



## **Drinking Water Advisory Committee**

Meeting Minutes

July 19, 2023

Virtual (Teams) and In-Person

### Members Present

**Sandra Bishop**, League of Women Voters of Oregon  
**Greg DeBlase**, Oregon Environmental Health Association  
**Jessica Dorsey**, Pacific NW Section, American Water Works Association  
**Michael Grimm**, Special Districts Association of Oregon  
**Kim Gupta (for Yone Akagi)**, Large Water Systems  
**Cheyenne Holliday**, Water Consumers  
**Adam Jackson**, Privately Owned Water Systems  
**Matt Johnson (for Jason Green)**, Oregon Association of Water Utilities  
**Karen Lewotsky**, Environmental Advocacy Groups  
**Kim Ramsay (for Beth Myers)**, Oregon Environmental Lab Association  
**Travis Tormanen**, American Council of Engineering Companies of Oregon

### Members Absent

**Yone Akagi**, Large Water Systems  
**Jason Green**, Chair, Oregon Association of Water Utilities  
**Lacey Goeres-Priest**, Vice Chair, League of Oregon Cities  
**Beth Myers**, Oregon Environmental Lab Association

### Guests

Nick Alviani, Conference of Local Health Officials  
Nicole Bailey, Business Oregon

### DWS Staff

Adam DeSemple	Samina Panwar	Michelle Byrd	Paula Rich
Tony Fields	Kari Salis		

## **Welcome/Roll Call**

Matt Johnson welcomed the group and roll call was taken.

## **Agenda Check**

Matt Johnson proposed to table the election for Chair and Vice Chair because the current office holders were absent. **Action Item: OHA-DWS will send notifications about core member terms expiring so those people can nominate replacements.**

## **April Meeting Minutes**

Mike Grimm moved to approve the April minutes and Greg DeBlase seconded. A vote was taken and minutes were approved.

## **Member Update/Public Input**

No member update.

Karen Lewotsky reported that Willamette Partnership is creating a wildfire recovery planning toolkit and are seeking input. She placed a document in the meeting chat and invited people to review it and contact her.

## **Program Update (Samina Panwhar)**

DWAC origin and purpose

- DWAC formally enacted by Senate bill 156 in 2007 and is now in Oregon Revised Statute 448.153.
- Fifteen members serve three-year terms and meet at least four times annually.
- Members are from fifteen groups that represent various environmental, health, water supply, and other organizations.
- Samina presented DWAC rules governing proceedings and responsibilities of DWAC members.

Program performance measures (shared with EPA)

- Health-based violations in community water systems trend is downward (2022-2023).
- Priority noncompliers (PNCs) longer than six months. Systems accrue points based on violations; when they have 11 or more points they are considered a PNC. Trend was downward in 2022 but has leveled off at five or six for about the past year.
- PNCs for Oregon Very Small (OVS) systems (non-EPA) trend is downward, but numbers are still high. In Q2 2023 there were 146 PNCs out of 800 OVS

systems. EPA funding is not available for OVS systems, so OHA-DWS hopes to get state funding to help these systems.

Program goals (short and long term)

