Background/Summary:
Following is a listing of notifications of Thurston CD Non-Compliance to Conservation Accountability and Performance Program (CAPP)

Thurston CD Notifications of Non-Compliance:
Thurston Conservation District was in non-compliance with four of the Performance Standard 1 requirements:

- Open Public Meetings Act was not followed including executive sessions (#8);
- State Public Records Act was not followed (#9);
- Not keeping public informed of conservation district activities (#12); and
- Not demonstrating diligence in complying with state and federal statutes related to contracting, non-discrimination, labor laws, etc, through adoption of up-to-date policies and training (#15).

Timeline, Notifications & Actions:

1. April 27 - Shana Joy follow up email to board re April 24 meeting, TCD Governance and CAPP – added
2. May 29, 2018 - Thurston CD Meeting - Shana Joy notified the Thurston CD Supervisors and Staff of CAPP Non-Compliance items and reviewed the CAPP Performance Standard #1 – 15 elements
3. June 1, 2018 - Email to all Supervisors as follow-up to 5.29.18 meeting – CAPP Non-Compliance items documented in email (Copy Attached) and Thurston CD CAPP Status (Copy Attached)
4. June 26, 2018 - Thurston CD Meeting – Shana Joy again notified the Thurston CD Supervisors and Staff of CAPP Non-Compliance items and reviewed the CAPP Performance Standard #1 – 15 elements
5. June 29, 2018 - Email to all Supervisors as follow-up to 6.26.18 meeting – CAPP Non-Compliance items documented again in email (Copy Attached) and Thurston CD CAPP Status (Copy Attached)
6. July 19, 2018 – Conservation Commission Meeting & Motion Approved - Motion by Commissioner Craven to ask Whitman CD and Thurston CD board member(s) to present an action plan to the Commission at their next meeting in September. Seconded by Commissioner Longrie. Motion passed. Thurston CD Supervisor and Staff in attendance during the CAPP presentation and motion.
7. July 2018 - Thurston CD Meeting scheduled for July 31st cancelled & rescheduled for August 14 (cancelled), held July meeting on August 20, 2018
8. August 20, 2018 – Thurston CD Meeting (July meeting)
9. August 23, 2018 Letter from Mark Clark on CAPP Noncompliance action by Commission (Copy Attached)
10. August 28, 2018 - Date that August regularly scheduled meeting would have been held (cancelled)
11. September 4, 2018 – Email to all Supervisors as follow-up to August 20, 2018 meeting - CAPP Non-Compliance items documented in email (Copy Attached)
12. September 13, 2018 – Eric Johnson voicemail to Mark Clark – RE Will not be attending the September Commission Meeting (Copy Attached)
13. September 14, 2018 – Email response to Eric Johnson (Copy Attached)

Staff contact:
Ray Ledgerwood | ray.ledgerwood@scc.wa.gov | 208.301.4728
Attachments:

1. April 27, 2018 Email to all Supervisors as follow-up to 4.24 meeting - added
2. June 1, 2018 Email to all Supervisors as follow-up to 5.29.18 meeting
3. May 29, 2018 Thurston CD CAPP Status
4. June 26, 2018 - Thurston CD CAPP Status
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Eric and Sarah,

It was good to check in with you all at this week’s board meeting. These are a few follow up notes.

**TCD Governance Plan:** I provided to you a copy of your TCD Governance Action Plan with my notes about the status of each of the action items. Little progress has been made. During the board review of the action plan most of the due dates or deadlines that you originally chose you decided to push back 30-90 days. There was extensive discussion about how to pay for some of Michelle Fossum’s time so she could brief the two newer board members and re-cap her earlier advice given to you. I noted the board took action to pay for up to 2 hours of Michelle’s time for her to come and visit with the board. The hand-out I provided is attached to this message.

**Annual Work Plan:** I noted that a draft of the annual work plan was provided to the board for review. As a reminder, an approved annual work plan is due to the WSCC by May 30th. This is an important deadline as it is included as one of the CAPP Accountability elements in Standard 1. I also noted discussion about including work on a conservation easement in the plan; the draft provided did not include this high priority work item. My advice is this – if there is no current funding to do this work then include it in the plan anyway and seek to utilize volunteers (board members?) or find funding during the year to make progress on this item.

There was also extensive discussion about the Chair’s request to the Acting Executive Director (AED) for a quarterly projection of where staff will be spending time and what meetings they plan on attending. The AED pointed out the workload involved in providing this and the lack of funding to do this kind of work not tied to a grant. My advice was for a greater value to the board in tracking progress on work items, go back to the quarterly progress report that was formerly provided on the annual work plan document. This showed, by each work item in the annual work plan, what had been done to date. I think the board will find far more value in such a report than a projection that will be outdated moments after it is provided to you as staff must continuously re-prioritize their work.

There was also discussion about a staffing plan and filling the vacancies at TCD and what capacities were needed. The AED reported that she was working on a draft plan and recommendation to provide to the board. The Chair stated that HR expertise was needed and that someone should be hired for 10 hours a week to do this work. I pointed out that the board shouldn’t be trying to make decisions about staffing in this way and that they should review the full plan to be presented by the AED.

