

**WEST FORK CONSERVATION DISTRICT
BOARD OF SUPERVISORS**

January 10th, 2024,
UDSA Service Center
Mount Clare, WV
Meeting Minutes

With a quorum being present, Chairman Coffindaffer called the January Board of Supervisors meeting to order on Wednesday, January 10th, 2024, at 10:00 a.m. at the UDSA Service Center, Mount Clare, WV.

Supervisors Present:	William Coffindaffer	Jane Cain
	Jim Foster	Randy Plaughter
	Robert Suan	Bill McClain*
	Larry Sponaugle	

Others Present:

- Dee Altman, WVCA**
- Devon Kokoska, WVCA**
- Jennifer Metheny, WFCD**
- Barb Foster, WFCD**
- Chris Toothman, NRCS**
- Kaitlyn Jones, WVCA**
- Jim Roy, WVCA**
- Dan Cooley DOF**
- Joel Barnosky, FSA**
- Rodney Dye**
- Dinah Hannah**
- Cindy Shreve ***

* Denotes online Status.

Pledge of Allegiance – Led by Jim Foster

Welcome and Introductions: N/A

Agenda Approval. Foster/ Plaughter Motion carried. Approve today's agenda as presented.

Minutes: With no additions/ Corrections made, the December 13th, 2023 minutes will stand approved as presented Foster/ Suan. Motion carried. Meeting Minutes Approved.

Cooperating Agencies Report:

NRCS: Chris Toothman (See Attached Report)

FSA: Joel Barnosky, FSA (See Attached Report)

Forestry: Dan Cooley Stated just catching up on plans, completed two last month, currently working on one. Looking at timber jobs. Also, if you know any schools wanting to get an education program going, I'll work with them.

WVU Extension: No report

WVACD Executive Director: Heather Duncan (See Attached Report)

Financial Report: The WVCA financial reports for December 2023 are present today. Foster/ Suan. Motion carried. Approve and file financials for audit. Bill Coffindaffer stated he had to transfer money from the general account to the CDO account to cover checks last month. Once for 2,000.00, then again 15,000.00.

Randy Plaugher made a motion to go to the bank to sign overdraft protection, so Bill will not have to continue doing this. Seconded by Foster. Motion Carried.

Account Information: Randy made a motion to grant Dee permission to pay any outstanding invoices that come after supervisor's signed checks, or we haven't gotten them to Melinda in time to get a check signed. This was seconded by Foster. Motion carried.

Supervisor Per Diem and Travel: Treasurer Plaugher reported on the following.

Supervisor's Per Diem and Travel expenses for the month of November 2023

Randy Plaugher	\$947.81	
Jane Cain	\$1,068.33	
William Coffindaffer	\$890.82	
Bill McClain	\$187.99	
Larry Sponaugle	\$598.00	
James Foster	\$789.44	
Robert Suan	\$734.88	<i>Totaling \$5,217.27</i>
<i>Total gross spent to date:</i>		<i>\$33,345.16</i>

Plaugher moved to approve Supervisor's November Per Diem and Travel as presented and pending review from district accountant. Motion seconded by Foster. Motion carried.

Approval of Invoices and Payments: No Invoices today

Ag Enhancement Program: None Currently

Cancellations/ Withdraws- None Currently

Conservation Agreements:

Lewis County, Nelson Bean, 350 Acres Plaugher made motion to approve. Seconded by Foster. Motion Carried.

OM&R Polk Creek & Salem Fork: Jim Roy stated nothing to report today.

Dam Inspection Reports: Jim Roy stated. Polk Creek looks good.

Old Business:

Employee Manual /Policy Manual, any changes for FY24-25.

Foster moved to make no changes to the Employee Manual, this was seconded by Larry. Motion Carried.

Foster moved to change the Policy Manual to state \$150.00 dollars. Up from \$80.00 dollars. Seconded by Larry Motion Carried.

New Business:

Correspondence: None Currently

Funding Request: None Currently

Letters of Request- None Currently

Setting up Jennifer's pay for direct deposit.

After long discussion, this died on floor. No Motion

Smart Farm WV Grant Project

Suan made a motion that WFCD participate in this program. Seconded by Foster. Motion Carried. WFCD will participate.

SPRP/EWP Project: Foster stated nothing to report.

Board Member & Associate Supervisor Reports:

Cain stated this year's Envirothon will be held April 11, 2024. @ 9:00 AM

Sponaugle shared information on Drones

Foster stated that this year's awards council will include Small Farmers.

