Deschutes Basin Water Collaborative

Working Group Meeting Notes

May 31, 2024 | 10:30-12:30 PM | Hybrid

In-person: Bend Municipal Court Room inside of the City of Bend Police Department (555 NE 15th Street, Bend, OR 97701)

Attendees: Jim Powell, Resident; Becky Powell, League of Women Voters of Deschutes County; Craig Horrell, Jessi Talbot, COID; Jeremy Austin, Fiona Noonan, Central Oregon Land Watch; Kris Knight, Upper Deschutes Watershed Council; Nancy Gilbert, Sierra Club – Juniper Group; Mike Britton, NUID; Owen McMurtrey, COCO; Kimberley Priestley, WaterWatch of Oregon; Tim Deboodt, Crook County; Gary Young, Blue Mountain Ranch; Mike Buettner, City of Bend; Tod Heisler, Central Oregon LandWatch; Zavi Borja, Regional Solutions; Ellen Hammond, Jefferson County Soil & Water Conservation District; David Weidinger, Bureau of Reclamation; Marisa Hossick, Deschutes River Conservancy;

Tri-Chairs: Bobby Brunoe, Confederated Tribes of Warm Springs

Staff: Lauren Street, Jenn Greco, COIC; Lisa Seales, Kate Fitzpatrick, Jim Bond, DRC; Alex Ehrens, Andrew Purkey, AMP Insights; Emelie McKain, OWRD

Draft Notes

10:30-10:40 **1. Welcome & Introductions** *Lauren Street, COIC*

Lauren Street opened the meeting up. Members in person and online introduced themselves.

10:40-10:45 **2. Public Comment**

There were no public comments.

10:45-10:50 **3. March Meeting Recap & Agenda Overview** *Lauren Street, COIC*

- Recap and Overview ***Attachment A_March Meeting Notes***

Lauren, COIC went over an overview of the agenda for the meeting. The March meeting was recapped. Lauren stated that in the last Working Group meeting there was discussion around on how comments and changes are captured and that both agreed upon and items that are disagreed on are both captures. Staff also did a deeper dive on Chapter 3 review and that was done by Alex. He covered substantive comments and any discussion around those as well as any methodology and methodology changes. Detailed notes are in the attached notes.

10:50-11:00 **4. DBWC Plan Build Process Update** *Lisa Seals, DRC*

Lisa started by stating that at the beginning of every Working Group meeting that staff would let the group know where we are in the Plan Build Process. Slides were shared that outlined the process. Lisa discussed that during the last Working Group meeting we went

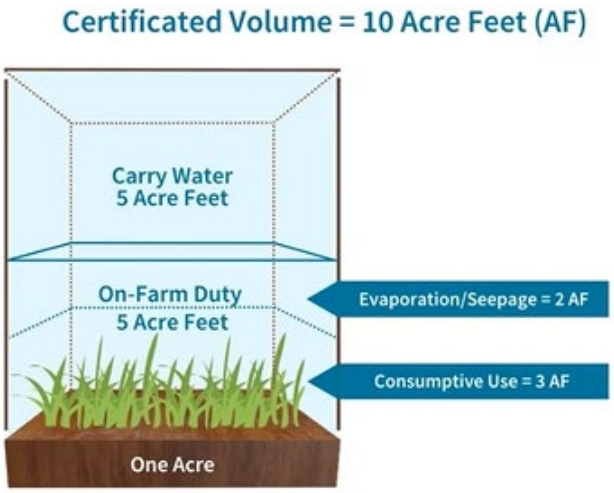
over Chapter 3, however in the process Staff is in the process of focusing on Chapter 4. The Planning Team will be reviewing Chapter 4 next week. Staff will be taking this opportunity to do some education about the anatomy of a water right. A major change from the last meeting was that Staff will not be asking folks to vote on individual chapters. Chapter 3 has been updated and can be found on the Google Drive. It contains all the comments and changes that were discussed and sent to Staff. Staff will not be sending this Chapter out again, but it can be accessed remotely, and the Working Group will vote on this Chapter along will all other Chapters at the end of the Plan Build process. The Working Group can expect to be seeing Chapter 4 at the next Working Group meeting. During this meeting the Working Group will be trying some things that were discussed in Chapter 3 regarding demands to Chapter 4 and developing solutions around water rights. There have been no changes to the Plan Build Process from the last Working Group meeting.

Kimberley Priestley, WaterWatch of Oregon – It sounds like Staff will be coming back to the group with Chapter 4, which is the Develop Integrated solutions, and I think that's where a lot of the meat of this Plan will be. I wanted to confirm that there will be room for small group discussions if needed.