**Conservation Accountability & Performance Program (CAPP)**

I provided to you a hand-out of my preliminary scoring of TCD’s accountability in another hand-out. That document is attached for your reference. Please take note of the status notes on the 2nd page that give some rationale for why TCD does not currently have a score of either YES or NO on the sheet. These accountability elements are important. A NO score in any of these areas may result in loss of WSCC funding. As I noted at the meeting, a preliminary report for all 45
conservation districts will be provided to the Commissioners at the May meeting and a final report will be provided at the July Commission meeting. This is your opportunity to do what is necessary to ensure TCD receives all YES scores on these elements before the final report to the Commission in July.

**Schedule 22**
I noted that a draft Schedule 22 questionnaire was provided to the board. This is an important part of the required annual financial reporting to the State Auditor’s Office. I understood that Richard would be reviewing the draft with staff and it would come back to the board at the May 29th board meeting. Please note that the State Auditor’s Office must receive the complete and approved Schedule 22 by 5pm on May 30th. There is no grace period for late submittals.

**Meeting Minutes** I noted that the January 30, 2018 and March 27, 2018 meeting minutes were approved. The November 21, 2017 minutes are still outstanding because there was a question about whether or not the discussion that occurred before the meeting was called to order must appear in the minutes or not. I advised that MRSC could be consulted on this matter if some legal advice is needed. I did search their Q&A section during the meeting and did not come up with a ready answer to this question. My advice was that you should, for transparency and adherence to the OPMA, include in the minutes any discussion about district business that occurred with a quorum of the board present even if the meeting had not yet been called to order because you could be considered to have been holding an illegal meeting if you do not do so.

**Financial Report** I noted that the COLA adjustment resolution presented by staff, according to the board-approved budget and current district policy, was not approved by the board.

**Agreements** I noted that the board approved several items at this week’s meeting:
- A CREP PIP loan amendment
- An RCO grant amendment
- A Shellfish program MOU with Thurston County
- A contract for a fish passage bridge project

**Metadata** There was an unexplained and irrational discussion at the end of this week’s meeting the point of which was not clear. Richard presented metadata from a Word document of the letter provided by Samantha Fleischner to the WSCC on November 30, 2017. It was pointed out more than once that according to this metadata that somehow the document in question was created or edited on a TCD accounting computer. Samantha stated several times that it was her letter, she signed it, and she submitted it to the WSCC. It was never made clear the point of this discussion but it appeared to me to be aimed at attempting to somehow incriminate Samantha and/or TCD staff.

Many things were discussed at this week’s board meeting and I could have overlooked something. Please don’t hesitate to reach out if I may be of assistance in some way.

Regards,

*Shana Joy*
Puget Sound Regional Manager & Policy Assistant
WA State Conservation Commission
Ph: 360-480-2078
THURSTON CONSERVATION DISTRICT (TCD)  
DISTRICT GOVERNANCE ACTION PLAN  
PROPOSED JANUARY 2018; ADOPTED BY THE TCD BOARD