- Recruit for five BIL-related positions await legislative approval; Research Analyst 3 position added to the program with recruitment underway.
- Find creative ways to address health-based violations – enhance communication with water suppliers and local health partners, find appropriate funding opportunities.
  - Four systems are continually in violation. OHA-DWS provided circuit rider assistance, as well as SUDC (small underserved disadvantaged community) grant funds for part of their projects, with SRF and BIL funds to complete the projects.
- Incorporate equity in program decisions – prioritize small and disadvantaged community (DAC) systems for technical assistance and funding. Forgivable loans available through BIL. Review and potentially revise DAC definition with EPA contractor support. Currently DAC is defined as income less than Oregon median household income (MHI). For rating and ranking water systems, poverty and unemployment rates and other metrics are considered.
  - Question from attendee: What about pockets of DAC within a service area? Will that be considered in the revised definition? Answer: Yes, OHA-DWS would like to find a way to take those circumstances into consideration. Currently, the definition is based on the entire service area boundary.
  - Discussion: How do the pockets of disadvantaged neighborhoods in a service area relate to water system improvements? Wouldn't the utility provide all neighborhoods with equal service? Potential issues: Infrastructure may be older and not as well maintained by the city, and therefore have higher water loss and be more difficult to repair and replace, and water utilities may have to compete with other city utilities for funding.
  - Tony Fields: It may be important to be able to identify disadvantaged pockets within a service area to establish eligibility for BIL funding for the overall service area. A revised definition of DAC could give OHA-DWS additional avenues to provide assistance and make funding more equitable.
  - Discussion continued: Communities are sometimes annexed, for example, Hazelwood district in Portland. Their existing distribution system was not built to Portland standards. Another example is the east side of Salem, which was originally several small districts.
  - Water rates typically are affected by improvement projects—how can we ensure that the pockets aren't adversely affected by higher rates?

Because they got free funding for their projects, they shouldn't have to pay higher rates. Kim Gupta: In Portland, customers have to apply for assistance individually—a whole district wouldn't have to pay less than other districts within a city.

- Adam DeSemples: OHA-DWS understands all these issues and that's why we are revisiting the DAC definition. We will look at what other states are doing and will work with an EPA contractor (Cadmus). DWAC will be kept informed throughout the process. A key piece to figure out is who is the debt service passed down to, only the disadvantaged neighborhood or the whole service area?
- Cheyenne Holliday: Targeted outreach will need to be linked closely with the DAC definition. And consider that sometimes million-dollar properties are included in communities defined as disadvantaged.
- Adam DeSemples: OHA-DWS will need DWAC's help in outreach.
- Michael Grimm: Consider using other metrics besides low income. Other states are doing this. Some systems may fall through the cracks unless other metrics are also used.
- Adam DeSemples: What about communities that are just slightly above the MHI cutoff for disadvantaged? Maybe we need a tiered system or a point structure. Cannon Beach, for example, doesn't appear disadvantaged but it is. In communities like that, what percentage of the expensive waterfront homes are skewing the MHI away from the true economic and social factors?
- Sandra Bishop: What is the timeline for the revised definition?
- Samina Panwhar: No timeline, just as soon as possible.
- Adam DeSemples: The EPA contractor will likely be engaged this fall. It's important to focus on Oregon's true needs. It may take a few months, hopefully before the end of the current fiscal year.
- Tony Fields: EPA and Cadmus will be helping OHA-DWS review and revise the current definition and review what other states are doing. Then we'll be able to focus on Oregon's specific needs. The process will include OHA-DWS, Business Oregon, EPA Region 10, and others. We will report to DWAC and welcome your feedback.
- Sandra Bishop introduced herself as a representative of League of Women Voters of Oregon. She served 10 years as an elected utility commissioner on Eugene Water and Electric Board. She was unable to access the meeting last quarter. **Action Item: Links to the meetings need to be publicly accessible on the OHA-DWS website.**
- Stakeholder engagement
  - Engage with stakeholders in rulemaking process—have done so in the past, will formalize the process for new rules and significant changes to rules.

