

**OSB ENVIRONMENTAL AND NATURAL RESOURCES SECTION**

**EXECUTIVE COMMITTEE MEETING**

Thursday, March 21, 2019 – 9:00 AM

**LOCATION**

In person: Dunn Carney  
851 SW 6<sup>th</sup> Ave, 15<sup>th</sup> Floor  
Portland, OR 97204

By phone: Dial 1-888-891-0496 and enter 150048

**MINUTES**

In person: Sarah Liljefelt, Caylin Barter, Maura Fahey, Kate Moore, Dave Becker, Mark Strandberg, Stacy Owen (bar liaison)

By telephone: Ashley Carter, Caroline Lobdell, Alia Miles, Ryan Shannon, Dominic Carollo, Mike Freese, John Mellgren, Tiffany Johnson

Quorum (9 minimum of 16) reached

Excused: Lawson Fite

Unexcused: Kirk Maag

General ENR Section Members (non-EC): Jakob Wiley (new associate with Sarah Liljefelt's firm), Phil Barnhart (just finished 9 terms of service as state representative from Eugene, interested in making transition to clean energy)

**Approval of Minutes (Caylin):**

The February meeting minutes were approved unanimously.

**Chair's Report (Kate):**

Nothing to report.

**Bar Liaison Report (Stacy Owen):**

As we have been hearing for several years now, there are changes coming from the Bar related to CLEs, registration, and co-sponsorship requirements. Stacy expected the update to go out to sections by email by now, but said we should look for one soon (delay is related to personnel changes at Bar). She also expects a transition period, and mentioned that because it is already March, any new requirements will likely apply to CLEs in future years.

Stacy also told us to expect a change related to voting by email; by way of preview, it is likely to be expressly prohibited going forward based on concerns about compliance with public records laws.

Remember to send contracts to Bar's Deputy GC for approval. Also note that any field trips that involve contracts and also involve significant physical exertion, travel over uneven terrain, or high-risk activities may have additional liability insurance requirements.

### **Treasurer's Report (Dave):**

End of February 2019: \$11,980. This does not reflect the \$2,000 check deposit sent to McMenamin's Edgefield for October CLE, so actual balance is just under \$10,000.

End of February 2019 membership is significantly down from prior years: 407 paid, 49 complimentary, total 456 (compared with 485 paid, 5 complimentary, and total of 490 at the end of February 2018).

Stacy will send us a list of people who did not renew so that we can contact them. Bar can't do the outreach, but we can.

**\*\*NOTE:** after the EC meeting, Stacy emailed the EC officers to advise that the Bar is transitioning to new association management software and it may take some time to get us an accurate list of non-renewing members, but to expect a list in the next couple of weeks. Dave also assembled end-of-February numbers of paid members for the past eight years, and the membership has been reasonably steady until this year. Once the Bar has completed its transition to the new software, we will ask them to run our membership numbers again to see if some paid members may have been inadvertently left out of the February 2019 total.

The significant increase in complimentary memberships is an expected and positive outcome of a 2018 Section policy change, whereby newly admitted attorneys are offered complimentary membership for the first year of Bar membership. The first group covered was Fall 2018 admittees.

Dave will make a recommendation at the May meeting regarding his analysis of whether we should increase Section dues to ensure long-term funding stability, as we are currently operating at an annual deficit of approximately \$2,000.

### **Publications:**

#### **ENR Deskbook (Kirk/Mark)**

No update.

## **Case Notes (Dave)**

Devin Franklin (Case Notes Editor) is in the process of gathering new cases (January-March 2019), and will email the volunteer list the last week of March, aiming for next publication in early April.

## **E-Outlooks (Tiffany)**

There has been no publications for a little while. Tiffany reached out to the ENR listserv in January for ideas and got one response, but the issue was not yet ripe. She also had exchange with an attorney at DEQ who may be interested in putting something together, but nothing has taken shape just yet. She also made additional posts to the listserv, but it appears that Section members aren't receiving the emails Tiffany has posted on ENR listserv since January, which may be related to her trying to post from an email address that is different from what is listed in the Bar's records. Tiffany will update her email in OSB records and will email Caylin, who will update and distribute a revised EC email list and will also contact Natalie Batiste at OSB regarding the same.

Sarah suggested adapting an interesting article she saw in The Water Report, but would need to check with editor David Moon about reprint permission.

Other ideas:

- New WOTUS rule (public comment period ends in April)
- SCOTUS accepted cert on whether Clean Water Act authorizes jurisdiction to require NDPEs permits for groundwater discharges that are hydrologically connected to state waters

Tiffany requested assistance with coordinating E-Outlooks as she is stretched thin in her new job with Columbia County.

