



1037 NW Grebe Street
 Seal Rock, Oregon 97376
 Phone: 541.563.3529 – Fax: 541.563.4246
www.srwd.org



Seal Rock Water District

General Manager's Report: [Report Revised September 13, 2023](#)
 Board Meeting September 14, 2023

This report is an executive summary provided with this Board agenda to Commissioners with recommended actions if any. Detailed information, staff reports, and supporting materials are provided within the full agenda packet.

PHASE-IV BEAVER CREEK SOURCE WATER PROJECT:

Jacobs engineers and district staff met with representatives from USDA-RD on August 7th to perform the 11-month warranty walkthrough. Operators pointed out several concerns the district has experienced during the past 11 months of operation to include: various pump failures including chemical feed pump failures. Automatic valves not functioning on command or sticking open/shut. Membrane filtration skids that have been difficult to clean, restricting production. A copy of the Phase IV Beaver Creek Water Supply Warranty Period Report is included in the Board Packet.

ODF APPLICATION OF HERBICIDES IN THE BEAVER CREEK WATERSHED:

On August 30th SRWD received notification through the FERNs notification process that the subject timberland owner has filed a new NOAP for Ground -Pressurized / Broadcast (Backpack-Spray) of herbicides on the same lots. A copy of NOAP 2023-553-10095 released yesterday on the FERNs website has been made available to the Board and is posted on the district's website.

Submission of a new NOAP by the timberland owner does not void the existing NOAP scheduled to go into effect on September 2, 2023. The proposed new NOAP which includes backpack spray does not change the district's planned approach to managing raw water conditions affected by the application of herbicides.

On August 7, 2023, district staff reached out to Mr. Tyrol Forfar to discuss the aerial application of herbicides and to notify the consultants, HFI Consultants of the district's raw water intake downstream of the proposed spray area. The district requested that the consultant please consider attending a meeting with the district to exchange information regarding planned spray activities and the district's raw water intake operation.

On August 10, 2023, district staff attended a consultation with DEQ, Source Water Protection Experts to consult with the department regarding best management practices to protect the district's Beaver Creek intake from pollutants.

On August 10, 2023, the district also submitted a public comment to the Oregon Department of Forestry (ODF) regarding the Aerial Application of Herbicides under NOAP 2023-553-09307. A copy of those comments is included with this staff report.

Seal Rock Water District is an Equal Opportunity Service Provider and Employer.

Adam Denlinger, General Manager

adenlinger@srwd.org

www.srwd.org

At the direction of the SRWD Board, on Monday, August 14, 2023, the district coordinated a public meeting with State Representative, David Gomberg, Lincoln County Commissioner, Casey Miller, and the community to discuss the aerial application of herbicides. This was a large group of over 40 attendees joining in the conversation by Zoom and in person.

On August 15, 2023, the district attended a meeting hosted by Representative Gomberg to discuss the next steps in reaching out to the forestland owner. This meeting included representatives from the Governor's Office and Lincoln County Commissioner, Casey Miller.

On August 16, 2023, staff attended the Lincoln County Board of Commissioners meeting to speak in opposition to aerial application of herbicides.

On August 16, 2023, the district attended a 2nd community meeting hosted at the Waldport Community Center and provided an update to the group about the potential for meeting with the forestland owner Mr. Sorn Nymark.

On August 16, 2023, the district reached out to the Oregon Health Authority for guidance regarding testing for herbicides/pesticides under state regulations under OAR 333-061 to sample for the following constituents:

(3) Organic chemicals: (a) At community and NTNC water systems, water suppliers must monitor according to this section for the following regulated synthetic organic chemicals (SOC): alachlor, atrazine, benzo(a)pyrene, carbofuran, chlordane, dalapon, dibromochloropropane, dinoseb, dioxin(2,3,7,8-TCDD), diquat, di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate, endothall, endrin, ethylene dibromide, glyphosate, heptachlor, heptachlor epoxide, hexachlorobenzene, hexachlorocyclopentadiene, lindane(BHC-g), methoxychlor, oxamyl(Vydate), picloram, polychlorinated biphenyls, pentachlorophenol, simazine, toxaphene, 2,4-D and 2,4,5-TP silvex.

