JOHN DAY SEWER IMPROVEMENTS

JUNE 2023 PROGRESS REPORT

John Day’s Sewer Improvements Project has six primary tracks that are the focus of our efforts.

1. Section 7/Environmental Compliance
2. USDA and Other Funding Applications
3. DEQ Permitting Compliance
4. Preliminary Site Preparation for Companion Projects
5. Progressive Design/Build Procurement Document
6. Community Engagement and Outreach

This memo provides a progress summary for all six tracks. Our top priorities currently are Task 1) environmental compliance and Task 2) completing the funding application(s).

# Section 7/Environmental Compliance (Task 1)

We are still waiting on the Section 7 Consultation (Biological) to be completed with two federal agencies: the U.S. Fish and Wildlife Service (USFSW) within the Department of the Interior and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS) within the Department of Commerce. The U.S. Department of Agriculture (USDA) is the lead agency coordinating the Section 7 Consultation because they are the primary federal funding source for the Project.

While progress is slow, there is work going on behind the scenes. Bob Long of CwM-H2O, the City’s hydrogeologist, is trying to determine the best course of action for monitoring water quality and the correct comments/argument to return to the services, given their comments on the Section 7 Consult.

The blue sky/optimal scenario is that we eventually meet their data-gathering and information requirements. USFWS and NOAA-NMFS concur on the City’s “No Effect” determination, allowing us to complete the USDA Grant Application process. Those funds are then fully committed once USDA completes its review and underwriting process. Like environmental compliance, USDA’s application can be lengthy and requires more paperwork. However, we will finalize the Progressive Design/Build procurement document during the final USDA Grant Application phase.

A dark sky/suboptimal scenario is that USFWS or NOAA-NMFS do not concur on the City’s “No Effect” determination, which could result in additional data gathering, further delay in the Project’s construction date, or a re-work of the design. In this case, the City may have to consider relocating its infiltration galleries farther west near Lower Yard Road, downstream of the former Grant Western/current Iron Triangle site and Malheur Lumber property. This option would alleviate NOAA-NMFS concerns that our Class A treated wastewater may pick up contaminants underneath these properties and infiltrate them into the John Day River. However, in this scenario, the City would also have to restart its environmental due diligence to include the new location and new notifications to all parties. The City would also likely have to undertake additional groundwater monitoring and modeling, which would delay the Project by years.

For these reasons, we are attempting to get federal concurrence on our current plan, as the Project has already seen costly delays due to the due diligence requirements for the proposed infiltration site.

**Additional Task Updates:**

1. 2/16/23: Section 7 Consultation on the biological impact of the proposed WWTF initiated with U.S. Fish and Wildlife & NOAA-NMFS by USDA
2. 3/17/23: USFWS Response Letter (Exhibit A)
3. 4/4/23: City’s response to NOAA-NMFS letter (Exhibit B)
4. 4/5/23: Conference call with J.D. Project Team, NMFS, USFWS, et al.
   1. USFWS & NMFS emphasize that they are hesitant to move forward with the Project without groundwater quality monitoring on the former Grant Western and Malheur Lumber sites to the west/downstream of the Project site because the proposed groundwater injection could influence groundwater patterns.
   2. USFWS & NMFS contention: Concern from them that groundwater patterns, and/or volumes, and/or characteristics will change. This change could trigger pre-existing contamination on the mill sites to be picked up and transmitted into the John Day River. This transmission in certain quantities could negatively impact salmonoid species.
   3. City-side concern with the proposed mitigation efforts: City has no control over using or developing a private site. Many variables could impact groundwater quality, and only one is controllable by the City – effluent discharge into the ground. Additionally, there is no right to access granted to the City to conduct groundwater quality monitoring on privately-owned land.
5. Mid-May update: Bob Long of CwM-H2O, the City’s hydrogeologist, is drafting a response and crafting a strategy to propose a counter-offer to USFWS and NMFS. This approach considers how best to answer the issues brought up by USFWS and NMFS without undermining the City’s Project or obligating the City to monitor groundwater quality on private land.
6. Late-May: USFWS & NMFS requested copies of the Surface Water Quality Monitoring Plan and Groundwater Monitoring Plan submitted to DEQ; City notes that these documents *have not* incorporated USFWS & NMFS comments from April. They were provided copies of the report (Exhibit C).
7. Current status: Waiting for CwM-H2O to provide analysis and comments for the City to use in USFWS/NMFS replies. Expect this to occur in early to mid-June.

# USDA and Other Funding Applications (Task 2)

The City currently has $10.7 million in funds committed for the Project and its companion projects, the solar array and the reclaimed water (purple pipe) distribution system. These funds and their sources are shown in Table 1. Only the USDA funding is currently unsecured. We are also applying to them for grant and loan funding of approximately $8 million. The loan-to-grant ratio has not been determined. Once the environmental due diligence is completed, the final funding application will be submitted on our engineer’s opinion of probable construction cost at the time of submission.