- Enhance coordination and collaboration with other OHA-DWS public health programs. There is a lot of overlap with environmental public health so messaging should be consistent—for example, fact sheets on health effects of nitrate.
- Improve interagency collaboration on topics of shared interest. The complex public health work in LUBGWMA (Lower Umatilla Basin Groundwater Management Area), for example, involves several different agencies and OHA-DWS hopes to improve that collaboration.
- Digitization/modernization of program processes
  - Compliance Monitoring Data Portal (CMDP) is an EPA tool that allows labs to submit data directly to OHA-DWS. It is linked to SDWIS. An EPA contractor is helping to implement; it is not completely online yet. CMDP will increase accuracy of data and decrease need for manual data entry.
  - Electronic sanitary surveys. Process is currently done on paper. OHA-DWS is working on a new process that will use the ESRI Survey 123 tool. Staff will be able to take a tablet or laptop into the field, input information, and the data goes directly into the database, thereby eliminating the manual data entry.
  - GIS mapping and spatial analyses—OHA-DWS has been doing this for a few years. The maps have been very useful for, for example, locating water intake locations after a gasoline or sewage spill.
  - Digitizing paper records. OHA-DWS has lots of paper records. Digitizing is a time-consuming project. Records must be sorted and retention policy must be considered. Question: Do water systems have to retain paper records? Answer: The rules should not specify format, so if you want to digitize your records, do so. **Action Item: OHA-DWS will clarify the OARs to indicate that either paper or digital recordkeeping is acceptable. However,** there may be some city or local rules about records that must be followed.
    - State retention rules for public records, including email, have recently been revised.
- PFAS
  - EPA has proposed Maximum Contaminant Level (MCL) of 4.0 parts per trillion (ppt) for PFOA and PFOS and a hazard index of 1.0 for four additional PFAS compounds. OHA-DWS submitted comments on May 25. OHA-DWS, with DEQ, monitored about 150 PWSs for PFAS in 2021-2022 and conducted a second round of monitoring in 2023 at 30 PWSs where there were detections (lower than the MCL at that time). Now that the proposed MCL is lower, OHA-DWS sampled at those 30 systems again. Results:

- 19 PWSs with measurable PFAS detections in Oregon.
  - 16 of the 19 exceed EPA proposed MCLs (but are below Oregon MCL). OHA-DWS sent letters to these systems.
  - 2 of the 19 also exceed Oregon health advisory levels (HALs) (30 ppt)—OHA-DWS has no requirement for action when HAL is exceeded.
  - Gregg Baird tracks these systems. Addressing PFAS contamination is a priority for BIL, so those systems will probably get funding if they apply.
- Cybersecurity
  - US Court of Appeals for the Eighth Circuit granted a request from AWWA and NRWA to halt EPA’s cybersecurity requirement in sanitary surveys.
  - Court decision applicable to all AWWA and NRWA members
  - EPA workshop with an overview and tabletop exercise for water and wastewater utilities is scheduled for September 13.
  - Depending on the outcome of a lawsuit (brought by three other states) regarding EPA’s decision, OHA-DWS may form a workgroup of DWAC members to work on a cybersecurity program. While waiting, OHA-DWS is reviewing what other states are doing and is creating some decision points. Kari Salis: Exemption from public disclosure requirements might be needed to keep PWS’s security information (e.g., lat/long for wells) and issues private. Sanitary surveys are public and may contain potentially sensitive information about cybersecurity.
- Fifth Unregulated Contaminant Monitoring Rule (UCMR5) Monitoring
  - Per SDWA, every five years EPA issues a list of unregulated contaminants to be monitored by PWSs.
  - UCMR monitoring period is January 2023 through December 2025.
  - Affects all community and non-transient non-community systems serving more than 10,000 people, as well as 127 smaller systems in Oregon.
- Consumer Confidence Reports proposed rule changes. OHA-DWS submitted comments May 2023. Comments are publicly available. **Action Item: Kari Salis will find a link to the comments to send to DWAC members.** Comments are generally positive. The Association of State Drinking Water Administrators also submitted comments, and OHA-DWS’s comments aligned with theirs.
  - In the proposal, utilities can’t use the word *safe* to describe their water. OHA-DWS did not comment on that. Kim Gupta noted that her organization did comment on that change.