The district's most recent SOC samples performed in July of this year were Non-Detect (ND). Results are posted on the district's website.

On August 17, 2023, district staff provided the attached Public Service Announcement (PSA) regarding the district's response to aerial application of herbicides.

On August 18, 2023, the district met for a 2nd time with Representative Gomberg's Office, and Lincoln County Commissioner Miller to discuss the availability of hosting a meeting with Mr. Nymark.

On August 21, 2023, the district hosted a 2nd meeting at the request of a small number of SRWD customers to exchange information and discuss the potential of taking legal action to prevent the aerial application of herbicides under the Safe Drinking Water Act. District staff provided this information to the district's legal counsel for review, and we have reached out to the EPA requesting a meeting with the district to discuss our rights under the Safe Drinking Water Act. Communicating with the Regional Administrator through the local channels is the proper course of action to obtain assistance, which is the most expedient way to prevent dangerous activity from occurring. District staff have attempted to reach the administrator several times, but as of the date of this report, we have not received a response to our replies.

On August 21, 2023, the district reached out to Oregon association partners to include, Special Districts Association of Oregon (SDAO), Oregon Water Utility Counsel (OWUC), and Oregon Association of Water Utilities (OAWU) for guidance and feedback regarding the aerial application of herbicides in watersheds.

On August 23, 2023, the district again reached out to the consultant for ANE Forests of Oregon C/O HFI Consultants, Tyrol Forfar, and left urgent voicemails requesting an informal meeting with the district to include Representative Gomberg and Lincoln County Commissioner Miller. I spoke with Mr. Forfar, and it seems like Mr. Nymark is open to a meeting. On behalf of the district, I expressed the importance of meeting with the timber owner to exchange information regarding the district's operation and risk relative to the proposed aerial application of herbicides.

The district has reached out to EPA Department Director Stacey Murphy with a request for consultation concerning this matter. There appears to be no ability for the district or a citizen to enforce the Safe Drinking Water Act under Section 1431, as that authority is limited to the EPA and their Regional Administrator.

The district has also reached out to the Oregon Department of Agriculture (ODA) to provide assistance to the district under the state's Pesticide Management Plan for Water Quality Protection. Specifically, as it relates to: *"The overall plan relies on the formation of a Water Quality Pesticide Management Team (WQPMT) composed of representatives from each of the four agencies Oregon Department of Environmental Quality (DEQ), Oregon Health Department (OHA), Oregon Department of Forestry (ODF) and ODA responsible for water quality in Oregon. This team will act as a coordinating advisory team between state agencies and key stakeholders."*

On August 25, 2023, the district contacted Christina Higby, Citizen Advocate & Tribal Liaison with the Department of Agriculture (ODA) to discuss pulling together the WQPMT members for a meeting with the district and Representative Gomberg and Lincoln County Commissioner Miller.

On August 31, 2023, district staff attended a radio program in Newport with Lincoln County Commissioner Casey Miller to raise community awareness regarding the Aerial Application of Herbicides in South Beaver Creek.

On August 31, 2023, the district Board of Commissioners hosted an emergency Board Meeting to receive public comments from the community. The district received several comments regarding the proposed application of herbicides which are included in the minutes of the meeting.

On September 1, 2023, immediately following the emergency Board meeting the district provided a 2nd public service announcement. Also included in the Board packet for the September regular monthly board meeting. District staff have received several positive comments regarding the district's efforts to be inclusive with the community in our ongoing effort to be transparent in response to this issue.

On September 6, 2023, district staff met with the Water Quality Pesticide Management Team (WQPMT) at the Lincoln County Court House with Lincoln County Commissioner Casey Miller, State Representative David Gomberg, and a representative from the Governor's office. Conversations between the agencies followed the general guidance identified in the Pesticide Management Plan for Water Quality Protection.