Lisa Seales, Deschutes River Conservancy – I agree that Chapter 4 and Chapter 5 is definitely the meat of the Plan and I'm sure that we will have to have several ad hoc meetings and discussions about both Chapters. Since we have time, I can give a little bit of a preview regarding Chapter 4. In Chapter 5, I know some folks have seen sort of sections of Chapter 4. The Planning Team in particular has seen sections of Chapter 4 due to discussions about the level of detail that we wanted to see in the Plan. The Staff and Planning Team reworked Chapter 4 and at this point, essentially what Chapter 4 is going to bring forth is the "art of the possible" so that Chapter 4 is going to describe all the various solutions and ways in which we can generate and move water in the Basin. Chapter 5 will strictly be implementation strategy, so that somewhat simplified Chapter 4. Hopefully we have created a good springboard for us all to discuss solutions more generally speaking.

11:00-11:25 **5. Anatomy of a Water Right** *OWRD Staff*

Lisa, DRC shared the Anatomy of a Water Right slide show presentation. Earlier in May there was an ad hoc committee meeting, and the last Working Group meeting was discussed. There will be more of these ad hoc committee meetings as the Working Group gets more into the weeds of the solutions and the implementation plan. There was an ad hoc committee meeting that specifically talked about carry water and the Duffy Decree and water rights. This discussion was really in the weeds and was at almost a graduate level discussion. The Deschutes Basin, which is different from other basins in the State, there are different ways in which we are moving water around and how that impacts different parts of the water right. The ad hoc committee decided that this would be a really good agenda item for the Working Group to talk about. It will help when the Working Group gets to Chapter 4 and the discussion around the "art of the possible".



Emelie with OWRD did most of the presentation on Anatomy of a Water Right. Please see Anatomy of a Water Right slides on the DBWC website. Emelie described the Certificated Volume and the carry water within the Deschutes Basin with the evaporation and consumptive use for one acre. There is a 50% Carry Water add on. Carry water is different from on farm duty water. Duty water is the amount of water that is allocated for actual use on a farm. Carry water is what's needed to help get that duty water to the farm itself, acknowledging that the underlying geology in the Basin is very porous. Duffy is the name of the judge who made these determinations back in the early 1900s. Carry water, transmission loss water, Duffy water, and operational seepage is all one in the same. Sometimes getting 5 acre feet to a farm takes 5 acre feet to get it there in addition.

Emelie with OWRD covered transfers of water rights and in stream leases. Leases are temporary transactions to put water in stream. Different scenarios were listed in the slide show presentation. The presentation was very high level.

The presentation covered piping projects and the Allocation of Conserved Water Program. When we pipe, we conserve all of the carry water. It is taken off of the certificate through the Allocation of Conserved Water Program and transferred in stream. This is specific to the Deschutes. They are then protected in stream as an in-stream water right. When this occurs, the duty portion is not changed so that the crop grower will still have the same acre foot duty. It would get delivered to them under pressure now and it remains on farm, unchanged. When thinking about different pathways, we don't have to use the Allocation of Conserved Water Program for piping projects and in recent years through the publication of the Habitat Conservation Plan, the sideboards on that program don't quite meet the need of the Upper Deschutes Basin. With the carry water portion of the water right, the transaction piece would be that the carry water is taken off the certificate. This means that there would be a partial cancellation or reduction in the diversion. If it is not through the Allocation of Conserved Water Program, it is not protected.

On-Farm efficiency projects – non ACW. This is focused on the duty portion of the water right. The example slide is focused on what happens on farm. If a landowner upgrades from flood irrigation to sprinkler, they are going to conserve acre feet of what they used to lose in seepage from flood irrigating. The owner will now be able to utilize those acre feet for additional consumptive use, meaning no action would occur on the water right itself and no change to carry water because that's not applicable. The on farm duty, they are just conserving more water so that they can use it on farm according to their duty on their water right.

Staff asked if there were any Working Group questions?

Kimberley Priestley, WaterWatch of Oregon – In this presentation and in other presentations the State has said that they don't protect, they don't transfer the carry water in stream. I'm grappling with how you can do that without injuring the downstream water right? The downstream in stream water right in the Lower Deschutes for instance, right now the carry water is being diverted from the river, it's going down the pipe, seeping into the ground, it comes out downstream. There's an in-stream water right that is benefiting from that water. If in the transaction, to transfer part of a district's water right in stream, you don't also include the transmission loss. It seems to me that you are injuring the downstream water right.