Table 1. Wastewater Treatment Plant Project Funding Sources

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Deadline | Award Title | Funding Agency (Agreement No.) | Award Type | Award Amount |
|  | Treatment Plant Construction | USDA (Pending) | Grant + Loan | Pending |
| 9/1/2023 | Community Renewable Energy Program - Planning Resilience (OA1) | ODE (CG-01-084) | Grant | $100,000 |
| 10/19/2023 | Water Reclamation Facility (Water/Wastewater Grant) | Business Oregon (Y12006) | Grant | $750,000 |
| 10/19/2023 | Water Reclamation Facility (Water/Wastewater Loan) | Business Oregon (Y12006) | Loan | $1,750,000 |
| 12/31/2023 | Innovation Gateway Adaptive Water Reuse | OWRD (WPG-0034-21) | Grant | $2,981,200 |
| 3/16/2024 | Waste Water Facility Construction (CDBG) | Business Oregon (P18001) | Grant | $2,500,000 |
| 6/30/2024 | Wastewater Treatment Plant Site Improvements | DAS HB5006 (8154) | Grant | $1,500,000 |
| 12/1/2026 | Iron Triangle Property Acquisition and Cleanup Project: Brownfield Redevelopment Fund | Business Oregon (N21005) | Grant + Loan | $595,000 |
| 8/28/2041 | John Day Treatment Plant Oregon Pine Property Acquisition | Business Oregon (L17011) | Loan | $519,000 |
| Total Funding | | | | **$10,695,200** |

**Other Funding:**

Ducote Consulting recommends the City also apply for a Clean Water State Revolving Fund (CWSRF) Loan to supplement the USDA funds. Applications are due in August 2023. CWSRF may be giving up to $2M in principal forgiveness on a $4M project ask, making it a $2M loan/$2M grant combination funding.

Next year, when there’s some progress toward construction, a Congressionally Directed Spending (CDS) request would likely be favorably received.

**Additional Task Updates:**

1. October 2022: Catalyst prepares, and Corum submits the funding application; USDA responds on 10/19 requesting additional information.
2. January 2023: USDA wanted buy-in from City Council on moving forward with the WWTF project after the Staff and Council turnover in the November election.
3. February: We held the Work Session primarily to advance the USDA application (Business Oregon also wanted to know the status) and inform the Council of the Project’s situation.
4. 3/1/23: USDA application process re-initiated; LaDonn McElligott (USDA rep) sends Rick et al. a list of documents to process.
5. 3/14: Rick sends those documents back.
6. 4/7: USDA response
7. 4/7 – 4/17: Ducote Consulting, Flagline Engineering, and City coordinate responding to USDA’s questions.
8. 5/17: City staff updates the sewer system’s connection totals and flow figures.
9. Current status: Waiting on USDA to review last batch of documents and updates.

# DEQ Permitting (Task 3)

The Department of Environmental Quality (DEQ) issued a new wastewater pollution control facility (WPCF) permit effective on May 1, 2022 (Permit Number: 103281; File Number: 127619). The permit is good for ten years and expires December 31, 2032.

The WPCF permit defines the waste discharge limits (Schedule A), minimum monitoring and reporting requirements (Schedule B), the compliance schedule (Schedule C), special conditions (Schedule D), pretreatment activities (Schedule E), and WPCF general conditions (Schedule F).

The Groundwater Monitoring Plan and the Surface Water Monitoring Plan (Exhibit C) were due on May 1, 2023. CwM-H2O developed them in response to Schedule B.1 reporting requirements.

The City is also required to submit a Recycled Water Use Plan meeting the requirements in OAR 340-055-0025 for Schedule D. The City must submit this plan or any significant modifications to DEQ for review and approval with sufficient time to clear DEQ review and a public notice period before distributing recycled water. You are prohibited from distributing recycled water prior to receipt of written approval of the City’s Recycled Water Use Plan from DEQ.

The City must keep the plan updated. All plan revisions require written authorization from DEQ and are effective upon City’s receipt of DEQ written approval. No significant modifications can be made to a plan for an administratively extended permit (after the permit expiration date). Conditions in the plan are enforceable requirements under th epermit. DEQ will provide an opportunity for public review and comment on any significant plan modifications prior to approving or denying. Public review is not required for minor modifications, changes to utilization dates, or changes in use within the recycled water class.

1. DEQ permitting is proceeding on schedule. There are no issues arising from the DEQ side of this Project. They have approved the City’s permit pathway and bought into the Project. CwM-H2O leading this effort.
2. 5/1/23: Surface Water Quality Monitoring Plan and Groundwater Monitoring Plan submitted to DEQ for review as a part of the permit process.
3. Pending: The Recycled Water Use Plan will be developed by CwM-H2O in concert with the City’s purple pipe engineer (HECO).

