourish in that location but no water is not getting downstream. Director Lindquist explained that if Bridge Creek is measured by Pape’s diversion before where all the BDAs were installed, there is likely 2-3cfs but after all the BDAs and irrigation of several acres of trees and plant life, there is little water in lower Bridge Creek. Director Lindquist asked if there would be any defense to the manipulation of the unnatural stream flow. Gabe stated that Oregon state and NOAA fisheries have done research related to the BDAs that show that reaches are not losing reaches and the data reflects that the water flowing in is also flowing out with some minor exceptions for evaporation in pond areas; the differential is within standard deviations and there is no reduction in stream flow. Chairman Holmes asked if there was an increase in stream flow.

Gabe stated that there was a decrease in temperature which reduces potential evaporation but stream flow remained constant. Director Lindquist stated that his concern is that after thousands of tree growth on Bridge Creek that the District is now installing over 250 BDAs on Butte Creek and planting a thousand trees, the landowner at the end of Butte Creek will no longer have water. Gabe stated that the research conducted by NRCS has shown that improved riparian condition has provided an increase in stream flow in the long term due to the retention of the water such as spring runoff being retained in healthy riparian stands and causing greater late term stream flow. Gabe explained that the older methodology was to remove all riparian vegetation and straighten everything out, which resulted in flow but water was not being retained in shallow aquifers and near stream area. Gabe stated that this would be a good question for the NRCS technical team in Portland. Director Lindquist suggested half the number of BDAs being installed and five years later evaluating for additional installation. Gabe stated that is a good suggestion and advised that numbers have been reduced since the Bridge Creek project took place. He further explained that it has been discussed that having too many BDAs causes reduced sediment to fill the BDAs in, which the goal is to fill them in so the stream height is increased and the water can flow faster. Gabe stated that without sediment to fill in the BDAs that the posts will rot faster, so on current projects it has been proposed to do less BDAs and more phases to help build up the sponge of the ground and less ponds.

Cassi advised that there is a BDA presentation in Prineville on September 14th at 6pm that the Crooked River Watershed Council is hosting, which it is the Idaho group that is presenting.

Conservation Technician I, Daniel Goodell: Chairman Holmes welcomed Daniel. Daniel introduced himself and provided a brief background of himself. He stated that he has been learning the various programs and has received great assistance from everyone in the office.

MONTHLY BUSINESS

MINUTES: The July 29, 2021 meeting minutes were presented for review. Director Hunt **moved that July 29, 2021 meeting minutes be approved as presented**, Director Haberman seconded the motion. The **motion carried unanimously**.

BUDGET EXPENSE REPORT: The budget report dated August 23, 2021 was presented for review. Director Lindquist **moved that the budget report dated August 23, 2021 be approved**, Director Thomas seconded the motion. The **motion carried unanimously**.

BILLS: Cassi explained that due to the office being closed from the COVID exposure, there was no checks issued mid-month and this caused some confusion with requests sent to the Finance Manager. She stated that there were some duplicated payments made via Visa and check, so there are notations on the check register of these duplicated payments.

Director Haberman asked if the payment to the archeologist included multiple surveys/reports or only one. Brooke advised that it is only one report, but the survey area was larger than the average acreage being surveyed.

The check register August 26, 2021 were reviewed. Director Lindquist **moved that the bills dated August 26, 2021 be approved with the corrections of duplicate payments**, Director Hunt seconded the motion. The **motion carried unanimously**.