Emelie McKain, OWRD – I certainly hear that perspective, and I'm happy to talk more in detail about this and bring more experts in from the Water Resources Department. I think the current interpretation in terms of implementing this transfer scenario is that, because carry water is not pertinent to lands, if we were to transfer that in stream, it would be enlargement of the right itself. That's the high-level interpretation, not to say that that's the ultimate interpretation. We are always happy to have conversations about how we implement these policies.

Owen McMurtrey, COCO – I was going to agree with Kimberly in part just about my confusion. To me the farmwork starting at the water right 101 level, the framework for evaluating a transfer is injury and enlargement, I hear what you're saying Emelie, that it's the view that it's enlargement to transfer the conveyance portion of a water right in stream. I think that's only true over certain reaches, right? I don't think it's like you're not impacting. In the Deschutes, assuming just a simple heuristic in which all the water from canal losses shows up at the same point below north canal dam, I'm not sure why that would be enlargement. I understand in terms of injury, yeah, you can't protect that loss water below Opal Springs, where it would typically show up. However, by that point it's physically gotten to Opal Springs. We should be looking at injury and enlargement with respect to carry water, and it's typically the water master's determination as to where water is showing up in the system. I'm still confused by some of this framework. I am pleased to see the acknowledgement that the consumptive use in the dispute space.

Kimberley Priestley, WaterWatch of Oregon – I think I heard Owen say that you didn't see that there would be injury, but in my mind, if water that is being diverted now and then ultimately makes it to the Lower Deschutes now remains in the Deschutes and is picked up

by the next in line, which would be Irrigation Districts probably. Other wise they would then put that to consumptive use. So that chunk of water that did make it down to the Lower Deschutes in stream water right, now would have less water going to the downstream in stream water right, because it would be consumptive. In my mind they injur it by not transferring carry water in stream. It's an important question because it affects not only the stream water rate protection in the Basin, but also as we way in one of the last slides, the amount of water that's available for mitigation.

Owen McMurtrey, COCO – I would have to think through that. In practical terms, there's going to be some reaches which there are return flows like Arnold Canal and there's leaky flumes. I think for different reaches of the Middle Deschutes there would be differing amounts of water that you would expect to return and therefore be customarily available. It's a complicated question.

Todd Heisler, Central Oregon LandWatch - Allow me to put one more issue on the agenda for further discussion. In the chart where you are discussing the allocation of conserved water and in your hypothetical which is nicely laid out, you have this big block of carry water getting ultimately protected in stream. The $64 million question is, how is that volume determined? Who determined it? How is it transferred? So the question here earlier was our transmission losses in Duffy Water and whatever other term or are they all the same? And you said yes and sort of conceptually they are the same, but I don't think that the analysis that goes into that saved water portion and in your typical conserved water project does a good enough job to really verify that the carry water is fully accounted for. I could be wrong but the volumes there are enormous. The difference is, if one were to run the math and sort of look at what's happening today and then look at what might be happening with a different frame on how one would calculate carry water, you get very different numbers that could really affect our solutions in this and I said I want to put that out on the table now so that we get a closer look at that part of it.

Jessi Talbot, COID – I just wanted to loop back to Kimberly's question and make a clarifying comment. When you think about a piping project that's completed and you have your carry water, it's considered live flow the next diverter could pick up because it's new water created, so before the pipe was constructed and the transfer was filed, the allocation of conserved water was all diverted with the on farm duty and the carry water together. It was already diverted for irrigation purposes and not in the river. Then we go through the allocation of conserved water, that's where it's pieced apart, and it's left in the river for the next diverter. Relating back to injury between that stretch, it would be new water flowing downstream from the original diversion. I just wanted to make that comment so it's clear that before it would have been diverted to the original point of diversion for that irrigation district after the piping project. If anything, it increases flows to the next diverter. If it's picked up by junior users.

Kimberley Priestley, WaterWatch of Oregon – Just to be clear, I think I wasn't clear when I was making my statement on the conserved water piece. That makes sense because you're taking that water and you know, if you are going through the Conserved Water Act, it goes in stream. If not then it goes to the next user that piece makes sense. It was the transfer like

the straight transfer process which is different and so that's where it seems like there's injury.

Gary Young, Blue Mountain Ranch – I'm new to this group, but all this time I don't hear any discussion of aquifer recharge. Does it play any role in our priorities for water. I understand efficiencies and conserving water and all that, but I also know that there are depletions in our water table and seems to me like an underlying problem that prevails all of these concerns. Yet I don't see any discussion, or any priorities put on aquifer recharge and how to do it and where it would happen.