## **Education/CLE**

### **Brownbags (Maura/Ryan/Caroline)**

Next brownbag is scheduled May 8 at Steel Rives, and will be focused on regulatory updates under the Clean Air Act (both federal and state). Presenters include Tom Wood (federal), Leah Feldon (Cleaner Air Oregon), and Mary Peveto (Neighbors for Clean Air).

There is also a brownbag in the works to be held in June in Eugene. John is working with Judge Aiken to do an Oregon state legislative session overview CLE similar to the one in Salem a month ago, which will feature a couple U of O law professors who teach environmental law, as well as Rep. Blumenauer's former natural resources policy advisor.

Dave suggested a fall brownbag on the I-5 expansion project, from the perspective of environmental justice issues and larger environmental law issues. Dave will email Ryan with other ideas.

Maura leaves on sabbatical May 11, so Ryan is now serving as point person for brownbag planning and logistics.

### **Field Trips (Caylin/Alia/Tiffany)**

Eagle Creek Fire Tour: Lawson and Dave talked last week to refine ideas for a field trip to Eagle Creek to visit a portion of the Eagle Creek Fire that burned during the summer of 2017. They would like to feature a couple of guides to discuss different aspects of the fire and the recovery. Targeting last week of May (29-31). One person would address invasive weeds and trail maintenance, and the other person would address forest overstory health issues. Dave reached out to Mika Barrett at Friends of the Columbia Gorge, who is working with a natural resources person at U.S. Forest Service. Another good person would be Susan Schen at Trailkeepers of Oregon. Plan would be to meet at Angel's Rest trailhead, talk for a little while in the parking lot to set the stage, then hike 1/4 mile to Copley Falls, which will allow group to see good examples of the types of restoration issues facing the gorge. Attendees can continue on the trail past the falls or else head back. Trip would go from 9-11am. Dave and Lawson are aiming to nail down the details by mid-April to give prospective attendees 4-6 weeks notice. Stacy will look into whether we need a liability disclaimer, as there is no contract involved with this field trip.

Willamette Falls Tour: Alia has gotten the ball rolling with her contact with PGE, and she also has some other ideas of potential contacts. She will have more to report at the April meeting. She requested the EC or Stacy forward her any info we have from our last fieldtrip to the falls in order to help with planning this one, especially the who/what/where/when. This trip will focus on the other side of the river from where we went in 2015.

### **Annual CLE (Sarah & Dave/Ashley/Ryan/John/Dominic/Alia/Maura/Mark)**

CLE will be held October 3 at McMenamin's Edgefield. The CLE committee's second planning meeting was held in the beginning of March, and they will be working in April and May to lock down topics and speakers. Topics so far:

- Columbia River Treaty Update
- RCRA Panel
- Public Lands Panel (BLM/USFS/OSP)
- Mental Health/Substantive Abuse/Cognitive Awareness with Environmental and Natural Resources slant over lunch

- Practical Skills on Expert Witnesses and Remediation Consultants
- Ethics with Scott Morrill
- Ideas for one last session: [Environmental Justice? Cannabis (pesticides, water quality, water quantity)? Another core Environmental Law topic?]

Finally, Sarah reported that the committee will be moving forward as if the status quo rules apply with regard to OSB's forthcoming co-sponsorship requirements.

### **Legislation (Mike)**

April 9 is the deadline for getting bills out of committee; April 22 is the deadline for getting bills out of their original chamber (with some exceptions). Roughly 4,000 bills have been introduced, and most will die by the 4/22 deadline. Mike is planning on an E-Outlook after 4/22 and is in touch with Section member who expressed interest during last meeting to help put it together.

Any new bills with ENR nexus are being added to the tracking list on OSB's website. The "News" tab of our ENR website contains the following link to the list: <https://www.osbar.org/pubaffairs/reports/BarGroupBillSummary.html?bargroupid=813>.

### **Committees:**

#### **Pro Bono (Ashley/Lawson/Ryan)**

No update.

#### **Diversity (Dave/Ashley/Maura/Caroline/Kate)**

Diversity Committee had a phone meeting in last few weeks, and Kate gave update. Committee discussed refreshing how we are defining "diversity" as a section; Bar has their own definition that Kate read aloud.

Dave noted that with respect to our Section, we also have a very large diversity of practice areas, and understanding each other facilitates effective working relationships and good outcomes for clients. We keep this expanded definition in mind for EC membership, awards committee, and CLE planning. We also need to ensure we are providing volunteer opportunities to a diverse set of Section members and beyond (e.g., law students) to get involved in Section activities.

The committee plans to maintain and strengthen connection with Diversity Section, including trying to have ENR EC attendance at Diversity Section events. The group discussed brownbag ideas with environmental justice aspects, as well as ideas for reaching out to diversity/minority groups at law schools to provide access to information about and resources available through our Section; Maura provided a

list. Finally, the committee also discussed the idea of raising awareness about pay equity issues; as a first step, we will continue to educate ourselves, and Dave will work with Stacy to see if there are related Bar initiatives in process so we can work in tandem and build on those.