Coffindaffer shared information on the different committees. A Motion was made by Foster/ Cain to adapt current committees through June 2024. Motion Carried.

WVCA Reports:

Devon Kokoska: (See Attached Report)

Dee Altman (See Attached Report)

WFCD Report: None

Public Comment None

Adjournment: 11:49 AM

Foster made a motion to adjourn, Seconded by Suan. Meeting Adjourned

Set Date of Next Meeting: February 14th, 2024, at the Mount Clare Office at 10:00 AM

Respectfully submitted,

Jane Cain, Secretary

William Coffindaffer, Chairman

Minutes Recorded by Dee Altman,
Administrative Specialist West Virginia Conservation Agency/
West Fork Conservation District.

West Fork District DC Report

January 2023

Payments made December 2023:

Lewis County – CINs 7, 8, 22, 23 (Pipeline x2, watering facility x 2) – EQIP 220PM - \$6833.74

Lewis County – CINs 5, 6 (Brush Management x2) – EQIP 220FH - \$4041.56

Lewis County – CIN 1 (Ag Energy Assessment) – EQIP 230TQ - \$2537.05

Lewis County – CIN 1 (Ag Energy Assessment) – EQIP 230TT - \$2537.05

Lewis County – CIN 9 (Prescribed Grazing) – EQIP 1903W - \$738.46

Lewis County – CINs 4-6, (Brush Management, EAP1, EAP2) – CSP 22013 - \$2879.66

Lewis County – CIN 33 (PISP – Heavy Use) – EQIP 220PM - \$6422.60

Lewis County – CIN 16 (PISP – Fence) – EQIP 220FN - \$711.89

Lewis County – CIN 3-8 (spring Develop., Pipeline, Trough, HUAP, Fence, Access Control) – EQIP 220F4 - \$3713.91

Gilmer County – CIN 1 (Brush Management) – EQIP 210JV - \$141.98

Gilmer County – CINs 2, 3 (Brush Management x2) – EQIP 210BZ - \$2079.72

Harrison County – CINs 5, 6 (EAP1 and EAP2) – CSP 2203Q - \$2717.00

Total: CSP = \$5,596.66 EQIP = \$29757.96 Overall = \$35,354.62

Harrison Total: \$2717.00 Doddridge Total: \$0.00 Gilmer Total: \$ 2,221.70

Lewis Total: \$30,415.92

Field Office Priorities and News:

We are currently working on FY2024 applications for CSP, EQIP, and AMA. ACT Now fund pools are taking priority. ACT NOW Round 1 application batching date was December 29, 2023. ACT Now obligations within 60 days of application. CSP/EQIP Round 2 application batching date is March 15, 2024. Obligation for CSP/EQIP round 1 applications outside of ACT Now fund pools expected around March 15th 2024.

Round 1 CSP/EQIP Applications

- **CSP Applications:**

Mount Clare: 3 applications. 1 in ACT Now fund pool (pending landowner decision)

Weston: 2 applications. 1 in ACT Now fund pool

- **EQIP Applications:**

Mount Clare: 21 applications. 3 in ACT Now fund pools

Weston: 31 applications. 7 in ACT Now fund pools

- **AMA Applications:**

Mount Clare: 8 high tunnel applications

Weston: 5 high tunnel applications

Staffing:

Christopher Toothman is the Acting District Conservationist for the West Fork District from 11/5/2023 – Mid February. Tom Wilsoncroft began the State Forester position in Morgantown on Sunday 12/31/2023. Soil Conservationist Tech position (Weston) job posting closed on usajobs – awaiting eligible list. No current date known for District Conservationist (West Fork) or Soil Conservationist (Weston) positions.

Harrison-Doddridge County Service Center

87 Ollie Ln Suite 101

Mt. Clare, WV 26408

West Fork Conservation District Handout
January 10, 2023

Farm Loans

- Farm Operating Loans: 5.625%
- Farm Ownership Loans: 5.875%

County Office

- Pandemic Assistance Revenue Program (PARP) money disbursement (9.5% payment rate)
- Farm Storage Facility Loans: 4.375% for 3 year loans, 4.125% for 5 year loans, and 4.250% for 7 year loans



January 2024 Board Report from Heather Duncan, WVACD Executive Director

District Travel Policy and Procedures

I HIGHLY encourage district boards to look at their current travel P&P manuals and make those solid. This is where it should be indicated what is and is not allowable for district expenses to be captured. This takes the added pressure from the treasurer/other board members on making personal decisions on what is an allowable or not allowable expense. Things to consider include: traveling outside of the county and district, visiting worksites where non-workers are not allowed, attending meetings that you would already attend, etc.