## Drinking water complex issues

- Nitrate in LUBGWMA (Lower Umatilla Basin Ground Water Management Area)
  - High nitrate in groundwater from, e.g., agriculture and confined animal feeding operations (CAFOs).
  - PWSs have successfully addressed nitrate issues by installing treatment and drilling deeper wells, but there are hundreds of domestic wells with nitrate issues.
  - OHA-DWS is working with environmental public health in a multi-agency workgroup.
  - Umatilla and Morrow Counties have received funding through EPA.
  - OHA-DWS has sent letters to CAFOs to see whether any meet the PWS criteria. If classified as PWS, they would be eligible for SRF/BIL funding. Received a few responses; OHA-DWS will work with Department of Agriculture to try to classify those small systems as PWSs.
  - Other ideas: Domestic wells unite to form PWS, domestic wells connect with nearby PWS.
  - Cheyenne Holliday: Earlier this year we spend a few months doing domestic well testing and education outreach in the LUBGWMA.
  - Samina Panwhar: To address the underlying problem, we hope to get government funding in the new budget. Our sister program, Environmental Public Health is involved in monitoring.
  - Sandra Bishop: If the PWSs in the area develop problems, do they have a way to access funding? Samina Panwhar: Yes, SRF/BIL funding is available to PWSs for infrastructure projects, whether they have contamination or not.
  - Karen Lewotsky: I have 10 years' experience working in LUBGWMA and am available to share more detailed information and answer questions offline. The issue is confusing because both DEQ and OHA-DWS are involved but are responsible for different, but related, aspects of the problem.
- Small intractable water systems
  - Several small systems with compliance issues that are unresponsive.
  - Enforcement action in some cases doesn't yield results.
  - Example: System serving about 300 people, uncertified operator, several operations and maintenance issues that lead to violations. Unwilling to receive assistance from public utility council.
  - Discussion: Most are mobile home parks and the like, although some are small municipalities. Consolidation or absorption with other systems is one solution, and funding is available to cover the costs of upgrading the problem infrastructure. Water users want change. In

many cases, it's not clear who exactly (perhaps one person in charge?) is refusing to accept assistance or is resistant to change. Eminent domain is potentially viable, but a larger system would have no interest in taking over a smaller system with existing problems unless there was funding to cover the costs of repair.

- Small water system operator certification is fairly simple. They need a high school diploma or GED, to complete a training, and take a validated exam. No hands-on experience requirement. No cost to get certified.
- As there are more and more requirements to run a water system, operators are more likely to just walk away.
- About 20% of OVS systems have long-term compliance issues.

### SRF/BIL updates (Adam DeSemples)

- No new projects this quarter. New LOIs and applications are allowed year-round, but only reviewed, rated, and ranked after the March 15 and September 15 semiannual deadlines.
- 2022 BIL General Supplemental grant. Award received on June 26.
- 2022 BIL Emerging Contaminants grant application. Expected to be submitted any day. Award expected in September.
- 2023 Base DWSRF and BIL General Supplemental grant applications. Expected to be submitted in September/October.
- Base DWSRF and BIL appropriations spreadsheet (see graphic below): Lead service line replacement funds declined. Efforts currently on collecting information. In all states, earmarks are affecting base funding programs. State programs are working with EPA to figure out how to navigate this post-BIL. BIL is currently filling the gaps in funding.

Oregon's "Base" DWSRF & BIL Appropriations (2022 - 2026)								
Fiscal Year	"Base" DWSRF	Needs Survey Rate (%)	General Supplemental	Needs Survey Rate (%)	Lead Service Line Replacement	Needs Survey Rate (%)	Emerging Contaminants	Needs Survey Rate (%)
2022	\$ 9,220,000	1.32%	\$ 23,673,000	1.32%	\$ 37,300,000	1.32%	\$ 9,940,000	1.32%
2023	\$ 7,428,000	1.50%	\$ 31,672,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2024	TBD*	1.50%	\$ 31,672,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2025	TBD*	1.50%	\$ 31,672,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2026	TBD*	1.50%	\$ 31,672,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
<b>Total</b>	\$ 16,648,000		\$ 150,361,000		\$ 151,900,000		\$ 55,912,000	