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>ACTION(S) TO RESOLVE</th>
<th>DISTRICT RESOLUTION EFFORTS (SUMMARY)</th>
<th>LEAD / RESPONSIBLE PERSON</th>
<th>TIMELINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Disrespectful and inappropriate behavior at open public meetings</td>
<td>A. Board members will sign a pledge to openly communicate with each other, as part of the Code of Conduct and Open Public Meetings Act.</td>
<td>No Code of Conduct adopted by TCD board &amp; staff as of 4.24.18</td>
<td>TCD Board</td>
</tr>
<tr>
<td>2</td>
<td>Disrespectful and inappropriate behavior between staff and supervisors</td>
<td>A. Co-create and adopt organization-wide Code of Conduct Signed by TCD Board &amp; Staff</td>
<td>No Code of Conduct adopted by TCD board &amp; staff as of 4.24.18</td>
<td>TCD Board &amp; Staff</td>
</tr>
</tbody>
</table>
| 3     | Demonstrated unwillingness to understand and uphold CD Policies | A. Each Supervisor will have a hard copy policy and procedure handbook.  
B. Supervisors will commit to reading at least 1 item out of the handbook per meeting.  
C. The Board will prioritize the policies that need to be updated.  
D. Review select section(s) of policy manual for each Board meeting & ensure the time is allotted on the agenda. | A. A binder with TCD policy & procedures was provided to each board member by Feb. board meeting.  
B. and D. Policy & Procedures Updates appeared on the agenda for Feb and March 2018 regular board meetings. The board spent time discussing policy and procedures updates at both meetings. Not on April 24 meeting agenda.  
C. The Chair and Auditor appear to be selecting the policy or policies to be priorities for updating. | Board Chair | At every board meeting beginning with regular board meeting in February 2018. |
| 4 | Passive aggressive behavior | B. Acting Executive Director will re-send letter to TCD Board RE: 1/11/2017 WSCC Letter to TCD Board  
C. Acting Executive Director will send TCD Board reminders about TCD Staff meetings | B. AED included staff letter responding to WSCC ltr of 11.1.17 in 11.21.17 board mtg packet, unsure when or if was sent to BOS again.  
C. No evidence of action occurring by AED. | Acting Executive Director | By March 31, 2018 |
|---|---|---|---|---|---|
| 5 | Inaction on advice from Enduris following investigation | A. Invite Michelle Fossum to upcoming TCD Board Meeting  
B. Discuss recommendations and advice from Enduris  
C. Create action plan/response  
D. Inform staff of action plan | A. Chair reported speaking to MF at March 27 BOS meeting.  
B. No evidence of action.  
C. No evidence of action.  
D. No evidence of action. | Board Chair | A. By regular February Board Meeting  
B. By April 30, 2018  
C. By April 30, 2018  
D. By April 30, 2018 |
| 6 | Lack of board member travel reimbursement policy | A. Develop Board Member Travel Policy  
B. Richard will send new proposed policies to TCD Board | A. No travel policy adopted for board members as of 4.24.18  
B. Richard is included on the Policy Sub-committee which has discussed draft travel policy | A.  
B. Richard | By March 31, 2018 |
| 7 | Lengthy & inefficient board meetings | A. Staff will send out draft agenda by 12 days before meeting (February 14th)  
B. Board will provide comment by 11 days before meeting (February 15th) to AED  
C. Chair will finalize a draft agenda on 8 days before meeting (February | More work needed to evaluate status of this action item. | TCD Chair & AED | By February 27, 2018 Meeting (trial run), evaluate and discuss at regular March meeting |
<table>
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<th></th>
<th>19th)</th>
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<tr>
<td></td>
<td>D. Packets sent out to Board six days before meeting (February 21st)</td>
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<tr>
<td>8</td>
<td>Overly detailed meeting minutes</td>
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<tr>
<td></td>
<td>A. No transcription of meeting minutes</td>
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<td></td>
<td>B. Staff will provide action-oriented minutes for the 1/9/2018 Special Meeting using the agenda as an outline, including motions, important discussions and events</td>
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<td></td>
<td>C. TCD Board will review policy for audio recordings and meeting minutes</td>
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<td></td>
<td>D. TCD Board will review Whatcom CD meeting minutes as an example</td>
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<tr>
<td></td>
<td>A. Transcription of meeting minutes discontinued as of 1.30.18 board meeting.</td>
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<tr>
<td></td>
<td>B. Format of minutes shortened per BOS direction</td>
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<td></td>
<td>C. District policy on meeting minutes has not been reviewed or changed formally. 3 sets of meetings minutes on April 24 agenda for BOS action.</td>
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<td></td>
<td>D. Whatcom CD minutes sample included in Feb 2018 board meeting packet - no discussion occurred.</td>
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<tr>
<td>9</td>
<td>Lack of Communication</td>
<td></td>
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<tr>
<td></td>
<td>A. TCD Board Members will submit meeting reports/recaps for each community meeting they attend to the Board and Acting Executive Director</td>
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<tr>
<td></td>
<td>I have not seen any such meeting reports submitted by board members from attendance or participation in Thurston Co. / local meetings or events to date.</td>
<td></td>
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<tr>
<td></td>
<td>A. TCD Board</td>
<td>Action is incomplete - no due date or deadline</td>
</tr>
</tbody>
</table>

*Blank rows are for district to insert additional issues and actions as necessary.

District Governance Action Plan agreed to on __________ 2018 in Tumwater, Washington by the following:
Other Notes:
- One board member did not sign the action plan: Richard Mankamyer. A copy with Doug Rushton's signature was included in the March 27, 2018 board meeting packet.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>POSITION</th>
</tr>
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<tbody>
<tr>
<td>E. James</td>
<td>CONSERVATION DISTRICT CHAIR</td>
</tr>
<tr>
<td>Linda Howell</td>
<td>CONSERVATION DISTRICT VICE CHAIR</td>
</tr>
<tr>
<td></td>
<td>CONSERVATION DISTRICT AUDITOR</td>
</tr>
<tr>
<td></td>
<td>CONSERVATION DISTRICT SUPERVISOR</td>
</tr>
<tr>
<td>Richard Frenkel</td>
<td>CONSERVATION DISTRICT SUPERVISOR</td>
</tr>
<tr>
<td></td>
<td>CONSERVATION DISTRICT (Acting) EXECUTIVE</td>
</tr>
<tr>
<td></td>
<td>DIRECTOR</td>
</tr>
<tr>
<td></td>
<td>CONSERVATION COMMISSION STAFF – REGIONAL</td>
</tr>
<tr>
<td></td>
<td>MANAGER</td>
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**STANDARD 1**

**Compliance with Laws** *(required standard)*

Conservation Districts fulfill their legal requirements as Political Subdivisions of the State of Washington and comply with all laws and the Washington Administrative Code.