### **Executive Committee Membership (Lawson/Mark – two EC and one non-EC)**

Lawson, Mark, and Laura Maffei discussed four excellent candidates who were not selected for EC membership this year. The committee ended up nominating Chris Thomas based on his strong application and past contributions to the Section via Case Notes. The EC held a provisional vote on appointing Chris to fill the remainder of Devin's term, pending Chris's acceptance, and the motion carried pending Chris's acceptance. Caylin will reach out to Chris after the meeting and will let the EC know if he accepts the nomination.

**\*\*NOTE:** Chris Thomas accepted the appointment by phone immediately after the meeting concluded and is now a member of the ENR Section EC.

### **Annual Award/Meeting (Dave/Dominic/Ashley)**

No updates, aside from reiterating committee's plan to include a question about the nominee's contributions to facilitating access to justice and fostering diversity, equity, and inclusion in the practice of environmental and natural resources law.

### **Other/New Business (Kate)**

No other new business.

**OREGON STATE BAR**  
**Environmental & Natural Resources - 813**  
**Statement of Revenue and Expense**  
**For the Two Months Ending February 28, 2019**

Description	February 2019	YTD 2019	Budget 2019	% of Budget	February Prior Year	YTD Prior Year
<b>REVENUES</b>						
Membership Fees	\$400	\$8,140	\$10,100	80.6%	\$100	\$9,700
Registrations - Conferences/Seminars		20	3,000	0.7%		
<b>Total Revenue</b>	<b>400</b>	<b>8,160</b>	<b>13,100</b>	<b>62.3%</b>	<b>100</b>	<b>9,700</b>
<b>EXPENSES</b>						
Annual Meeting			2,200	0.0%		
Case Law Summaries			400	0.0%		
Committee - Subcommittee			500	0.0%		
Computer - Internet / Web			100	0.0%		
Conferences / Seminars Expense			5,000	0.0%		
Education	40	536	1,000	53.6%		
Gifts & Awards			600	0.0%		
Telephone - Conference Calling	14	14	200	7.2%	14	14
OSB Support Services Assessment	248	3,648	4,240	86.0%	40	3,880
Miscellaneous Expense			1,000	0.0%		35
<b>Total Expense</b>	<b>302</b>	<b>4,198</b>	<b>15,240</b>	<b>27.5%</b>	<b>54</b>	<b>3,929</b>
<b>Net Revenue (Expense)</b>	<b>98</b>	<b>3,962</b>	<b>(2,140)</b>		<b>46</b>	<b>5,771</b>
<b>Beginning Fund Balance</b>		<b>8,018</b>				
<b>Ending Fund Balance</b>		<b>11,980</b>				
<b>Section Member Count - Paid</b>	<b>15</b>	<b>407</b>				<b>485</b>
<b>Section Member Count -</b>	<b>16</b>	<b>49</b>				<b>5</b>
<b>Section Member Count - Total</b>	<b>31</b>	<b>456</b>				<b>490</b>

### E & NR Detail

Account Numbe	Account Description	Date	Vendor Reference	Debit Amount	Credit Amount
813-4405-000	Membership Fees	2/6/2019	Aptify BatchID = 363	\$0.00	\$280.00
813-4405-000	Membership Fees	2/11/2019	Aptify BatchID = 367	\$0.00	\$0.00
813-4405-000	Membership Fees	2/14/2019	Aptify BatchID = 376	\$0.00	\$80.00
813-4405-000	Membership Fees	2/28/2019	Aptify BatchID = 381	\$0.00	\$20.00
813-4405-000	Membership Fees	2/28/2019	Aptify BatchID = 382	\$0.00	\$20.00
813-7320-000	Education	2/28/2019	various funds transfers	\$40.00	\$0.00
813-7745-000	OSB Support Service Assessment	2/28/2019	Feb Section Fee Assessmen	\$240.00	\$0.00
813-7745-000	OSB Support Service Assessment	2/28/2019	Adj Feb Section Analysis fee	\$8.00	\$0.00
813-7885-000	Telephone - Conference Calls	2/12/2019	Feb 2019 PGI Billing	\$14.35	\$0.00
813-U001-000	Environmental & Nat'l Resource Section Member Co	2/28/2019	Feb Section HC Adj	22	0
813-U001-000	Environmental & Nat'l Resource Section Member Co	2/28/2019	Adj FEB HC	0	7
813-U004-000	Environmental & Nat'l Resource Sect Comp Member	2/28/2019	Feb Section HC Adj	8	0
813-U004-000	Environmental & Nat'l Resource Sect Comp Member	2/28/2019	Adj FEB HC	8	0