\* TBD - "Base" DWSRF allotment is based on the rate of the annual national DWSRF appropriation after CDS (earmarks) have been removed first - announced late winter or early spring  
 2022 "Base" DWSRF & BIL-General Supplemental - both awarded  
 2022 Lead Service Line Replacement - officially declined  
 2023 "Base" DWSRF is nearly half of what Oregon received in 2021 - reduction due to earmarks



- Eight projects went to contract during April 1–June 30, 2023.
- BIL Emerging Contaminants (EC): 2022-2026 total funding available \$55,912,000
  - No state match, 100% forgivable loan, 25% must be for DACs or systems serving fewer than 25,000 people.
  - Must be for base DWSRF (community and non-profit non-community).
- BIL Lead Service Line Replacement (LSLR): 2022-2026 total funding available \$151,900,000.
  - No state match, 49% of funds must go toward DACs.
  - Must be eligible for base DWSRF (community and non-profit non-community).
- Cheyenne Holliday: It would be helpful to know what percent of recently awarded projects fall into the DAC category. Adam DeSemples: The project priority list highlights which systems are targeted for DAC subsidies. Nicole Bailey: BIL General Supplemental—100% goes to DACs (DAC status required). BIL Emerging Contaminants—about 17 out of 19 projects on the current list are for DACs.
- Question about AC pipe: Replacement funding would fall under general infrastructure unless there a health or compliance component.

### **Service line inventory contracts (Tony Fields)**

- Three vendors have been selected to provide technical assistance and outreach for community and non-transient non-community systems. Contracts are not yet finalized.
  - One vendor specializes in electronic data reporting and will provide guidance and support for a web tool. Each participating water system will have the web tool. Consumables such as LED test pens will be shipped to systems. They will search public records for data about construction dates; facilities built after 1985 will be automatically noted as nonlead in the database.
  - One vendor will provide training on Oregon requirements and how to complete the survey, as well as on-site and remote technical assistance. Training will be recorded and available on the OHA-DWS website.
  - One vendor will provide on-site and remote technical assistance. (The two vendors providing technical assistance will each be assigned about half the participating water systems.)
  - Outreach will be prioritized to (in order) (1) water systems serving fewer than 500 people, (2) DACs, (3) community systems, and (4) non-transient non-community (NTNC) systems. OHA-DWS will

identify those systems, provide the information to the vendors, and can assign vendors to specific systems.

- Tony is currently reviewing the draft contracts and expects to send them to Oregon Department of Justice next week.
- Mike Grimm: Vendors were first approached a year ago. Will the scope of work change with the deadline fast approaching? Tony Fields: Scope of work won't change. Outreach won't be as robust as we had hoped. We estimate five hours of outreach per water system (counting every participating system). It took longer to get started than we expected.
- Kari Salis: We sent a letter to all 925 community water systems advising them of the requirements for lead service line inventories. We received very few responses. NTNC systems typically have few service lines, so we plan to simplify the process by just asking them to indicate their service lines on paper.
  - Galvanized requiring replacement (GRR) category means that at some point in time there was a lead service line upstream. Do systems have enough data to show they didn't have lead lines upstream? I wonder whether this will be an issue with EPA. We may not want to use money for lead service line replacement to replace galvanized line just because we don't have data from upstream to prove there was no lead. Mike Grimm: Utilities want to know about that too. EPA can expect a lawsuit from AWWA soon. There will be more groups suing EPA as well. It's impossible to produce data to prove something didn't exist. Kari Salis: I talked with the person who worked on that rule and it seemed as though he hadn't thought of that aspect of the rule. In Oregon, there's little chance that there was lead upstream. Will this be resolved by October 2024? Water systems can say they have GRR because replacement isn't required immediately, although that designation triggers the work required for lead systems.
  - Kim Gupta: Because historic records may not exist or be difficult to locate, systems may end up spending a significant amount of money on searching for data, which is not the intent of the funding.
  - Jessica Dorsey: Treatment-only systems have received letters about the LSLR—how should they respond to OHA-DWS? Kari Salis: Disregard the letter.
  - Kari Salis: The statistical approach is allowed for unknown service lines. A statistical sample size will give 95% confidence that the unknowns are not lead. Example: 200 out of 1000