OLD BUSINESS, continued

RIVER DEMOCRACY ACT 2021, continued: Cassi advised that she and Randy will be attending the Wheeler County Court meeting on September 1st to collaborate with the commissioners any knowledge either agency has. Randy advised that it appears Commissioner Shaffer has already spoken to Kathleen Cathey regarding concerns of the River Democracy Act. Chairman Holmes asked if the Commissioners are in favor or opposed. Randy stated opposed. Cassi advised that Amy Derby with the OSU Extension Office is willing to be involved in discussion or events

pertaining to this Act, but she was unable to get receive a definite answer from the Stock Growers Association. Chairman Holmes stated that he would like to see the Stock Growers involved and aware of the River Democracy Act and he will reach out to Amy Derby about getting a meeting setup. He shared his concerns about the Act and he suggests the District requesting to have Bridge Creek removed from the designations due to the large amount of private ownership along it. Chairman Holmes suggested that the District draft a letter to Wyden's Office and possibly draft a template to provide other agencies and individuals to submit comments by. Chairman Holmes requested that Randy gather as much information over the next 30 days and have a letter drafted for the Board review at the next meeting. He also suggested that the District send information of the River Democracy Act to landowners bordering the proposed designations.

Randy asked if the District had a simple way of mass mailing. Cassi advised that the District has the tax lot layer which provides mailing addresses for all landowners. Chairman Holmes stated that the District should focus on landowners along the river and designated water, but we should provide information to everyone in the county. Director Lindquist suggested speaking to Gordon Tolton about the River Democracy Act. Gabe stated he would send contact information to Randy for contacts to reach out to.

Debbi stated that the District should be cautious of the laws and regulations pertaining to lobbying. Chairman Holmes advised that the letter will not be persuading individuals or agencies to take the same position as the Board, but providing information and resources.

Director Thomas asked if there should be correspondence sent to Kathleen Cathey prior to the next meeting regarding the concern surrounding the Bridge Creek designation. Chairman Holmes stated that if Randy wants to send an email off prior to the next meeting and inquire about the possibility of removing that from the designations. Cassi stated that it may be beneficial to inquire if the other comments are public information to gain insight on the reasoning behind other segments being approved for removal.

Randy advised there is a public hearing on August 31st that Cassi included the information for attending in the packet.

AUDITOR RECOMMENDATIONS: This discussion was tabled until the September meeting.

LANDOWNER FOLLOWUPS: This discussion was tabled until the September meeting.

FUEL TANK UPDATE: Randy stated that he inquired with Devil Oil in John Day regarding fuel tanks for purchase, but they have had difficulty locating fuel tanks, so have resorted to purchasing single walled tanks back from customers who are no longer utilizing them. He further stated that in his research for a double walled tank the cost ranges from \$4,200 to \$4,500 and the pump would be a separate cost. Randy explained that the insurance requirement for having a fuel tank on site is covered in the general liability policy the District currently has, but that SDIS recommended to him that the District should also consider carrying spill/leak coverage, which requires the District to document the history of tanks located on the property. Randy advised that there is currently a tank up the hill from the office building, but he is unsure of the history of the tank or property.

Debbi stated that the tank located on the property is water only. Chairman Holmes stated that the District would need to speak to Judy regarding the history and the District would need to document all historical information with SDIS to clear any liability from the District. Randy advised that the SDIS spill/leak coverage requires the history to be documented, as well as development of a monitoring plan. Cassi advised that the District would need to request permission from Judy to put a fuel tank on site since there is no language in the lease agreement allowing the District to have a fuel tank on site.

Director Lindquist stated that he has a son in the business of selling fuel tanks and confinements. He stated believes there are options to have a confinement that are simply a three foot culvert with a special mat insert. Director Lindquist stated that he will speak to his son and do some research, then report back to Randy.

Chairman Holmes thanked Director Lindquist and suggested tabling further discussion until the September meeting.

TIMEKEEPING: Cassi advised this discussion was tabled until October. Randy provided the Board with an update of processes he has implemented which are monitoring and signing timesheets prior to recording, employee time off is now requested in advance by a form for approval, comp time is required to be approved in advance and he monitors totals monthly, he arrives early to know when employees arrive and leave for the day. He advised that he believes that timekeeping is sufficient at that time. Chairman Holmes asked Randy if he feels any need to have a timeclock or any automated recording for employee timekeeping. Randy stated no, that he feels if he is efficiently upholding his responsibility to the District, there should be no need for a timeclock.

