



**North Santiam
Sewer Authority**

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**NSSA Work Session Agenda
August 24, 2023, at 5 PM
Hybrid
Mill City Hall
444 S 1st Ave., Mill City, OR 97360**

[https://zoom.us/j/934](https://zoom.us/j/93414748822?pwd=MjJkM3Vyb21YS1BDK2doVEplZ25uUT09)

[14748822?pwd=MjJkM3Vyb21YS1BDK2doVEplZ25uUT09](https://zoom.us/j/93414748822?pwd=MjJkM3Vyb21YS1BDK2doVEplZ25uUT09)

Meeting ID: 934 1474 8822

Passcode: 454959

- A. Roll Call and Declarations of Conflicts of Interest
- B. Announcements
- C. Public Comment and Questions (please limit Public Comments to 3 minutes each)
- D. Work Session: Governance (COG Staff)
- E. Set meeting schedule for Sep, Oct, November, December.

Upcoming Events:

Date	Event	Location
		TBD



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To: NSSA Board

From: Mid-Willamette Council of Governments
Scott Dadson, Executive Director
Laura Conroy, Project Manager

Date: August 23, 2023

Memo: Ownership and Management Governance Structures of Sewer Facilities Operating within the North Santiam Canyon Region.

Introduction

The first phase (the Mill City/Gates System) of the North Santiam Sewer System is currently being engineered and designed and has secured \$40 of the \$55 million needed for construction. It is likely that the remaining \$15 million will be allocated by the legislature by March of 2024 and a construction delivery contract will be executed by June 2024 with commissioning and delivery to occur by December 2026. The second phase of the system (the Detroit/Idanha System) has funding for planning and design and land acquisition but does not have funding to take the project to final engineering and build out.

The front-end construction/upgrade cost and ongoing maintenance and operational cost by any one city is prohibitive and beyond the revenue generation capacity of any existing city by itself. The \$50 M allocated by the Oregon Legislature for communities stricken by wildfire is an example of the revenue generation potential when the region collaborates in the construction, operation and management of sanitary systems – this and future funding will mandate continued commitment from the existing communities within the region for sustained sewer services or the formal creation of new legal entity to provide these services.

In 2018 the canyon cities adopted mutual resolutions to study the formation of a joint entity to guide the development of a sewer system. In 2020 the cities deepened their commitment to cooperatively establish a sewer system by adopting mutual ordinance to form the North Santiam Sewer System and granting broad powers to the NSSA.

With the impending completion of the lower system and the ongoing work on the upper system, it is an appropriate time for NSSA to consider the structures and agreements it will need to be able to receive,

manage, and operate the first phase system, and continue to steward efforts towards the development of the second phase. This memo discusses three governance structures; joint venture, sanitary authority and county service district, and the ability of each structure to finance, manage, operate and maintain the North Santiam Sewer System for the benefit of the canyon communities, and recommended action steps for the board to take once it determines how to proceed.

Decisions before the NSSA

A legal entity or joint venture of entities will need to be able to fund and oversee the construction, operation and maintenance of the entirety of sewer system facilities to include the second phase, in the region. Additionally, this entity needs to be able to receive the first phase asset, maintain it, and be authorized to set fees, receive funds, pay bills and capitalize the debt. The ordinances adopted by cities in 2020 grant the NSSA these authorities in broad terms, however, state law and regulations limit NSSA's authority and state agencies have informed us that NSSA is not an eligible entity for grants or loans. Thus, a decision about the formation of a new entity with the requisite statutory authority or the creation of additional legal agreements to support the ORS 190 joint venture is needed in order to operationalize the intention of the canyon cities expressed in the adopted ordinances.

Key Questions to Consider in Selecting the appropriate governance structure.

1. How will funding for construction, operation, and maintenance of the systems be acquired?
2. What legal entity will own the systems?
3. What legal entity will receive the assets constructed for the lower basin?
4. What legal entity will construct the upper basin?
5. What legal entity will employ staff with required certification and coverage to operate and maintain the entire system?
6. What legal entity will compel connection, set initial and future rates, and compel payment of rates?

Funding Construction of the Upper Basin

A mix of loans and grants applied for and carried by all four member cities, a sewer authority, or a county service district, will be needed to fund construction of the upper basin and possibly to complete the lower basin. The ability of each legal structure to support both capitalization and ongoing revenues is discussed in brief below.

Joint Venture

Cities, sewer authorities and county service districts are eligible for loans and grants. Public bodies formed under ORS 190 are not eligible for loans and grants offered by Business Oregon, DEQ and USDA according to sources at those agencies. As such, without a sewer authority or service district in place, the cities that formed NSSA under ORS 190 would need to be willing to serve as the applicant for the loans and grants individually and collectively, in order to access the amount of funding needed to construct the upper basin. Additionally, agreements would need to be created to ensure cost and benefit sharing across the region for the loans and grants as an ORS 190 joint venture.

If the NSSA board determines to continue as an ORS 190 joint venture, it will need to enact two agreements; an interim agreement and an agreement to receive the first phase asset. These agreements would outline the cost sharing method amongst the members of the joint venture and any future members and ensure the burden of loans and benefits of grants necessary to build the upper basin is shared equitably across the member cities. Because loans are dependent on the ability of the applicant to repay the loan, additional work will need to be done to demonstrate to the lender that the loan can be repaid. This will include; for cities that don't currently collect sewer rates – adopting an ordinance for this purpose, demonstrating rate collection history, a rate setting methodology agreed to by all cities, agreements regarding ownership of sewer system facilities. It is with this interim agreement that NSSA could direct COG staff to immediately begin preparing grant and loan applications which will be submitted once the appropriate legal agreements among cities is in place.