Be mindful of the GSA Rates. Mileage starting January 1, 2024 goes up to .67 cents/mile for personal vehicles. Below is the copy of current GSA rates from the website: https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-results?action=perdiems_report&fiscal_year=2024&state=WV&city=&zip=. Remember that Morgantown was dropped from the destination list and Charles Town (Jefferson Co) was added.



Daily lodging rates (excluding taxes) | October 2023 - September 2024



Cities not appearing below may be located within a county for which rates are listed. To determine the county a destination is located in, visit the [Census Geocoder](#).

Filter Results...

Primary Destination ⓘ	County ⓘ	2023 Oct	Nov	Dec	2024 Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Charles Town	Jefferson	\$112	\$112	\$112	\$112	\$112	\$112	\$112	\$112	\$112	\$112	\$112	\$112
Charleston	Kanawha	\$113	\$113	\$113	\$113	\$113	\$113	\$113	\$113	\$113	\$113	\$113	\$113
Standard Rate	Applies for all locations without specified rates	\$107	\$107	\$107	\$107	\$107	\$107	\$107	\$107	\$107	\$107	\$107	\$107

Showing 1 to 3 of 3 entries

Meals & Incidentals (M&IE) rates and breakdown



Use this table to find the following information for federal employee travel:

M&IE Total - the full daily amount received for a single calendar day of travel when that day is neither the first nor last day of travel.

Breakfast, lunch, dinner, incidentals - Separate amounts for meals and incidentals. M&IE Total = Breakfast + Lunch + Dinner + Incidentals. Sometimes meal amounts must be deducted from trip voucher. See [More Information](#)

First & last day of travel - amount received on the first and last day of travel and equals 75% of total M&IE

Filter Results...

Primary Destination ⓘ	County ⓘ	M&IE Total	Continental Breakfast/Breakfast	Lunch	Dinner	Incidental Expenses	First & Last Day of Travel ⓘ
Charles Town	Jefferson	\$74	\$17	\$18	\$34	\$5	\$55.50
Charleston	Kanawha	\$64	\$14	\$16	\$29	\$5	\$48.00
Standard Rate	Applies for all locations without specified rates	\$59	\$13	\$15	\$26	\$5	\$44.25

Showing 1 to 3 of 3 entries

February Quarterly Meeting

The February Quarterly Meeting will be held on February 7th at WVSU (the same location as last year). Special thank you to Capitol CD who has arranged the facility and will be providing breakfast and lunch. The following day will be Ag & Conservation Day at the Capitol. More information will be forthcoming in January for both events. Districts should be planning for Conservation Day and ordering any table supplies and other handouts needed.

NACD Annual Meeting & Other NACD News

The NACD Annual Meeting is fast approaching! It will be held in San Diego, CA February 10-14, 2024. More information can be found here: <https://www.nacdnet.org/news-and-events/annual-meeting/> This is a great way to network and to see what other districts are doing. I still believe that a supervisor should attend at least one annual and regional meeting with NACD. It's a great experience and opportunity!

I am excited to announce that the NE NACD will present a resolution on Wildlife Control Fencing at the annual meeting. This was brought forth by WV delegation and received unanimous approval from all NE states from start to finish. We look forward to seeing if the resolution is approved at the annual meeting.

The Spring NACD Fly In will be held March 20, 2024. More information will be coming.

Questions for Upcoming Area Meetings

Recently, conservation leaders in WV were asked the following questions on WV's conservation districts. At the upcoming area meetings, we will be discussing the following questions. Please discuss these questions as a board and be prepared to answer these questions as a group at the area meetings. This would also be a great opportunity to invite your local partners to your area meeting to have their input as well.

- 1) What is being done to strengthen districts? (Can include if partners are doing anything to help strengthen districts)
- 2) What is a district's greatest weakness? (Can be overall or for your district in particular)
- 3) Is there a group not engaged in districts that should be? (Can be overall or for your district in particular)
- 4) What resources are needed to strengthen districts? (can be overall or for your district in particular)
- 5) What are key strategic points to act on now?

Other

I will be away February 10-17 and will be slow to respond to messages.