MATERNITY LEAVE POLICY: Randy advised that he worked with Cassi to learn of the prior Board discussion that occurred at the January meeting pertaining to the terms desired in a maternity leave policy. He further advised that he spoke with the District's HR consultant prior to developing the policy presented for approval. Randy stated that this policy is brief, but reminded the Board that the District is in the process of revising the Personnel Policy and Procedure Manual so there is potential to make a more in-depth policy.

Brooke stated that she has already advised landowners to not hesitate contacting her and she will return their call as soon as possible if she is not able to answer right away.

Director Lindquist **moved to approve and adopt the Maternity Policy as presented**, Director Hunt seconded the motion. The **motion carried unanimously**.

NEW BUSINESS

OSHA SMOKE RULE: Cassi explained that OSHA established a Smoke Rule that requires employers to train employees on air quality and smoke inhalation risks, as well as guidelines for the employer to follow. She advised that the rule does not require the District to adopt a plan such as the Heat Exhaustion Rule did. Cassi provided a summary of the rule and training document which was provided at the meeting and will be used to train staff during a safety meeting on August 30, 2021. She explained that OSHA developed a virtual training that covers six of the ten guidelines and the other four are employer specific which requires the District to develop details of the guideline which her and Randy developed. Cassi stated that within the guidelines, increase requirements start at an air quality of 101 and the nearest air quality station to Wheeler County is John Day.

Director Lindquist asked if the AgriMet stations would have air quality capabilities. Randy advised that the air quality meters are a combination of state and federal stations which are located across the state but none within Wheeler County.

Chairman Holmes asked if there needs to be any action from the Board regarding this Smoke Rule. Cassi advised that no action is needed and it was on the agenda as a discussion and informing item.

ENGINEER CONTRACT: Randy advised that he is in the process of developing templates for engineer contracts. Randy stated that Cassi had researched the history of a contract between Wheeler SWCD and RSI for engineer services paid for out of the ODA District Capacity grant but was unable to locate any contract. Randy asked Gabe if he had any recollection of the last contract. Gabe stated it would have expired about a year ago or so. Cassi advised she was able to locate some information in minutes which reflects the last contract was up for renewal in 2016 but after a six month extension, there was no discussion or action of a renewal. She explained that the issue is that she is unable to locate anywhere in District files, both electronic and physical, any contract between Wheeler SWCD and RSI pertaining to the funding RSI receives through the ODA District Capacity grant. Cassi further explained that Randy is looking to have documentation of services rendered in relation to this funding. Cassi asked Gabe if he would mind working with Randy to locate and/or develop such documentation in the form of a contract. Gabe explained that in the past there has been two separate contracts, one was a two-year revolving contract for engineer services up to a certain dollar amount and then there was another contract that covered the Rock Creek Assessment due to the total for Rock Creek exceeding the

dollar amount of the revolving contract. He further explained that any engineering projects exceeding the certain dollar amount in the revolving contract was required to go through the bidding process. Gabe advised that previously Judy would solicit informal bids for costs and review of up to three engineers each biennium and RSI is approximately half the cost of most engineering firms. Gabe stated that he believes it has been at least three or four years since the revolving contract renewal. Cassi asked Gabe if he would be willing to work with Randy over the next couple of months to reinstate a contract for engineering services. Gabe agreed and advised he would do some research and provide any contract copies he is able to locate.

OFFICE LEASE: Randy advised that the current office lease was written in 2011 and included the ability to extend the lease in one year increments. He stated that the lease was executed and signed by Judy's husband, William Potter. He explained that the lease includes the monthly costs of \$650 for the lease and \$300 for cleaning expense. Randy advised that there has not been an increase for inflation nor has there been any request to increase these amounts. He has recommended to request a renewal from Judy with a suggested increased amount. Randy asked the Board for their feedback.

The Board asked Randy how he felt about initiating this conversation with Judy and once an agreement is made between him and Judy, then bring it to the Board. Randy advised that he is comfortable with that process. Director Hunt suggested including the request for the fuel tank in the same conversation so it is written into the lease agreement, if approved by Judy. Director Lindquist stated that the lease does not include any language regarding the portion of the shop or the chemical room that is used by the District.