District staff raised awareness to a very engaged group of state agency representatives from DEQ, ODF, ODA, ODFW, and OHA regarding risks to the Beaver Creek community and the district's newly constructed raw water intake downstream of the proposed spray sites. The state agencies agreed to collaborate on developing a question-and-answer sheet that will be provided to the community, which outlines the specific roles and responsibilities of the agencies. The state agencies are also looking into other recommendations for developing the district's source water risk reduction strategy. The proposed fact sheet will be shared with district customers and the community when it becomes available.

ODF provided the attached Herbicide Fact Sheet for immediate distribution to the community. Representative Gomberg asked how/what steps private well owners should take concerning risks due to herbicide application. OHA provided a link for those seeking information regarding the state's [domestic well-safety program](#). On September 7th the district provided this link to several private well owners in the area that requested this information in a previous meeting.

The subject of funding to protect private water systems was brought up by a representative from the Governor's office with a commitment to provide a follow-up regarding funding. Due to the potential risk to the district's intake, the district may have an opportunity to apply for funding through the USDA-RD Emergency Community Water Assistance Grant (ECWAG) program. The district is working with USDA's Community Programs Specialist to identify funding to support the cost of additional treatment to remove SOCs.

The district will remain in contact with state agencies and the forestland owner's consultant to monitor the proposed application of pesticides while we continue to formalize a management plan in response to this issue. The district intends to take every precaution necessary to protect the water system, including:

- Shutting the Beaver Creek intake pump station off during the application of herbicides.
- Allow flow in the creek to move through the stream beyond the POD.
- Sample the raw water and if results are non-detect the district will resume operation, as long as it's safe to do so.
- If hazardous chemicals are detected the district will not use the Beaver Creek system, report results to DEQ and PARC, and continue sampling.

The district has a 5-day supply of water depending on the time of year. However, if necessary, the district will suspend the operation of the intake longer, continue sampling, and move to a secondary source of water until it's safe to resume operation on the Beaver Creek system.

On September 7th the district received a request for a meeting from the Oregonians for Food & Shelter (OFS) Associate Director Tiffany Monroe. OFS represents members in the agriculture, forestry, and urban sectors that rely on modern production tools. The mission of OFS is to provide outreach and expertise on responsible use and access to pesticides, fertilizer, and biotechnology. A meeting with OFS and the district is scheduled for later this month.

On September 8th the district received an email that included a letter from Oregon Forests Forever (OFF) which is also included in the Board Packet's

On September 8th an open letter from the district to Mr. Sorn Nymark was published in the Newport News-Times. After several attempts to reach Mr. Nymark, the district received an email from Mr. Nymark's Consultant HFI Consultants advising the district that Mr. Nymark has received a copy of the Open Letter and is aware of the district's repeated requests for a meeting. *"I have forwarded your open letter you published to Sorn so he is aware of your request. It is up to him whether or not he will be meeting with you. As far as I know, we are still going forward to spray the property. We will have the Oregon Department of Agriculture on site to oversee the operation. You can rest assured that the application will be done within the boundaries of the law and with best management practices. As I'm sure you have learned from your conversations with the ODA there is absolutely no risk to the water supply and human health if this herbicide is applied according to Oregon Law and the product labels."*

On September 9th the district received a letter from Ursula Bechert, DVM, PhD, to the Governor's office in opposition to herbicide spraying on ANE Forests Property. This letter is included with this report.

On September 11th the district received notice of a letter dated September 8th from Mr. Sorn Nymark to the Lincoln County Commissioners regarding NOAP 2023-553-09307 providing that ANE and its Board of Directors have offered to ground apply herbicides rather than by helicopter. This decision was made in large part based on community concerns and protests. It will cost ANE an additional \$15,000 to \$20,000 to switch to ground application.

