Deschutes Basin Water Collaborative

Groundwater Mitigation Subcommittee Meeting

Date: August 5, 2021 **| Time:** 1:00 – 3:00 pm

Attendees: Vernita Ediger, COIC; Tom Shuman retired civil engineer; Jared Puckett, COIC; Genevieve Hubert, DRC; Kate Fitzpatrick, DRC; Jim Powell, Citizen; Sarah Henderson, OWRD; Yancy Lind, Citizen; Spencer Sawaske ODFW; Nancy Gilbert, Sierra Club; Jonathan La Marche, OWRD, Lisa Jaramillo, OWRD ' Vernita Edgier, COIC; Owen McMurtrey GSI; Adam Sussman, COCO; Kimberley Priestly, WaterWatch; Garrett Chrostek, Bryant, Lovlien & Jarvis, on behalf of Avion Water Company; Kyle Gorman OWRD; Harmony Burright, OWRD; Dwight French, OWRD; Owen McMurtrey, GSI, COCO; Dani Wise Johnson, DRC; Mellony Hoskinson, OWRD;

Staff: Vernita Ediger, COIC; Kate Fitzpatrick, DRC; Jared Puckett, COIC

Outcomes:

- Kate to finish letter and email to group by August 13
- Group to reply via Google Form/Google Doc by: Aug 16
- Doodle for Dates: Aug 17, 18, 19 for 1 hour meeting to firm up content
- Redraft of final letter for approval: Aug 23
- Revise/Finalize and send Aug 24
- Deadline Aug 25

Focus for the Groundwater Mitigation Subcommittee
The current recommendation for the focus of the groundwater subcommittee is to address and resolve challenges with the groundwater mitigation program and engage with other issues as they arise in this context. The intention is to stay narrowly focused on the program, but invite conversations around broader issues that are also relevant to the program.

Kate Fitzpatrick, DRC: She is the technical support for the DBWC. Groundwater issues in the Deschutes are complex with a myriad of topics interlinked. The reason for this effort is the commitment to meet needs for instream, agriculture, and municipal water users. The DRC is trying to meet all the needs in the basin. She is ready to focus on meeting needs through the groundwater mitigation program. She wants to work with the program and improve the program to achieve healthy water systems. She acknowledged that it's not entirely possible to remain narrowly and singularly focused on the program since it is interconnected with many other issues.

Kyle Gorman, OWRD: Folks started recognizing that anytime a well is dug in the upper Deschutes, it affects the scenic water way flows in the lower Deschutes; this realization initiated the program in the late 1990s. The mitigation program is a very specific program and is not designed to be a scientific program. It is simply the ability of the department to issue a new water right. There is the scientific aspect of the system of trends and water levels on one end, but we need to separate the two. He would like to see this group focus more on the mitigation program itself to generate credits for those who need them. He added that the scientific aspects can be interjected while the updates to the program are occurring.

Nancy Gilbert, Sierra Club: She is working on the Thorn Group Project and is interested in knowing how groundwater affects cold water springs. She is also hoping to work on the issues of the program too.

Yancy Lind, citizen: He wants to work on limitations of the program and think more broadly about it. This scope would include population growth and climate change. It is a complex small problem and a more complex daunting problem for future.

Owen McMurtrey, GSI: Owen noted that this is a long term effort. He wants to improve the mitigation program by taking a system approach for groundwater and to make it better for water providers to have reliable supply and having regulatory certainty for water suppliers.

Adam Sussman, GSI/COCO: Adam participates on behalf of COCO. He was involved in developing the groundwater mitigation program in 1998. The rules were officially adopted in 2002. The program generally works; he wants to make a list of the things that aren't working and decide how to make them better. He is suggesting that we think differently about the questions and the answers they are seeking since they haven't been able to find answers or solutions. The water providers that he represents make up 4% of the consumptive use of Basin water. The mitigation they are seeking is part of the solution.

Kimberly Priestley, WaterWatch: Kimberley would like to address the areas where there is risks to that which the program is set up to protect: scenic water way flows.

Jonathon La Marche, Surface Water Hydrologist: Jonathon is joining to provide technical support and information to help the committee move along as they try to find solutions. There are a lot of other issues outside of the program, but they are completely separate from the program. He attends these meetings to provide technical expertise to the group.

Jim Powell, citizen: Jim is wondering if it's time to rethink this whole process. He recommended becoming familiar with NASA's Grace Project. He is not sure if we have the luxury that the current status will last. What are we really trying to do with looking at water as resource that all of us depend on? How do we handle what's going on with human activity and development in that process? We have a program now that was well designed to do what it does. We have institutional memory. It only works for one particular aspect of water in the basin. It would be nice to make suggestions to the program, but maybe it's time to look at it from a larger frame.

