

Local man sues West Extension Irrigation District for \$342K

Lawsuit states Oregon Bureau of Labor and Industries found evidence supporting civil action

By PHIL WRIGHT
East Oregonian

PENDLETON — Wes Brooks of Pendleton is suing the West Extension Irrigation District and its director, Beverly Bridgewater, claiming the defendants skirted Oregon law on giving preference to hiring veterans.

Brooks seeks \$342,000 for economic and noneconomic damages. Brooks, through attorney Marcus J. Swift of The Dalles, filed the pleading Wednesday, Oct. 22, in Umatilla County Circuit Court.

Brooks also is the man involved in legal disputes with the home construction company Adair Homes Inc.

Brooks is a disabled veteran of

the U.S. Army. According to the lawsuit, Brooks' "service-connected disability rating is 100%," and under Oregon law, he is entitled to veterans' preferences for hiring.

Brooks on Jan. 15, 2020, applied for an irrigation system manager trainee position with West Extension, the court pleading states. Bridgewater the following day contacted Brooks and requested more information about his experience with irrigation, which Brooks provided. Bridgewater on Jan. 17 informed Brooks he was a "mid-range applicant" and the district would not hire him.

Brooks responded with a public records request to find out who the other applicants were.

According to the lawsuit, Bridgewater held a meeting in mid to late January 2020 and stated a district employee, Gary Kroske, told her how to get around the state law that requires veterans receive hiring preference, so she would hire Kroske's son, Casey Kroske, who had recently quit working for

the irrigation district.

The lawsuit does not explain how Brooks knew about the meeting, but states Bridgewater followed through with hiring Casey Kroske, even though he lacked previous management experience.

The lawsuit also claims the district did not post the positions were open, did not use a hiring process and did not implement any preference for veterans. But Bridgewater on Jan. 27, 2020, sent a response to Brooks telling him the position was closed and the district would work on developing a veterans preference policy.

Casey Kroske resigned in March this year, and Bridgewater again evaded the veterans hiring preference, per the lawsuit, and hired Don Gruber as an irrigation system operator in June. Gruber was one of the trainee applicants in 2020.

As a result of the district and Bridgewater's actions, Brooks continues to suffer economic damages, according to the plead-

ing, including past and future lost wages and benefits, and noneconomic damages, including mental anguish and loss of enjoyment of life. In all, Brooks seeks \$342,000: \$92,000 for past economic damages, with the right to amend that prior to or at trial, and \$250,000 for the noneconomic damages.

The lawsuit also states Brooks filed a complaint with the Oregon Bureau of Labor and Industries on June 28, 2020, and on June 29 this year, BOLI issued a "Notice of Substantial Evidence Determination" along with a notice of Brooks' right to file a lawsuit.

The pleading also states Brooks and the irrigation district agreed to the date for filing the lawsuit.

Bridgewater said she could not comment on the case, but the Special District Association of Oregon would represent the irrigation district in the case.

Brooks did not return a call seeking comment by deadline Oct. 22.

Race:

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Bower said Roach's work with Eastern Oregon Business Source is separate from her work on the campaign. With the latter, Bower said Roach has provided web design and graphic work in addition to ordering campaign material.

Timmons, who co-owns Marv's Glass Shop in Milton-Freewater, has raised nearly \$3,000 while spending a little more than \$2,500. Like Bower, Timmons expected to do a mixture of self-funding and fundraising and she expects her campaign to be financially in-line with recent history. Early donors include Charles Danforth and Paul Sequist, both of Milton-Freewater.

Timmons said it was early to start campaigning, but one of her largest expenditures, a booth at the Umatilla County in August, was "worth every penny."

"When you have a booth at the fair, you have access to everyone," she said.

Commissioner Dan Dorran, the newest member on the county board, got an early start on fundraising in his successful effort to win the open Position 3 seat in 2020. He opened his campaign account in November 2019 and would go on to spend more than \$26,000.

But in 2018, Position 2 Commissioner John Shafer didn't start raising money until February of that year. He still managed to raise nearly \$22,000 to unseat incumbent Larry Givens. Shafer has filed to run for reelection in 2022. No one has filed to run against him so far and he hasn't reported any contributions or expenditures in 2021.

With Murdock of Position 1 retiring at the end of the year, Bower and Timmons are also joined by Alvin Young, a manager at Elmer's Irrigation & Supplies in Hermiston. Young does not have a political action committee registered with the Oregon Secretary of State.