SRWD is working closely with state agency representatives, most notably Oregon Department of Agriculture (ODA) and Oregon Department of Environmental Quality (DEQ) in response to this issue. Working through ANE's consultant they have requested that DOA be on site when spraying is to be performed. As such the district expects to be notified regarding the schedule for herbicide application.

With support from the LC Commissioners, State Representative Gomberg's office, and the state agencies SRWD continues taking proactive steps to ensure that the district's water supply system is protected. Risk reduction measures posed in this report are used broadly by other water providers throughout the region and the state. The district is also working with funding agents and engineers to identify treatment processes to remove SOC's, as well as available funding opportunities to fund the cost of this effort.

Regarding legal action, SRWD does not have the authority to take any legal action in this matter. The district will only consider legal counsel when it is appropriate to do so. Any discussion with respect to special counsel involving this matter is subject to Board approval and is not scheduled for discussion at this time.

Due to the budget limitation, the district is not at this time considering large-scale land acquisition in response to this matter. The Beaver Creek watershed is approximately 33.5 square miles, respectively, or over 21,536 acres according to DEQ's Source Water Protection Specialists. If land acquisition is to be considered in the future, the district would need to seek professional services and view this as a multiyear process. While grant funding may be available, it's competitive and often comes with matching requirements. Developing a capital campaign for land acquisition will require subsequent rate increases to cover the matching funds.

In closing, I believe it's important to point out that herbicide application in the Beaver Creek watershed has been a common practice for decades now. While this condition was not unforeseen by the district as it's identified in the district's Source Water Assessment available on the district's website, due to the recent

improvement to switch to a new primary source of water on Beaver Creek, this is the first time the district has had to respond to this issue.

Data in the report developed by DEQ identifies that just over 50% of the watershed is owned and managed by the United States Forest Service (USFS). 25.5% of the watershed is privately owned with the remaining balance owned and managed as private industrial forest, agriculture, and State Forest. The report identifies potential sources of pollutants to include the application of herbicides and pesticides, which is why the district tests for SOC's.

Staff want to impress upon the Board, SRWD customers, and the Community that we are doing everything within our jurisdictional authority in response to this issue. Staff are working day and night responding to countless emails, phone calls, and requests for information related to this issue. Materials presented to the Board at this meeting along with this report are available in the lobby and on the district's website. District staff are committed to updating the SRWD Board and our customers regarding any new developments concerning this matter and would encourage those seeking more information regarding this matter to please visit our website as new information will be posted on the website as it becomes available.

Other notable activities for the month include:

- Attended meetings with engineers to discuss membrane module onsite testing.
- Met with representatives from USDA-RD and Engineers to perform the 11-month warranty walkthrough.
- Met with representatives from USDA-RD to provide project status reports.
- Attended Mid Coast Water Conservation Consortium Meeting.
- Met with property owners in the district to discuss water quality issues.
- Attended OWRD Place-Based Planning Meetings.
- Met with GSI Water Solutions to review progress on MC-WPP, the Water Management and Conservation Plan, and Beaver Creek streamflow and temperature monitoring.
- Attended League of Oregon Cities Water Infrastructure Meeting.
- Attended the Monthly Oregon Water Utility Commission (OWUC) meeting.
- Attended the Lincoln County Drought Committee meeting.
- Attended several interviews with Newport News-Times, KLCC and KQYE radio, and Yachats News to provide updates regarding Herbicide application in the South Beaver Creek Watershed.
- Participated in a coordinating meeting with the Oregon Water Utility Association fall Tri-WUC conference including Oregon, Washington, and Idaho.
- Attended the August 16th Lincoln County Board of Commissioners Meeting.
- Met with legal counsel to discuss pending arbitration matters and potential impacts related to risks associated with raw water quality.
- Met with representatives from DEQ to discuss planning efforts for hosting the Department of Environmental Quality (DEQ) Board of Commissioners meeting and providing a tour of the district's Raw Water Intake and WTP.