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<td>2. District Long Range Plan submitted on time &amp; meeting RCW and Commission requirements</td>
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<td>3. District Annual Work Plan submitted on time &amp; meeting RCW and Commission requirements</td>
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<td>4. The District has made a demonstrated effort to address their top resource needs identified in their Long Range Plan</td>
<td>RCW 89.08.220 (7)</td>
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<td>5. Upon request, District contracts and agreements have been submitted to the Commission</td>
<td>RCW 89.08.210</td>
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<td>6. Supervisor Elections &amp; Appointments are conducted according to RCW and WAC requirements</td>
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<td>7. All State Auditor identified issues (during SAO audits) have been resolved to the extent possible</td>
<td>RCW 89.08.070 (12)</td>
<td>X</td>
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<td>8. Open Public Meetings Act is followed including executive sessions</td>
<td>RCW 42.30</td>
<td>X</td>
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<tr>
<td>9. State Public Records Act is followed</td>
<td>RCW 42.56</td>
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<td>10. All Board Supervisors and Public Records Officers are current on the required Open Public Meetings and Public Records Act Training</td>
<td>RCW 42.30.210 &amp; RCW 42.56.150</td>
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<td>12. Keeping public informed of conservation district activities</td>
<td>RCW 89.08.220 (13)</td>
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<td>13. State Ethics laws for public officials are being followed</td>
<td>RCW 42.20 &amp; 42.23</td>
<td>X</td>
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<tr>
<td>14. District in compliance with terms of Commission/District Master Agreement</td>
<td>RCW 89.08.070 (5)</td>
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<td>15. Demonstrated diligence in complying with state and federal statutes related to contracting, non-discrimination, labor laws, etc, through adoption of up-to-date policies and training.</td>
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3. Annual work plan is due to the WSCC by May 30th.
4. Evidence of district diligence to address top resource needs in TCD long range plan is not clear. Loss of assessment revenue, preponderance of time for board and staff leadership not focused on getting conservation work done on the ground. Lack of ready-to-go conservation projects entered into CPDS for WSCC funding.
6. Election is still under investigation by WSCC Elections Officer.
9. A current PRA request for board member records still pending and initial deadline for response has passed.
11. Annual financial reporting including Schedule 22 is due to the SAO by May 30th.
12. District has not provided timely, accurate, board meeting minutes to the public. Three sets of meeting minutes still pending approval as of April 24th board meeting. Also, district committed at a past board meeting to provide a statement about rates & charges for the public; this has not been completed.
14. Some late-submitted vouchers and/or incomplete vouchers have occurred which violates the requirements of the Grants & Contracts Procedure Manual governing WSCC funding under the Master Agreement with TCD. More than one district payment for use of state motor pool vehicle was late.
15. Unable to determine district adherence to pertinent federal and state labor/employment laws at this time.
Hello Eric and Sarah,

I appreciated spending some time with TCD this week for the regular work session and board meeting. This is a follow up to this week’s discussions.

**Annual Work Plan** – I noted that the board unanimously approved the annual work plan for the next fiscal year with the addition of the governance action plan items as well. The approved annual work plan was received at the Commission by the due date. There was also some discussion about restructuring the board meeting agendas to correspond to items in the annual plan of work.

**Schedule 22** – There was quite a bit of board discussion about the questions and responses in the draft Schedule 22 presented to the board including: remarks about how many credit cards that TCD currently has, surety bonds, a list of agreements/MOUs with other entities, L&I insurance payments, required workplace posters, and posting of approved meeting minutes. I noted that the Schedule 22 was approved by the board. This was also submitted before the deadline to the State Auditor’s Office.

**Meeting Minutes** – I noted that the 11/21/17 and 12/20/17 meeting minutes were approved with a few edits. The April 2018 minutes were tabled for next time. Paul asked me to share any other CD policies regarding minutes format and also how other districts handle public comments in their minutes. I will follow up with Paul on this. See also the Whatcom Conservation District minutes example that I shared with TCD earlier.

**Rates & Charges** – The public comments from the May 10th public hearing were provided to the board. One person commented at this week’s meeting in favor of rates and charges. I noted that the board unanimously approved two resolutions pertaining to rates and charges at this meeting and then discussed scheduling 2 briefing meetings with the County Commissioners.

**Johnson v. WSU lawsuit** – This is apparently still an ongoing issue. The district received a subpoena recently for some information pertaining to public records requests which Sarah reported that she is working on providing. Sarah asked the board for some guidance about seeking independent legal counsel to assist the district with this situation. No action was taken by the board to seek legal counsel at this meeting. There was discussion about the prior RFQ for legal counsel that never went anywhere and bringing that back in a work session as well as seeking some cost estimates for the type of legal counsel they think may be needed.

**WSCC Update**

- The new Puget Sound regional manager will begin on June 18th. It is likely that she will come with me to the next regular board meeting on June 26th. Her name is Alison Halpern.
- **CAPP Update** – The two items with deadlines on May 30th were discussed. Both of those tasks were completed in a timely manner. Still outstanding are a couple of the accountability items including adherence to the Public Records Act for the currently outstanding unresolved request and also adherence to employment laws is uncertain now that two complaints have been filed with the Human Rights Commission. Again, any red marks in Standard 1 of CAPP may jeopardize funding from the Commission. Attached is an updated review of
Standard 1 for TCD as of this week’s meeting.

- FY19 Implementation Grant allocations – The Commission took action at their last regular meeting to change the implementation grant allocations to most CDs to $90,000/fiscal year. This would be an increase for TCD.
- Investigation – it seems likely that a final investigation report may be available in the next few weeks.
- The next regular Commission meeting is in July and it will be held in Shelton.
- The TCD election has been certified. No action was taken on the appointed seat that is expiring – Doug’s seat. That may occur at the July Commission meeting.
- The NRI addendum was approved.