Candidates have until March 8, 2022, to join the race for either Position 1 or Position 2. Should the Position 1 race retain all its candidates or grow further, then all candidates will run in the May 17 primary. The top two vote-getters will advance to a runoff during the Nov. 8, 2022, general election. Should any of the races feature two or less candidates, the races will skip the May primaries and county voters will cast ballots on the candidates during the general election.

Sams:

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"Indigenous people are protecting Indigenous culture," he said.

Oaster said the story of the Shoshone and the other tribes displaced to make way for national parks is untold at the parks themselves, even as the park system claims to protect and preserve their cultures.

"That's where they want Indigenous people to be," he said. "That's where the national park system has tried to push Indigenous people: into a static past."

Oaster told OPB that Sams could be a good fit for tribes looking to have a greater stake in modern-day National Park Service decision making.

"Who better to facilitate that?" they said. "That's part of his background and expertise, in treaties and sovereign government-to-government relationships."

Oaster said co-management agreements have worked elsewhere, pointing to the Australian federal government, which co-manages its national parks with the country's Indigenous peoples.

Oregon's paid family leave program presses on

By PETER WONG
Oregon Capital Bureau

SALEM — Oregon's program of paid family leave is still on track to start in 2023 despite a complaint alleging discrimination within the team that is building the program and several pending staff departures, including the program's acting director.

"We remain on track for the statutory implementation dates" of Jan. 1, 2023, for employee and employer contributions and Sept. 3, 2023, for payment of benefits under the program, said David Gerstenfeld, acting director of the Oregon Employment Department.

Gerstenfeld said the complaint is being investigated by a lawyer outside state government. He declined to describe the basis for the complaint or whether action has been taken against any employees as a result. It also is unclear whether pending staff departures are related to the complaint, although Gerstenfeld

said the acting director said in August he would leave by Oct. 31. Gerhard Taeubel had come from the Bureau of Labor and Industries, where in 18 years he rose to be its wage and hour division director.

"While I can't talk about an ongoing investigation, I want to be clear that these concerns are something I take extremely seriously," Gerstenfeld said. "Having an objective external investigation is important to us. But we are not going to wait on the outcome of that investigation to take action toward culture change within the program."

Gerstenfeld said he has spoken with members of the team — which is a separate division within the Employment Department — and will bring in outside experts in equity, diversity and inclusion to review people and practices. He said he expects to fill key posi-



Gerstenfeld

tions, including the director's job, by the end of the year.

"Equity and inclusion are not optional in this agency," Gerstenfeld said.

"While people leave for various reasons, having this many key people leave makes it clear that we need to make some changes — and we are making changes."

The 2019 Legislature added Oregon to the ranks of states with paid medical and family leave. Lawmakers at their most recent regular session put off implementation dates at the agency's request. The original law had called for payroll contributions to start on Jan. 1, 2022, and benefit payments on Jan. 1, 2023. The projected split is 60% from employees and 40% from employers.

Gerstenfeld himself had led the agency's family and medical leave division from fall 2019 until May 31, 2020, when Gov. Kate Brown tapped him to be acting director of the agency after she fired Kay Erickson. The agency faced a record backlog of claims

for unemployment benefits as a result of the onset of the coronavirus pandemic. Gerstenfeld had led the unemployment insurance division, which oversees unemployment benefits, from 2011 to 2019.

Gerstenfeld said the agency has proceeded with a series of virtual meetings to hear public comments about the rules for the program. He also said elements of the program, such as employee and employer contributions and benefit payments, are being integrated into the agency's computer modernization project now underway.

"It is a rare opportunity to build a program from the ground up," he said, without barriers to people who have been historically underserved.

Six states — California, Massachusetts, New Jersey, New York, Rhode Island and Washington — and Washington, D.C. have similar programs. Connecticut is set to start in early 2022, followed by Oregon in 2023, then Colorado in 2024.

Oregon struggling again to recover from COVID-19 spike

By GARY A. WARNER
Oregon Capital Bureau

SALEM — A week after forecasting the state might reach herd immunity from COVID-19 by Christmas, top state researchers this week said progress on taming the current spike in infections has slowed.

The weekly Oregon Health & Science University forecast, issued late Thursday, Oct. 21, said state hospitalizations driven by the highly contagious delta variant won't fall below 400 until Thanksgiving.

Dr. Peter Graven, the lead health metric forecaster for the state's top medical research university, said people in Oregon were returning to higher risk

behaviors such as large indoor gatherings faster than was expected.

Combined with more small group socialization, colder weather bringing activities indoors where contagion is more likely, less adherence to mask wearing and social distancing, and a still tepid pace of vaccination are pushing recovery into 2022.