Harmony Burright, OWRD: Harmony is primarily here to learn. She will help the group come up with questions to ask the department then return information to this group to move forward. Harmony serves in a support role to the technical and policy experts.

Karen Lewotsky, OEC: Karen works on state level water issues. As the rural partnerships piece is moving forward, regional issues are becoming increasingly important. Karen has come on board to contribute information and resources from her work and also learn from the experience at the table. She noted that the way people are approaching issues here can be applied in other basins.

Garrett Chrostek, Avion: Avion is a long-time user of the program and generator of mitigation credits. He would like to focus on the program and he has the same goals and concerns as Adam Sussman.

Tom Shuman, retired civil engineer: Connected to the Confederated Tribes at Warm Springs and is a member of the Central Oregon Fly Fishers. He is well connected with agriculture.

Becky Powell, League of Women Voters Deschutes County: She offered to be of help with studies and advocacy on the local and state level of League of Women Voters.

1:00 Welcome and Introductions

Vernita Ediger, COIC

- Vernita asked everyone to announce themselves in chat and then ran through the expectations of the meeting by covering the agenda.

1:10 Updates on Groundwater Mitigation Subcommittee To-Date

Vernita Ediger, COIC

- Vernita asked for updates on technical assistances requests.
    - Harmony Burright: Three requests
        - Level setting presentations from OWRD's policy and technical people on mitigation program
        - Presentation from Sarah and Dwight on status of 5-year evaluation
        - How and if the groundwater declines are impacted by the groundwater mitigation plan.
- Vernita asked for introductions of newcomers and what they are interested in.

1:20 Presentation on 5-Year Integrated Review and Q&A

Oregon Water Resources Department – Sarah Henderson

- See PowerPoint on www.coic.org/dbwc under "Groundwater Committee" for more details.
- Current status and next steps
    - Read/feedback on report by Aug 25, 2021
    - Commission to deliver report in November (Commission) and Legislature (December)
    - Collaborative feedback and action:
        - discuss proposed priority areas
        - potential actions to address other concerns
        - supporting impacts to streams

- Questions for OWRD
    - Yancy Lind: Should the comment period for the draft DBGMP be extended to allow us to see the groundwater depletion memo first?
        - Dwight French: Unlikely they would delay the report to wait for more comments or data.
    - Yancy Lind: The response to a number of the issues raised in the draft was that OWRD did not have the resources to address them. The legislature recently approved a significant budget increase to OWRD. How will this affect OWRDs ability to address the areas of concern in the future?
        - Dwight French: OWRD will use the new resources to grow organization. OWRD will likely hire a new complex coordinator for the Deschutes Basin. The organization is project to grow from 165 to 200 FTE in 3-4 months.
    - Becky Powell: What is an exempt well? There are thousands in the Deschutes Basin.
        - Dwight French: Small de minimis uses without a need for permits. Can drill well for domestic use 15k gallons a day, w/o a permit, livestock water, emergency firefighting, small commercial uses, etc.
    - Becky Powell: Was the City of Bend injecting waste water into the ground to get more groundwater credits but they aren't testing for pesticides, microplastics, and other uses. Where does that injected groundwater do? What is the use of this practice?

- Dwight French: Those areas are outside the Department's expertise. Consider direction those questions to DEQ (water quality) or the City of Bend themselves.

- Kimberly Priestley: concern is mitigation is required to occur in the area where the actual water removal is. If a well has a localized impact, 100% of mitigation should occur in the localized area. If you have an area where 60% is in the general zone and 40% is in Metolius, will you require mitigation in the Metolius? Or just in the General Zone.
  - Dwight French: Outside of the scope of discussion for the meeting.
- Adam Sussman: When might the cap be adjusted, and the timeline on evaluation of springs.
  - Dwight French: The Department is not going to take unilateral action to attempt to adjust the cap on its own. It will take a village of consensus or something close to that. Adjusting the cap for the Rules is going to be a heavy lift unless, ODFW, DEQ, and WRD at a minimum are on the same page. And those agencies are not excited about adjusting the cap until they can figure out what the impact of the program is on springs and figure out a way to protect those springs if there has been a negative impact as a result of the mitigation program.
  - Dwight French: Not sure what the timing is. There wasn't a proposal to get funding for a study during the last session. Have to pursue some kind of funding in the future. 2023 at a minimum, maybe in a short session. To speed it faster than 2023, it would take help from people like this group and the Basin.