**Human Resources** – Sarah was asked to research options for securing human resources services and bring that information to the next work session/special meeting to be scheduled.

**Governance Action Plan** – A brief discussion and recap of actions/progress made at today’s board meeting on the governance action plan. Some progress has been made including having a follow up discussion with Michelle Fossum, ongoing work on the format of meeting minutes, and adding the governance action plan to the annual work plan by reference. No other action items were discussed.

**Associate Supervisor** – I noted the board’s split vote to remove Joel Hansen as an associate supervisor for his recent inappropriate behavior representing the district, not following policies and procedures of the district, and lack of participation prior to January of 2018.

Many important things were discussed at this week’s meetings. If I overlooked or misunderstood anything please do let me know.

Best regards,

*Shana Joy*
Puget Sound Regional Manager & Policy Assistant
WA State Conservation Commission
Ph: 360-480-2078
**STANDARD 1**

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3. Annual work plan is due to the WSCC by May 30th. This item was approved at today’s meeting.

6. Election certified by WSCC on May 17th.

9. A current PRA request for board member records (Eric & Richard specifically) still pending and initial deadline for response has passed. That initial deadline was March 30th. A reminder/follow up request has been submitted as well, dated May 28th. This needs to be resolved.

11. Annual financial reporting including Schedule 22 is due to the SAO by May 30th. This item was approved at today’s meeting.

12. District has only the April 24, 2018 meeting minutes un-approved at this time.

14. Some late-submitted vouchers and/or incomplete vouchers have occurred which violates the requirements of the Grants & Contracts Procedure Manual governing WSCC funding under the Master Agreement with TCD. More than one district payment for use of state motor pool vehicles has been 30+ days late. Concern that this will continue to occur given the delay in approving the check register at today’s meeting.

15. Unable to determine district adherence to pertinent federal and state labor/employment laws at this time. Concern exists given complaints filed to the Human Rights Commission by TCD staff.
## STANDARD 1
### Compliance with Laws (required standard)

Conservation Districts fulfill their legal requirements as Political Subdivisions of the State of Washington and comply with all laws and the Washington Administrative Code.

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12. District has 4 sets of board meeting minutes un-approved at this time.

15. Unable to determine district adherence to pertinent federal and state labor/employment laws at this time with any degree of confidence. Concern exists given 2 complaints filed to the Human Rights Commission by TCD staff.
Eric and Sarah,

I’m glad I was able to spend some time with Thurston CD this week and introduce you to Alison Halpern, your new Regional Manager at the Commission. Here are a few notes from this week’s meeting.

**SCC Update** – We are getting ready for our next Commission meeting scheduled for July 18-19 in Shelton. I pointed out that any investigation updates can be found here: [http://scc.wa.gov/thurston-0618/](http://scc.wa.gov/thurston-0618/)

Also, we talked about the additional information we’re asking for related to livestock TA funding this year as well as the upcoming regular accountability audit for Thurston CD. I provided an update on where the district is with the Conservation Accountability and Performance Program (CAPP) which is attached here as well and I invited you to send me/Alison any information you may have pertaining to correcting the 4 issues highlighted in red.

**Governance Action Plan** – This item was briefly discussed at this week’s meeting. We talked about how Paul might add his signature, if he is comfortable with doing so, to the bottom of the document as well as continuing to add notes about progress on each item in the column provided. I pointed out that another round of significant edits to the document and pushing back the due dates would make me think that the board isn’t taking the actions in the document seriously. There was also discussion about the recent follow up discussion with Michelle Fossum and that a couple of board members didn’t feel that was very productive as you didn’t wind up that discussion with action items you could talk about publicly. I pointed out that perhaps you could ask Enduris for specific actions they recommend you do to restore your former insurance rate with them and then do those things. A sample code of conduct was discussed again and Sarah re-sent the sample to all of you that I shared back in January.

**OPMA** – TCD needs legal counsel to sit with you through all of your meetings and advise you because it’s clear there are different understandings of right and wrong with the OPMA. I don’t believe that either Paul or Doug have violated the OPMA but it was prudent to make a statement and daylight what could have been perceived as violations by email correspondence. When it comes to discussions about staff and executive sessions, these are very risky situations and making a mistake can happen all too easily. This is one reason why you need legal counsel as a top priority, in my opinion. Which I said a couple of times during this week’s meeting. Please keep in mind that discussing your coverages and insurance rates with Enduris is not a valid reason for an executive session. I have attached, again, the district operations brief that clearly describes the only legal reasons for an executive session. I did note that the board decided to move forward with issuing an RFP for legal counsel.
We had a discussion about emails to all board members and potential violations of the OPMA. I’ll recap my advice to you here:

Very Risky – sending a message from 1 board member to all of the others using the ‘cc’ option. This creates a situation where another board member can reply-all and start a discussion which is pretty easily viewed as an OPMA violation.

Somewhat Risky – sending a message from 1 board member to all of the others using the ‘bcc’ option. While reply-all is not possible with this method the message itself could still be misconstrued.

Low Risk – Always sending anything for informational purposes to the district executive director for distribution to others.