connections are galvanized. System does statistical approach on the 200, find not lead, so they mark all 200 as nonlead. Perhaps (in other states) a percentage of the 200 are GRR rather than nonlead, but this procedure is saying, no, they are all nonlead. OHW-DWS thought that in Oregon, the statistical approach was reasonable given the historical absence of lead use in water systems. According to Kurt Putnam who ran the program in 1985, no water systems reported that they had lead service lines at that time. Therefore, there are likely no GRRs either. If a line is physically excavated and it's not lead, we allow it to be called nonlead. DWAS members Mike Grimm and Kim Gupta voiced their support for this approach.

- Jessica Dorsey: Replacement plans for GRRs are due October 16 along with inventory, according to Oregon rules. Kari Salis: EPA may change some aspects of the replacement plan along with changing the lead and copper rule, so the state requirement may no longer match the federal requirement. If so, we might try to change our requirement. We should know more in the fall.
- Matt Johnson: Systems have asked me whether there are any software programs to assist with the inventory list. Kari Salis: One of our vendors will work on data entry with the systems, including systems that do not have computers. Some systems didn't realize (from the letter) what a big job the inventory will be. OHA-DWS tries to have a presence at conferences; that helps get the message out about the service line and other topics.

### **Sanitary survey forms/cover letters and cybersecurity update (Kari Salis)**

- Sanitary survey process is converting to an electronic form. The survey is an opportunity to look for real or potential pathways for water to get contaminated, evaluate regulatory compliance, and take an inventory of the system's facilities, sources, treatment, etc. Currently OHA-DWS staff take a paper form into the field and complete it during the survey. The form prompts staff to ask certain questions and evaluate different aspects of the system. The data is manually entered into a database later. The new process will allow staff to enter survey information directly into a database while in the field.
- We are wondering whether the current form is useful for the water system operators. Kim Gupta: Yes. We use the reports as a checklist when operators do inspections on the system. Mike Grimm: It's useful only in the sense that it tells the operators what information OHA-DWS has in their system. Kari

Salis: We could try to make it more useful for water systems so it can be a tool to prepare for inspections. (Although a list of what will be inspected already exists and is sent to systems.) Maybe have one version for the surveyors and another more user-friendly version for operators.

- Many small systems find the report useful and use it as system documentation because the operators are often volunteers.
- Mike Grimm: Cybersecurity. AWWA and EPA have different ideas for cybersecurity plan. AWWA favors a co-regulatory approach, a cybersecurity network that all water systems plug into and is protected by experts in cybersecurity. EPA favors having cybersecurity be part of the sanitary survey process. Many senators and representatives support AWWA's plan. It provides the same outcome that a central assessment service would, but gives protection to water systems. Kari Salis: EPA has stated that the important criteria is that gaps are identified and corrected. Small systems might have trouble using technology properly on their own. At the moment, EPA is silent on this topic.

### Closing Comments

- Kim Gupta: From a new member's perspective, I thought the format was good and it was helpful to hear about the group's objectives at the beginning.
- Matt Johnson: Good to have more time for discussion, as opposed to just hearing about updates. More productive.
- Mike Grimm: Best management practices (BMP) is missing. The most recent one was never finalized and posted online. **Action Item: Finalize the BMP about repairing/cutting into a main line and notifying customers.** Should the recommendations be in the rules rather than just a BMP? Should reporting to OHA-DWS be required? Applying rule consistently can be tricky. Mike Grimm gave an example of a recent break that they addressed quickly and successfully.
- Meeting schedule (Samina Panwhar): We would like to plan and calendar four meetings ahead. Need to elect chair and vice chair. Jason Green and Devin were finishing terms for people who had quit, so maybe they will continue. Vote in October meeting, term will be July to June.

### Next Meeting:

October 18, 10:00 a.m. to 1:30 p.m. Same format, same meeting room.