2:30 Discussion: What does this mean for the Groundwater Mitigation Subcommittee's Next Steps?
Vernita Ediger, COIC

- Unified response to the report?
  - Kimberly Priestly: There are significant differences about where people are thinking on some of these major issues. Kimberly is having a difficult time thinking about where we might submit a joint comment. Once people submit comments individually, we might look at where we work together to support the Department.
  - Yancy Lind: There are areas of commonality: Let's get the mitigation position funding. Let's get comments as a group and get these.
  - Kate Fitzpatrick: We are interest in working with the Department to work on longstanding issues—advocating that some of the time of that Basin position could work on this issue to help us move forward.
  - Jim Powell: Is the Groundwater Mitigation Plan where we want to stop? Harmony is delving in to the status of groundwater and whether we are depleting that part of our water resource availability and that's critical from the standpoint of the DB working group and this subcommittee. Scenic waterways is important, but OWRD does not and can not concern itself under current statues with completion of groundwater and that's where the current impact is.
    - Harmony Burright: The rules are important and move towards the goal, the departments has other rules and statues that put limits on water use, the mitigation program is just one of those tools.

- Nancy Gilbert: We all have opinions, but as a collaborative it is important that we have a unified voice. As a collaborative, we need to show that we are collaborating. We need to find common ground. Is the subcommittee narrowing their focus too much by focusing just on the mitigation program?
- Vernita Ediger: Meeting to identify the general comment from the committee. Use the discussion to better understand goals and vision. Proposes scheduling a new meeting in the near-term to prepare a comment letter.
- Kate Fitzpatrick: If OWRD has capacity for the two main issues, do they have capacity for other issues? Would there be a benefit of the collaboration to present a unified voice on the issues.
    - Dwight French: All comments, questions, and requests are appreciated. High-level, "watered down" comments about what we are interested in (comments, questions, concerns). We expect that many of the groups represented here will make their own comments regardless. He does think that when a complex coordinator is brought on board this group should reach out to that new person and set-up that meeting as soon as possible.
- Becky Powell: a good idea to make a broad general comment, to emphasize what the group holds in common. Can be vague, but is still helpful.
- Johnathan La Marche: To implement changes requires more resources than a staff member. To make the plans workable, takes a significant amount of resources. We need to take a look at available resources and how they can be used for the Deschutes basin mitigation program. Needs more than one person to implement modifications and changes.
    - Harmony Burright: The influx of resources isn't specific to Basin issues. As well advocate, think about the broader collaborative as well as this work. If there are clear collective priorities, that will be very helpful to know.
    - Jim Powell: What does the OWRD need from the subcommittee? Specifically in the Deschutes basin, how can we help you?
        - Harmony Burright: Each division has different priorities. Mitigation program is a current legal path for meeting water needs. Consider focusing at a different scale.
        - Dwight French: OWRD needs leadership on the Deschutes Basin. That's why they are creating a new position within the department.
- Becky Powell: League of Women Voters/ Deschutes County will be preparing a program on Water availability and water use in Deschutes Co. There is a lot of work to do outlining quantity of groundwater, use, especially by exempt wells, the mitigation program and its many unknown outcomes. The Basin hydrology is not understood by many people who are using or planning to use groundwater in this area. Would appreciate any help from this group.
- Yancy Lind: Way in which the current mitigation program is authorized: Tight bumpers on what can and cannot be done. There is a whole set of issues around what the audience have expressed we would like an impact on. The direct comment for this report is about the program as currently set-up. Is there an opportunity to talk about other things—beyond this program—that we'd like to see done.

2:50 Summary and Timeline

Vernita Ediger, COIC

- Next discussion for lining up a comment letter.
  - Adam: Nominates Kate to draft a letter. Holding a whole meeting to write a letters seems unnecessary.
  - Kimberly: High level letter is worth it. Specific issues will not be agreeable.
  - Becky: once letter is drafted probably need a meeting to decide whether to add or delete topics. Consensus remarks are not defined. More like "we support decision making based on scientific findings and etc."
  - Nancy: Supports the letter, would be a useful use of the groups energy. Shouldn't accept defeat before even trying.
  - Kate: Kate willing to accept responsibilities of drafting the letter. Vernita can handle setting up a follow-up meeting.
  - Harmony: Operating in areas of unknown. Focus at a different scale of examining problems. Rather than fix the basin program as a whole
  - Kate: We should track the groundwater deletion in the letter, even though the program doesn't focus on that at all. The group is more interested on basin groundwater as a whole.
  - Harmony: The municipalities feel there hasn't been equal focus on other pathways than just groundwater mitigation. Is there something else other than just mitigation that would be a good focus for the Department? (Conservation, transferring water rights, municipal allocations conserving water, etc).
- Vernita covers next steps, which are seen above in "Outcomes" section. Huge thank you to the Oregon Water Resource Department. Thanks for Kate taking lead on comment letter.

3:00 Adjourn