Human Resources Expertise – It still isn’t clear to me exactly what you expect a person with HR expertise to do for you. There was much discussion about should this expertise be found in a temp staff person, a contractor, etc. A board vote was taken to authorize Richard to go out and find this expertise and report back. I expressed concerns that Richard making a hire or selecting a person from a temp agency to provide this service is going against your own district’s policy and delegation of authority that Sarah is supposed to be the lead on these actions in consultation with the board. I noted that the union representative present expressed concerns that there was a pretty blatant disregard for my advice among the board members. Also apparently the district subcommittee meeting on this topic didn’t yield any results.

Mid-year Budget Revision – It is clear to me that there is a misunderstanding among board members about how grant funding works and that just because a staff position that was grant-funded is vacant, you are not actually realizing any ‘savings’. Such savings only occurs when a staff person who was paid with unrestricted (not grant funds) is vacant for a period of time. The discussion kept going back to the current vacant staff positions and grants with no clear understanding reached. I suggest a workshop for board members that walks through this situation step by step so it’s clear for everyone. Also, a presentation about the budget summary table that was provided in the meeting packet would also be helpful for everyone because it wasn’t very clear where the numbers were originating from or the calculations involved.

Meeting Minutes – I noted that the following sets of minutes were approved by the board at this week’s meeting:
April 24, 2018, June 7, 2018, and February 27, 2018. Please remember that making these minutes available to the public on your website is a very important aspect of keeping the public informed. All board-approved minutes should be signed immediately by the Chair and posted to the district’s website. As a reminder, any document generated at the district or by board members pertaining to district business are public records. There are very few, specific, instances where a document may be held back from a public records request. Draft meeting minutes are public records and may be shared with the public.

Agreements – There was discussion about a contract with Dept of Health (for National Estuary Program funding) and an anticipated renewal contract from RCO for the lead entity work. Both were tabled until the next meeting and opportunity is provided to fully review the 50+ page document
from DOH and receive a hard copy of the lead entity contract for review as well.

Consent Agenda/Calendar – A suggestion was made that the board consider utilizing a consent agenda or consent calendar structure for routine business that needs board action. I have attached an example from another district where this structure of an agenda is utilized for your reference.

Please do let Alison or I know if we can be of assistance.

Regards,

Shana Joy
Southcentral Regional Manager
WA State Conservation Commission
Ph: 360-480-2078
Call to Order

1. **Preliminary Matters 5:00-5:02**
   a) Introductions
   b) Additions or Corrections to the Agenda
   c) Adoption of the Board Agenda

2. **Consent Agenda 5:02-5:10**

   Items listed below will be enacted by one motion. If separate discussion is desired on an item, that may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Board Member

   a) **Board Minutes** – 05.14.18

   b) **KCD LIP Applications:**
      1) AI 18-044: LIP App: Geoff and Terri Fletcher: Forest Health Management

   c) **Member Jurisdiction Grant Applications:** None.

3. **Public Comment:**

4. **Pulled Consent Agenda Items:**

5. **Finance:**

   1) AI 18-045: A motion to approve check numbers 20615 through 20724 for a total of $528,789.32; non-payroll EFT’s totaling $1,488.15; Bank Fees of $33.00; and May 2018 payroll for $214,794.34 – Souza

   5:10 – 5:20

6. **Unfinished Business:**

   1) Executive Director Update – Covington 5:20 – 5:30

   2) Move Update – Haack 5:30 – 5:45

7. **New Business:**

   1) AI 18-046: Investment in KCD Functionality and Efficiency – Covington 5:45 – 6:00

   2) Cedar River Group – Covington 6:00 – 6:10

   3) WACD Survey – Ryon/Covington 6:10 – 6:20
**STANDARD 1**

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Executive Sessions

Conservation Districts as political subdivisions of the State of Washington are required to follow the rules for holding Executive Sessions that are outlined in the Open Public Meetings Act (OPMA).

**Purpose:**
An executive session may be held during a board meeting only for one of the purposes identified in RCW 42.30.110(1) that is appropriate for districts, as follows:

- To consider matters affecting **national security**;
- To consider the **selection of a site** or the **acquisition of real estate** by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- To consider the minimum price at which **real estate** will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;
- To review negotiations on the performance of **publicly bid contracts** when public knowledge regarding such consideration would cause a likelihood of increased costs;
- To receive and evaluate **complaints or charges** brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- To evaluate the **qualifications of a candidate** for public employment or to review the **performance of a public employee**. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or **discharging or disciplining** an employee, that action shall be taken in a meeting open to the public;
- To evaluate the **qualifications of a candidate** for appointment to fill the remaining term of an elected supervisor’s position, or to discuss a recommendation to the Conservation Commission to fill an appointed supervisor’s position. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;
- To discuss with legal counsel representing the district matters relating to **enforcement actions**, or to discuss with legal counsel representing the district **litigation or potential litigation** to which the district, the board, or an employee or associate acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in adverse legal or financial consequences to the district.