Sanitary Authority per ORS 450

If the NSSA board determines the best structure to govern the North Santiam Sewer Facilities is a Sewer Authority formed under ORS 450, it will need to gather signatures and prepare documentation to place the formation of a Sanitary Authority on the November 2023 or May 2024 ballot. Signatures and documentation must be filed with the SOS office 60 days before the election date. Due to the complexity of signature collection and ballot creation process, a November 2023 target is unrealistic so the earliest opportunity for success is May 2024. Once formed, the sanitary authority is an eligible entity for grants and loans and can begin the process of apply for grants and loans to fund construction of the upper basin.

County Service District per ORS 451

If the NSSA board determines the best structure to govern the North Santiam Sewer Facilities is a county service district, it will need to petition the Linn and Marion County board of commissioners to create the structure. Once formed, the service district is an eligible entity for grants and loans and can begin the process of apply for grants and loans to fund construction of the upper basin.

Funding the Remaining Construction Cost of the Lower Basin

Remaining funding for construction may come from legislative appropriation of uncommitted ARPA funding by March 8, 2024. If a legislative appropriation does not occur, action will need to be taken to apply for loans and grants to fund the remaining construction costs. Immediate efforts by NSSA member cities to enter into an interim agreement that governs the application of loans and grants, or to the decision to form a sanitary authority or county service district will allow staff to move quickly to try and fill the funding gap for the construction of the lower basin if needed.

Funding the Operation and Maintenance of the entire North Santiam Sewer System

Funding operation and maintenance costs for the entire system will largely depend on rate payers and the rate making methodology. Cities, sewer authorities and county service districts have the authority to compel connection and thus to control the number of rate payers for the system. These entities also

have authority to assess and collect fees. A brief discussion of each entity's ability to set rates and the process to set rates is below.

Joint Venture

The ordinances adopted by the cities delegate broad authority to the NSSA but there may be statutory restrictions that need to be navigated. If the board wishes to continue as a joint venture it will need to enter into more detailed agreements that prescribe the mandatory connection program including details about timelines, cost bearing, and community outreach.

Additionally, an agreement is needed to specify ratemaking authority and the methodology to set, assess, and collect rates. One option, which is referred to as "embedded" is to grant NSSA rate setting authority and designate one or all of the member cities to assess and collect rates pursuant to the methodology adopted by the NSSA. Member cities would also need to designate an entity which will employ appropriately credentialed staff to operate and maintain facilities or enter into a contracts for these services. The employer and contracting agency could include NSSA, a collection of cities, or an individual member city "embedded." Finally, ownership of the lower basin would need to be determined for insurance, loan and grant purposes and could be held by NSSA, a collection of cities or an individual member city.

Sewer Authority per ORS 450

A sewer authority has the authority to set, assess, and collect rates in its service area and to borrow and apply for grants against its assets. Once formed it would need to decide whether to mandate connection to the sewer system under a prescribed program which details timelines, cost bearing, and dependencies. The authority would also need to establish a rate methodology and assess and collect rates pursuant to the methodology. The authority would employ appropriately credentialed staff to operate and maintain the facility or enter into a contract agreement for that service. The authority would own all sewer system facilities.

County Service District per ORS 451

A service district has the authority to set, assess, and collect rates in its service area and to borrow and apply for grants against its assets. Once formed it would need to decide whether to mandate connection to the sewer system under a prescribed program which details timelines, cost bearing, and dependencies. The district would establish a rate methodology and assess and collect rates pursuant to the methodology. The district would employ appropriately credentialed staff to operate and maintain the facility or enter into a contract agreement for that service. The district would own all sewer system facilities.

Additional Work

Regional Water Quality Investment Group

In addition to the work to find grants and loans to fund construction of the upper basin, NSSA may wish to enter into discussions with regional drinking water stakeholders who benefit from the Santiam River water quality regarding mutual investments to preserve the water ecosystem and water quality. A shared investment could include regional cost sharing of operation, maintenance, and construction of sewer treatment facilities for canyon communities.

Legislative Allocation

NSSA may wish to create a legislative action plan to procure a second funding allocation by the legislature to support the completion of the design, engineering and construction of the upper basin.

Department of Justice/Attorney General Opinion

NSSA may wish to work with Business Oregon to request a department of justice or attorney general opinion to confirm that entities formed under ORS 190 are not eligible for grants and loans. This is a several month or year process.

Conclusion

This memorandum summarizes the structures and agreements that an entity will need to be able to receive, manage, and operate the first phase system, and continue to steward efforts towards the development of the North Santiam Sewer System for the benefit of the canyon communities, and recommends next steps for the board to take once it determines how to proceed.



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Table of Governing Structures

	Rate Setting	Grants	Loans	Bonds	Unincorporated Properties Included	Compel Connections	Employer	Insurance	Assessment and Lien	Governance
County Service District 451	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Appointed
Joint Venture of Cities	Only if cities allow	Only if city agrees to apply	Only if city agrees to apply	Revenue. General bond if cities issue	No	Only if city compels or delegates authority to compel to NSSA	Yes	Yes	Only if city agrees to assess/lien	Appointed
Sewer Authority ORS 450	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Elected