Project and financial reports are due for those districts with an NRCS community outreach grant. Please finalize those ASAP and e-mail reports and receipts to both hduncan@wvca.us AND wvacd@wvca.us. *I would like to start featuring projects in upcoming publications, please send any photos, quotes, and other information not included in your reports.*

Upcoming Dates

January 2, 2024: Eastern Area Meeting @ TVCD, 10 am

January 3, 2024: Legislative Committee Meeting, 1 pm

January 8-27, 2024: Candidacy Filing Period with County Clerk

<https://sos.wv.gov/FormSearch/Elections/Informational/Running%20for%20Office.pdf>

January 9, 2024: Awards Council and SCC Meeting

January 26, 2024: Central Area Meeting @ SCD, 10 am

January 31, 2024: Western Area Meeting @ LKCD, 10 am

February 7, 2024: Quarterly Meeting @ WVSU

February 8, 2024: Ag & Conservation Day at the Capitol



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

Phone: (304) 558-2021
Fax: (304) 558-0140

December 18, 2023

The Honorable Kent A. Leonhardt
Chairman
West Virginia State Conservation Committee
1900 Kanawha Blvd. E, Bldg. 1, Rm 28E
Charleston, WV 25305

Dear Chairman Leonhardt:

You have asked for an Opinion of the Attorney General about the rate and tax implications for conservation district supervisors' per diem compensation. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General "shall give written opinions and advice upon questions of law ... whenever required to do so, in writing, by ... any ... state officer, board or commission." Where this Opinion relies on facts, it depends solely on the factual assertions in your correspondence with the Office of the Attorney General.

Under West Virginia Code § 19-21A-7(c), the State Conservation Committee shall set "[t]he expense and per diem rate" for district supervisors. Last year the Committee set that rate at the statutory maximum of \$150. Earlier this year, you asked us whether the statute allowed for prorating the per diem or if a per diem truly refers to a flat, daily rate. We advised that "per diem" has its ordinary meaning in Section 19-21A-7(c): It means a rate for each day worked, and prorating would effectively turn a per diem into an hourly wage. *See* Letter from Patrick Morrissey, W. Va. Att'y Gen., to Kent A. Leonhardt, W. Va. State Conservation Comm. Chairman (June 8, 2023), <https://bit.ly/3sTBDLT>.

Your second letter now raises similar questions:

- (1) Is the per diem a flat rate, or is a range within the \$30 to \$150 statutory range permitted?*
- (2) For tax purposes, is a W-2 or a 1099 form appropriate for reporting the per diem?*

“voters in each county in a district shall elect” their supervisors. W. VA. CODE § 19-21A-6(a). As such, their per diems should go on W-2 forms for tax purposes.

State law says the same. The crux of the inquiry is whether “the right to control or supervise the work in question is retained by the person for whom the work is being done.” Syl. pt. 3, *Myers v. Workmen’s Comp. Comm’r*, 150 W. Va. 563, 148 S.E.2d 664 (1966). If someone other than the individual worker retains that control, then “the person doing the work is an employee and not an independent contractor.” *Id.* Further, “the determining factor” is “the existence” of control or supervision and not whether it is exercised in a given case. *Id.*

Here, numerous statutory constraints show that district supervisors are employees under this “determinative” factor. Syl. pt. 5, *Paxton v. Crabtree*, 184 W. Va. 237, 400 S.E.2d 245 (1990). The statute contains an entire section enumerating the “[p]owers and duties of conservation[] districts and supervisors.” W. VA. CODE § 19-21A-8. This section says that supervisors “shall have the following powers and duties, in addition to the others granted in other sections of this article.” *Id.* In other words, the statute lays out directly what supervisors are expected to do. The statute also explains some of the particulars when it comes to how supervisors must exercise these duties. See *id.* § 19-21A-7(f)(1)-(3) (supervisors must require “surety bonds” in certain circumstances, keep “full and accurate record of all proceedings and of all resolutions, rules and orders,” and “[p]rovide for an annual audit”).

Further, the Legislature made the supervisors responsible to the State Conservation Committee. One section entitles the Committee to keep the supervisors “organized under the provisions of this article.” W. VA. CODE § 19-21A-4(g)(3). Another demands that supervisors get the “approval of the State Conservation Committee” before hiring any “officers, agents and employees, permanent and temporary, either with or without compensation.” *Id.* § 19-21A-7(d). Though less demanding, yet another mandates that “upon request,” the supervisors must “furnish to the State Conservation Committee” a number of “documents they adopt or employ ... concerning their activities required in the performance” of their “duties under this article.” *Id.* § 19-21A-7(e). All of this indicates “a level of control over [supervisors] such that [they are] ... employee[s].” *Cunningham v. Herbert J. Thomas Mem’l Hosp. Ass’n*, 230 W. Va. 242, 252, 737 S.E.2d 270, 280 (2012).