Legislation that was enacted by the 2001 legislature clarifies that district boards may not hold an executive session solely because the attorney representing the district is present. If potential litigation is the reason for meeting in executive session, it is defined to mean matters protected by attorney-client privilege concerning a) litigation that has been specifically threatened to which the district is, or is likely to become, a party, b) litigation that the district “reasonably believes” may be commenced by or against the district, or c) litigation or legal risks of a proposed action or current practice when public discussion could result in adverse or financial consequences.

A more detailed description of executive sessions is available at: http://www.mrsc.org/askmrsc/pastingsubject.aspx?sid=22

This information is provided as a courtesy to Washington State Conservation Districts. It is not legal or tax advice. For legal and tax status questions, we encourage you to consult qualified legal and accounting professionals. We acknowledge the assistance of Municipal Research and Services Center (MRSC) in helping to prepare this information.
Checklist: Procedures for Holding an Executive Session
An executive session should begin after a regular or special district board meeting is convened and adjourn before the meeting ends. While an executive session will therefore always be a part of a regular or special meeting, it is possible to hold a special meeting for the sole purpose of holding an executive session.

Any board action that results from an executive session discussion should occur during open meeting following the end of the executive session.

To start, the board chair announces the executive session and must state two things:
(1) The purpose of the executive session, and
(2) The time when the executive session will end.
The announcement is to be given to those in attendance at the meeting.

Announced Purpose:
The announced purpose of the executive session must be one of the statutorily-identified purposes for which an executive session may be held. The announcement therefore must contain enough detail to identify the purpose as falling within the limits of the law.

It would not be sufficient, for example, for a board chair to declare simply that the board will now meet in executive session to discuss "personnel matters." Discussion of personnel matters, in general, is not an authorized purpose for holding an executive session; only certain specific issues relating to personnel may be addressed in executive session.

Length of Session:
Another issue that may arise concerning these procedural requirements for holding an executive session involves the estimated length of the session. If the board concludes the executive session before the time that was stated it would conclude, it should not reconvene in open session until the time stated. Otherwise, the public may, in effect, be excluded from that part of the open meeting that occurs between the close of the executive session and the time when the board chair announced the executive session would conclude.

If the executive session is not over at the stated time, it may be extended only if the board chair announces to the public at the meeting place that it will be extended to a stated time.

Attendance:
Attendance at an executive session need not be limited to the members of the board. Persons other than board members may attend the executive session at the invitation of the board. Those invited should have some relationship to the matter being addressed in the closed session, or they should be in attendance to otherwise provide assistance to the board. Note that if the stated purpose for the executive session is to discuss litigation or potential litigation with the district's attorney, the presence of persons at the session who are not board members or district staff may waive the attorney-client privilege.

Minutes:
Minutes are not required to be taken at an executive session. If minutes or notes are taken during an executive session, they may be subject to the disclosure requirements of the Public Records Act.

Collective Bargaining Sessions:
Collective bargaining sessions with employee organizations are not subject to the requirements of the OPMA. This means that while discussions of these topics may occur during an executive session, it is not necessary for the council to follow the OPMA procedures before such discussions. This exemption from the OPMA applies to contract negotiations, grievance meetings and discussions relating to the interpretation or application of a labor agreement or to that portion of a meeting during which the governing body is planning or adopting the strategy to be taken by the governing body during the course of any collective bargaining, grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress. RCW 42.30.140.
July 19, 2018
Meeting Motion

DISTRICT OPERATIONS

Motion by Mark Craven (*Commissioner Miller's delegate*) to ask Whitman Conservation District and Thurston Conservation District board member(s) to present an action plan to the Commission at their next meeting in September. Seconded by Commissioner Longrie. Motion passed.
August 23, 2018

Eric Johnson, Chair
Thurston Conservation District
2918 Ferguson Street SW, Suite A
Tumwater, WA 98512

Dear Eric:

At the July Conservation Commission Meeting, the summary of Conservation Accountability and Performance Program (CAPP) was reviewed by the Commission Members. All forty-five Conservation Districts were subject to the fifteen accountability requirements the Commission approved for use in 2018. These Accountability Requirements are based in law (RCW) and administrative code (WAC) for conservation districts. Completing 100% of these items is a threshold for receiving state funding through the Conservation Commission. Expectation is that all districts must meet these accountability requirements to be in “compliance” with CAPP.

Thurston Conservation District was in non-compliance with four of the Performance Standard 1 requirements:

- Open Public Meetings Act was not followed including executive sessions (#8);
- State Public Records Act was not followed (#9);
- Not keeping public informed of conservation district activities (#12); and
- Not demonstrating diligence in complying with state and federal statutes related to contracting, non-discrimination, labor laws, etc, through adoption of up-to-date policies and training (#15).

As a result of the non-compliance, and after extensive discussion, the Conservation Commission Members at the July 19, 2018 meeting held in Shelton passed a motion requesting a Thurston Conservation District Supervisor(s) to present an action plan for addressing the non-compliance to the Commission at their next meeting on September 20, 2018 in Richland, WA. Please contact Lori Gonzalez at (360) 407-7417 or by email lgonzalez@scc.wa.gov regarding how you would like to present the plan to address the non-compliance.

If you have any questions, please feel free to contact myself, Ray Ledgerwood, or Commission staff.