# Preliminary Site Preparation for Companion Projects (Task 4)

The City has three ongoing companion projects that accompany the Wastewater Treatment Plant. They are (1) Site improvements to NW 7th Street and the former Oregon Pine/DR Johnson mill site to make the new facility accessible; (2) Design and construction of the reclaimed water (purple pipe) distribution system; and (3) Design and potential construction of a solar array to power the new facility. The City also completed updates to its [DiscoverJohnDay.com website](https://www.discoverjohnday.com/grow) to promote the Project and the City’s use of reclaimed water to create a sustainable high-desert community.

## Site Improvements

The primary site improvements related to the Project were completing the access road (NW 7th Street) from its intersection at Patterson Bridge Road to the new treatment plant site’s driveway and replacing the Oregon Pine Bridge. These projects were funded by DAS HB5006 grant 8154 and are scheduled to be completed in June 2023. The City also constructed a new trail system along the John Day River to the treatment plant using OPRD’s Recreational Trails Program grant funding. The City also installed a new electric vehicle charging station and parking lot at OTEC’s office near the future NW7th Street and Patterson Bridge Road intersection.

These improvements were necessary to create access to the site and to install the purple pipe system, which will cross the new Oregon Pine Bridge before continuing west to Malheur Lumber and the John Day Golf Course. A sculpture reflecting the history and heritage of the City’s timber industry was also commissioned to be installed at the site, with a waterfall at its base that will use reclaimed water from the future plant. This sculpture, created by local artist David Paddock with site landscaping by Ray Fields, will memorialize the past meeting the present, and usher in a new sustainable future for the community.

## Purple Pipe System

The Oregon Water Resources Department (OWRD) awarded the City $2.9 million in August 2022 to design and build the purple pipe distribution system. The matching funds for this companion project are the City’s planned expenditures for the treatment plant. In other words, the City gets the purple pipe for free by designing and building the plant. The City also committed to dedicate certain water rights for instream use if allowable under state law.

The City competed the engineering design RFQ for this companion project in January but has not yet awarded the design contract. HECO was selected as the high scorer from two responsive bidders, HECO and Flagline.

The City needs to award and execute the design contract. Without this, the Project cannot proceed, and the City will not be able to distribute reclaimed water, which we estimate will bring in about $60,000 a year in revenue, reducing the collective wastewater rates in John Day and Canyon City proportionately.

The grant agreement requires the purple pipe design and construction to be completed by December 31 unless OWRD approves an extension.

## Solar Array

The City was awarded a design contract for $100,000 by the Oregon Department of Energy (ODE) under its Community Renewable Energy Program (CREP). The city council approved the grant agreement at its May 9 meeting. A firm must be selected from the pre-qualified vendors list or from a competitive RFQ to complete this study before its expiration deadline of September 1, 2023.

# Progressive Design/Build Procurement Document (Task 5)

When the environmental review (Task 1) is published and the public comment period is completed, our Business Oregon grants and loans will “unlock” so we can begin the bidding process on an engineer and vendor. That bid process will be covered under a Progressive Design/Build solicitation unless that method fails to receive USDA approval at the National Office. Having the solicitation process begin requires both Task 1 and Task 2 outlined to be completed and finalized.

**Additional Task Updates:**

1. This document will officially begin the WWTF “construction” project, although it will not initially involve ground-breaking. The Progressive Design/Build (PDB) document will hire a team of engineers and equipment vendors for the treatment plant “engine.”
2. PDB cannot be advertised until Tasks 1 and 2 are completed – environmentally approved and USDA funding secured.
3. The PDB process is intended to save the City time and money – much of the time spent assembling the treatment plant engine will occur off-site, not subject to prevailing wages and the costs associated with hosting dozens of workers in John Day.
4. To conduct a PDB process, the City will need to undertake three steps:
   1. Hold a Public Hearing about the Progressive Design-Build vs. Sequential Design-Build process and why they choose the alternative PDB selection procedures.
   2. USDA will prepare and submit a waiver request to the USDA National Office to allow the City to conduct a PDB process.
5. The PDB document itself is still in draft form, and the process to assemble it was begun by Nick Green in 2022.
6. June 2022: Last work by BLJ and Nick Green on the PDB document (delayed by Task 1)
7. March 2023: BLJ, City, and Ducote Consulting meeting about the PDB document, its draft status, and where we are with everything.
8. 3/15 – 3/21: BLJ follows up with an email overviewing deficiencies and needs to move forward
9. Current status: No follow-up with BLJ on this document.

# Community Engagement and Outreach (Task 6)

We recommend establishing a citizen advisory committee for the Project. The John Day council and residents should work with Canyon City to get some residents from there and John Day to sit on the committee and stay on it for the Project's duration.

Community engagement is essential for a project of this scope, size, and duration. Both communities have raised their sewer rates to $60 per month to meet federal funding requirements for the Project. A new interim agreement with Canyon City is also needed as their current agreement with John Day ends this year.

This task could also focus on communicating the timelines and status of the Project to a group of interested citizens who would then be able to share good information with the public.