DISTRICT FINANCIAL MANAGEMENT: Randy advised that there is a contract with Judy Potter for Finance Manager for approximately two years. He explained that from his perspective since coming on board, and not just from what he is used to seeing with local government agencies, he is seeing a need for a better opportunity needed for how the financial and fiscal transactions and records are handled. He recommended the Board consider bringing the financial management of the District in house, possibly with the assistance of a CPA third party reviewer for reconciliations. Randy advised that many government agencies include a third party entity in the financial management to have an objective review to monitor and provide monetary control. He further advised that he does not believe it needs to be a rapid decision made at this time, but he would like the Board to discuss and consider the recommendation. He requested insight from the Board.

Director Lindquist stated that the District would return to operating as when Judy was the District Manager. Director Thomas asked how financial management is handled currently. Cassi explained that Judy is the Finance Manager, but there is requests sent between herself and Judy for various things. She stated that there was recently a new Financial Policy and Procedures document written and offered to send a copy to Director Thomas. Cassi advised that in the past several years there has been an annual audit deficiency for lack of segregation of accounting duties which was caused by Judy being the District Manager and handling all finances of the District without a counterpart to do any review or procedures causing the financial to be in sole control of one employee. She stated that the intent of the Policy was to have that audit deficiency removed and the auditor has advised that with having multiple reviewers as the District has now, the deficiency should not continue.

Director Haberman asked Randy what he envisions as an in house Finance Manager. Randy stated that all management would be conducted in house and a contracted CPA who would work virtually or in-person with staff and meet monthly to review reconciliations to present to the Board. Director Haberman asked if we would be using Barnett and Moro as that third party. Cassi stated that she and Randy recommends using a separate firm than the auditor and have spoken to Solutions CPA in John Day who quoted an hourly rate of \$100 and the contract could be developed based on District needs and preferences. Randy advised that an additional requirement would be for the District to obtain a subscription to software such as QuickBooks because the software being used at this time is owned by Judy and the District does not have access to it. He stated that Cassi has experience with QuickBooks but he would like for the person who is handling the software to be certified in QuickBooks, so she would need to complete that training and testing. Randy

explained that QuickBooks has the ability to be cloud based which is not available with the current system of PeachTree that is being used; in due to the system being owned by Judy and she has other clients in the system, the District does not have access to the financial documentation and must request any report or document from Judy. He further explained that the ability to query a report or overview of any portion of District finances at a given time is pertinent to the day-to-day operations of the District, which is not within the capabilities of the District with the current contract.

Director Lindquist asked if Randy is recommending hiring another employee. Randy stated that he does not believe that is needed since Cassi already spends a significant amount of time working with the finances of the District. He explained that there would be more responsibility for Cassi to take on the full financial management of the District but overall it would be a timesaving transition in terms of multiple requests between parties being involved in the processes. Randy advised that in prior districts that he has management, it has been successful to have the financial management in house with approximately four to five hours monthly spent with a CPA to review the monthly reconciliations which can occur either virtually or in-person. Cassi stated that Solutions CPA advised that a portion of the contract could include consulting and training at the same rate. Randy advised that he has reviewed this over the long term of the District and he expressed his utmost praise for what Judy has developed for the District and the success built by her work and oversight. He stated that as he looks forward he believes the District could operate smoother with the finances in house based on his experience of working with a number of agencies. Chairman Holmes asked if it is possible to bring the finance management in house and not face the audit deficiency. Randy stated that he has not had a conflict of financial management being in house as long as responsibilities are split and segregation is defined. He suggested that the Board Treasurer also be involved in reviewing monthly financials prior to the board meetings. Debbi asked if Solutions CPA has experience working with funding accounting. Cassi advised that most CPA firms have at least one accountant who handles fund accounting. She stated that the lady she and Randy spoke to is the funding accountant for Solutions CPA. Chairman Holmes asked if this is similar to how other SWCDs are operating, such as Gilliam or Grant. Cassi advised in Gilliam, the Office Manager handles all the finances through QuickBooks but the difference with Gilliam is there are no delegation of authorities in place and the Board reviews and signs and approves every document. She advised that Gilliam Office Manager has offered to allow an employee of Wheeler to shadow or train in their office. Cassi stated that she is unfamiliar with Grant's process, but she knows in Monument that the District Manager handles all the finances similar to how Judy did as District Manager and she is unsure of the process or system that Monument uses. Director Haberman asked how many additional hours per week would the financial management entail if brought in house. Cassi advised that the workload would be a give-and-take since it would reduce many hours in developing requests and duplicated documentation, and in addition some of the responsibilities that are currently handled by her should be handled by Randy such as the policy and procedures.