Thank you,

Mark Clark
Executive Director
Good afternoon,

Here are some notes I took during the August 20 Thurston CD regular meeting:

**General meeting notes**

Although the meeting lasted about seven hours (including the 1-hour work session), which was an hour over the time allotted, you did not get through the whole agenda. As a result, there were several actions that did not occur, including the adoption of meeting minutes and the discussion of the WRIA 13 lead entity contract. The former is particularly troubling because the lack of approved, signed, and posted meeting minutes is one of the four performance standards in CAPP (Conservation Accountability and Performance Program) that the Thurston CD has been deemed non-compliant. Two motions were made to move some of these action items earlier in the meeting, but those motions did not pass. Moreover, you have many sets of approved minutes that still need to be signed.

It is important to be cognizant of the time and stay on schedule. At your June meeting, Shana had previously suggested you consider implementing a consent agenda to approve a suite of routine actions with one motion at your meetings. Have you given any more thought to this time-saving process?

**SCC update** – Because the meeting was so behind schedule, I kept my update brief, limiting it to a reminder that the CD annual reports were due August 24. I also gave Linda an SCC certificate recognizing her as a Conservation District Supervisor.

**Government Action Plan** – I was glad to see two Board members sign the GAC so that the entire board has now signed on. I think the suggestion to incorporate the four CAPP violations to your GAP is a good idea.

**RFPs and Contracts** – I was pleased that the Thurston CD entered into a contract with Deschutes Law Group after the interview so that Ben Cushman could begin providing legal counsel immediately. I thought Mr. Cushman’s input was quite beneficial for the remainder of the meeting.

**Officer elections** – The Thurston CD went through the process of electing Board officers, and Ben and I provided some guidance. If Supervisors and staff would like more information about the procedure to elect officers, please refer to Roberts Rule of Order. I noted that Eric was re-elected Chair, Linda was re-elected Vice-Chair, and Richard was re-elected Auditor.

**Grants and Agreements**

I appreciated hearing from WFB John Stuhlmiller with the WFB and Sarah about the importance of achieving success on Thurston County’s Voluntary Stewardship Program and how the Thurston CD was taking steps to ensure ISPs could be completed despite the reduction of staff by subcontracting at least one planner. I was glad to see you vote unanimously to allow staff to subcontract to allow at least 11 ISPs be developed in conjunction with the program’s outreach efforts.

It was unfortunate that the DOH contract for National Estuary Program funding was not approved due to questions and concerns about contract specifics. This contract was on the June agenda but was tabled because some Supervisors wanted to read through the contract before voting. This review should have occurred in a timely manner so that questions could have been asked and answered prior to this meeting so that a productive and positive discussion could have taken place. Based on my observations, CD Boards typically approve these
contracts and agreements with the understanding that staff has done its due diligence to read through the contract details.

As already noted, the Thurston CD meeting ran overtime, so there was no time to discuss the WIRA 13 contract.

Please let me know if you have any questions or I can be of further assistance.

Sincerely,

Alison

Alison Halpern, Ph.D., Puget Sound Regional Manager
Washington State Conservation Commission
PO Box 47721 Olympia, WA 98504-7721
Office: 360-407-6209 | Cell: 360-280-5556 | ahalpern@scc.wa.gov

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Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW.
Thurston Conservation District response to CAPP item on WSCC September 2018 meeting agenda.

The following is a transcript of a voice message left for Mark Clark, WSCC Executive Director by Eric Johnson, Thurston Conservation District Board of Supervisors chair, on Thursday, September 13, 2018:

“Hey Mark.  Eric Johnson.  I was calling you on that CAPP and the response for the September 20th meeting.  We were not informed as a board of that request by the Commission properly and I've only seen it for about a week and a half let's say…about a week.  So we haven't had a board meeting so we don't have a representative picked out and we don't have a plan that's been approved by the board to address it.  So at this time there won't be any representative there at that meeting to discuss that.  I wish that after that Mason County board meeting that if the board would have been informed by either Commission staff or Sarah Morehead that that was going to be discussed by the Commission for the 20th meeting.  That way we could have a board meeting to discuss it.  But at this time we don't.  Any questions 360-…..”
Good morning, Eric.

Per our conversation this morning, I will let Mark know that you will be unable to attend next week’s Commission September 20 meeting, as the Thurston CD Board of Supervisors has not yet met to discuss the letter you received on August 23 or determine a plan of action.

Your July 31 meeting had been rescheduled for August 14, and then August 20. That meeting was only a week before your regularly scheduled August 28 meeting, which was subsequently cancelled. Had that rescheduling not occurred, the Board could have discussed the letter and how you would present your action plan at the Commission’s September meeting at that regular August meeting.

Given the difficulty in scheduling make-up meetings, you noted that it would have been almost impossible to schedule a special meeting to discuss the letter and your response.

I will meet with you and Sarah next week at the TCD office, likely during the afternoon of September 18, as you set the agenda for the September 25 meeting, which I understand will be shorter than usual.

Sincerely,

Alison

Ok I'll try you at 10 ish if I'm available otherwise it will be closer to 12.

Hi Eric,

I called your cell phone at 3:14 this afternoon and left you a voicemail. Please call my cell phone (360-280-5556) at your earliest convenience.

Sincerely,

Alison