"Fatigue is setting in," Graven said in a statement on the new forecast. "The overall masking rate is staying high, but other behaviors are back to pre-surge levels and that is going to generate more infections."

Graven had said Oct. 17 that 177,000 more infections and up to 700 more deaths would occur

before the state reached the level where 85% of people are either vaccinated or have been exposed to the virus.

Now, those numbers are likely too low.

Adding to the delay are reports of waning efficacy of the initial round of vaccines. Graven reduced the forecast's presumed rate of vaccine efficacy from 95% to 90% based on published estimates.

Putting the behaviors and revised vaccine data together shows 24% of the state now is susceptible to infection.

The Oregon Health Authority on Oct. 22 gave the green light for booster shots of vaccines following guidelines set out by the federal health agencies.

Graven said the data he and his

team received revealed unvaccinated people were more likely to visit restaurants and go to a large event than those who are vaccinated.

Just under half of people who are unvaccinated wear masks as required in many situations under an Aug. 13 state directive. That's compared to 89% of vaccinated people.

"Unvaccinated people are much more likely to report not wearing a mask at all, which may be their only defense against a highly contagious virus," Graven said.

A total of 567 people statewide remained hospitalized for COVID-19 as of Oct. 21, the forecast said, citing Oregon Health Authority statistics.

Booster:

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"Certainly, from my point of view, I really appreciated that we were finally able to look at, consider, and recommend a mix-and-match approach as part of our way to boost people's immunity, especially for the people who need it," said Dr. Wilbur Chen, professor of medicine at University of Maryland during the meetings closing statements.

The panel heard testimony and findings from several experts in the field about the efficacy of booster shots. Studies had shown that the efficacy of both the Moderna and Pfizer vaccines had waned over time, prompting questions about instituting a third dose to help wake up the immune system and keep it alert to COVID-19 infections.

Data presented by experts showed the vaccine boosters — especially the Johnson & Johnson vaccine — provided additional immunity to COVID-19 on top of the immunity provided in the

one and two-shot series. The Johnson & Johnson vaccine, in particular, benefited dramatically from the booster shot, showing a nearly 94% efficacy rate as compared to far lower initial rate of 71% against COVID-19 hospitalizations, bringing it in line with the Pfizer and Moderna offerings.

"Vaccines don't save lives, but vaccinations do," Dr. Grace Lee, chair of the Advisory Committee on Immunization Practices, said during the meeting. "Our recommendations are one step of the way, but it's going to be so important, as everyone mentioned, that in our implementation, patients are truly educated about the benefit risk balance based on their own personal situation."

The CDC panel also weighed data regarding the risk of vaccines — with contributing experts citing a growing number of reports about rare systemic side effects of vaccination such as Guillain-Barre syndrome, blood clots, and myocarditis — an inflammation of the muscle.

The panel spent consider-



A nurse administers a COVID-19 vaccine to a student at Eastern Oregon University, La Grande, on May 4, 2021. The U.S. Centers for Disease Control and Prevention voted Thursday, Oct. 21, to recommend Moderna and Johnson & Johnson vaccine booster shots.

able time going over rates of myocarditis and pericarditis symptoms following a second dose of Moderna and Pfizer vaccines, particularly among young males who received the mRNA vaccines.

Dr. John R. Su, a member of ACIP, noted the incidents of symptoms of myocarditis

were higher than background incidences of the self-same symptoms, but the incidence rate was approximately 1 in 1 million for developing symptoms, but could affect up to 100 per 1,000,000 in young males. The experts further noted 77% of patients recovered from their symptoms.

A National Institutes of Health study cited in the presentation stated mix-and-match booster shots showed no increase in risk compared to instances when vaccines of the same type were given. Those risks of myocarditis and Guillain-Barre syndrome were statistically insignificant

when compared to using the same vaccine for both doses.

Experts who spoke to the panel noted the public should be aware of the risks and benefits associated with the vaccine.

Second doses of the Johnson & Johnson vaccine, which had previously been stopped due to a rare blood clotting disorder, showed a significantly smaller prevalence rate of clots following a second dose. Incident rates of blood clots stood at 15.1 cases per million following the first dose and 1.9 cases per million after the second.

The panel heard data that showed vaccine boosters from Moderna and Pfizer-BioNTech produced the highest levels of immunity, while the Johnson & Johnson booster provided the least amount of protection.

Vaccines are available at no cost at several locations. Specific locations for vaccines can be found at www.vaccines.gov/search/, or via your local pharmacy.