Director Haberman asked if there was an end date in the contract with Judy. Chairman Holmes advised that the contract was ongoing. He explained that when the Finance Manager contract was developed, the District was in the process of hiring a new District Manager and there was no conceivable way to train a new employee on both the operations and financial management of the District. Director Lindquist asked if Judy is paid annually. Cassi advised she is paid \$2,250 monthly. Director Haberman asked Cassi if she would need any other additional training or credentials other than her degree and background. Cassi advised that both her degrees are in accounting, but Randy recommends being certified in QuickBooks. Director Lindquist stated that the District will be saving \$2,250 per month. Cassi advised that there would be costs associated with contracting with a CPA firm, as well as obtaining a subscription to QuickBooks.

Director Haberman stated that Cassi's position description would need to change. Chairman Holmes advised that Randy is already in the process of updating position descriptions because in the past the descriptions were developed based on the individual in the position at the time. Director Haberman stated he was referring to compensation. Chairman Holmes advised that it is the responsibility of the District Manager to determine all the details of that and to present it to the Board for review and approval, but currently we are paying \$2,250 per month. Randy advised that in addition to the \$2,250 per month there is equipment, services and supplies also paid for through the Finance Manager contract.

Director Hunt stated he believes it is a good idea to bring the financial management in house, as long as there is a third party reviewing reconciliations. Director Thomas agreed. Chairman Holmes asked the Board how they want to proceed and what information does the Board want before discussing approval of this. Director Hunt stated he would like to know more details of the cost for the CPA and software.

Director Lindquist asked if it was possible for Judy to be the third party. Randy advised he met with Judy recently to gain some better understanding of the District finances and had asked Judy if she would be willing to meet with District staff once a month. He further advised that Judy stated she had a lot going on and would not be able to do that. Randy stated that he felt that to be a limitation and having two different software systems would make it difficult; however, it is possible for her to be the third party given her tremendous amount of experience. Randy stated that there would need to be some kind of transition time and agreement. Director Lindquist asked if the District has a copy of the Finance Manager contract with Judy. Cassi advised there is a copy on file and she can provide that to the Board. Director Lindquist asked if there was any language regarding termination of the contract. Randy advised that Judy is required to provide a 60-day notice of any changes and the District is required to provide a 30-day notice for any changes but he would want to provide a much longer notice than 30-days. Chairman Holmes suggested that Cassi obtain the training and certification Randy recommends prior to initiating a transition and asked what the timeline was for that. Cassi advised that the trainings are offered monthly through community colleges and the certification is a self-paced two-day course.

Chairman Holmes suggested that the Board take the next month to think about this and bring any further questions to the September meeting. He asked Randy to develop an overview of the current, transition and ongoing costs.

OTHER BUSINESS NOT LISTED

PESTICIDE LICENSING: Director Haberman advised Randy and Daniel that he recently scheduled a test for his pesticide license and most testing centers are six to eight weeks out. He suggested scheduling a test date soon.

NEXT MEETING DATE: The next regular meeting will be held on **September 30, 2021**.

ADJOURNMENT: There being no further business, the meeting was adjourned by Chairman Holmes at 8:49 p.m.

Respectfully submitted by Cassandra Newton


Jeremiah Holmes, Chair


Randall Williams, District Manager