So at both a statutory- and Committee-level, a district supervisor does not retain “the right to control or supervise the work in question.” *Spencer v. Travelers Ins. Co.*, 148 W. Va. 111, 117, 133 S.E.2d 735, 739 (1963). He or she “is an employee and not an independent contractor.” *Id.* Declining to exempt taxes and instead reporting per diems on a 1099 is not appropriate.

We understand that one of the concerns driving both of your letters is lack of funds to pay all supervisors for all days worked at a \$150 per diem rate. We reiterate that the Committee has statutory discretion to set a different per diem rate within the \$30-to-\$150 range—indeed, the Legislature said the Committee should base this decision on “availability of funds.” W. VA. CODE § 19-21A-7(c). So the Committee remains free to return to last year’s \$80 per diem or to establish

Hon. Kent A. Leonhardt
December 18, 2023
Page 4

any other appropriate rate. Similarly, the Committee can seek the Legislature's involvement to either increase funding or amend the Code to allow for multiple per diem rates. In the meantime, the Committee must follow the law as written and allow for a single per diem reported as taxable income to an employee.

Sincerely,



Patrick Morrissey
Attorney General

Lindsay See
Solicitor General

Caleb A. Seckman
Assistant Solicitor General

[illegible]



January 2024 WVCA Report

Conservation Day/Legislative Meet and Greet

Conservation Day will be held February 8th. WVCA will provide a shuttle service from/to Laidley Field and staff will be in attendance to assist supervisors.

February Quarterly Meeting

The February Quarterly Meeting will be held on February 7th at WVSU (the same location as last year). Special thank you to Capitol CD who has arranged the facility and will be providing breakfast and lunch.

Request to Conservation Districts

The WVCA is encouraging Conservation Districts to review and update your **District Policy Manuals**. In addition to your policy manual, you are encouraged to review your CD Employee Manual (if you have one) and your CD Plan of Work. If you are already doing the reviews, please disregard this request. However, please let us know with a written response that you are already reviewing or will be reviewing the documents.

The **district personnel plan is due to SCC in March**, so please add to your February agenda for review and approval.

Conservation Districts are asked to begin the **Agreed Procedures Engagement (APE) audit** if you haven't already. Please check your current agreement to make sure it is valid.

Agricultural Enhancement Program (AgEP) Administrative Review

Each District's Administrative Specialist will conduct a review of 10% or a minimum of 3 files with applications that fiscal year and submit the Administrative Review Form to their District Operations Manager by January 31st. By completing this review halfway through a fiscal year, staff will have time to find possible procedural errors and take steps to prevent them from happening in the future.

The Administrative Review process will allow WVCA to ensure that all proper documentation is physically accessible in the district cooperator file, and that the districts' online database records system is in agreement with WVCA financial records system.

Ag Enhancement Program Timeline FY24 **timeline may be adjusted*

- January - Presentation of upcoming FY AgEP to SCC
- May/June/July – CDs to finalize upcoming FY program, update AgEP agreement addendums, take action to approve LORs June 15 – Deadline for CDs submit final practice list to WVCA (CDs can submit final list any time after SCC approval of practice list)

O&M Agreements

CDs are encouraged to continue to work with local sponsors for O&M funding. The change will be that these agreements will not be matched dollar for dollar as they were in the past. The WVCA will be allocating funds on a watershed basis moving forward to help with O&M costs.

Budget Update

Travel and Per Diem Update

AG opinion

Administrative Specialist Report
West Fork Conservation District
January 10th, 2024

WFCD Office:

Office will be closed on January 15th in observance of Martin Luther King Day

I will be out of the office the following days January 17,18,19, 2024. On a personal Matter. I will be available on my company cell phone and email.

Here is a list of the dates of Board Meetings:

February 14,2024 10AM

March 13th,2024 @ 9:00 AM

April 10th, 2024 @ 9:00AM

May 8th, 2024 @ 9:00 AM

As always if you need me at any time feel free to call, text, or email me. 681-781-8373

Dhorner@wvca.us