Jim Powell, Resident – Right now the water is managed, part of it is live flow, part of it is reservoir release. In the old days the aquifer recharged from the Upper Deschutes. The reservoirs, the lakes, all those things before there were ever any canals. Canals move some of that downstream, but the water doesn't have to be released. If you conserve, if you take the Duffy water, for example, or conserve water and you don't need it, it stays in the reservoir, it stays where it's going to replenish the entire aquifer, not just stretches. It will flow through the Basin like it used to, so part of this is the assumption that when you take the Duffy water off, you're going to put it in stream and still release it in addition that whatever irrigation needs are there. You don't have to do that. This may be something that you want to consider in water management overall so you would have less scouring of the Upper Deschutes, and you would have reservoir resources to release during the winter for your stream flows for your HCP.

Kate Fitzpatrick, Deschutes River Conservancy – I think that the next agenda item will cover this. Not only because the river needs it, but also because there's a regulatory driver and agreement in place. A major goal for this Conserve Water Program is to allow for winter releases.

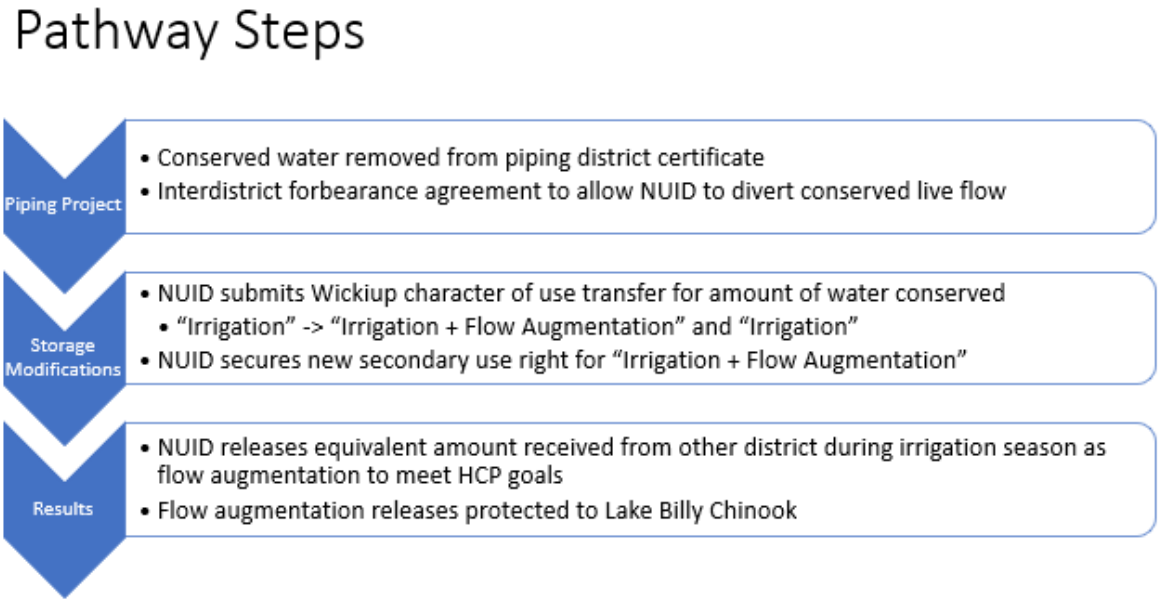
Let me just try to answer Gary's question. I would say that for a long time we thought the aquifer was ever abundant and we were really focused on dewatered streams. So we have been focusing on restoring flows to those streams to get minimum flows for fish and wildlife at least. We are not there yet, and now we are having groundwater declines and we're needing to steward groundwater. Some of those concepts restoring wet meadows and floodplains and natural storage. Potentially aquifer recharge in ways we haven't thought about that came up in a meeting yesterday that was pretty interesting to steward the groundwater and the springs alongside the surface water. I think this will become more of the conversation.

11:25-11:55 **6. State Recommended Water Conservation & Protection Pathway** *OWRD Staff*

Emelie with OWRD shared the Upper Deschutes water Conservation & Protection Pathway. Please see the DBWC website for slides. Emelie stated that this presentation would be at the 10,000 foot level. This started with the pathway steps, piping project, storage modifications, and results. There has been the acknowledgement that the Allocation of Conserved Water Program doesn't help up meet the current needs, as Kate mentioned, the

biggest priority for surface water conservation and protection in stream is the Upper Deschutes in the wintertime. With irrigation water rights the Allocation of Conserve Water Program doesn't legally allow us to change the season of use of that conserved water so we can't go from a summer carry water use to a winter in stream use. You can change use types, but you can't change the season. This is an eliminating factor at this pint for us to continue using the Allocation of Conserved Water Program that now kicks us into that non-ACW scenario where it's like, well, what happens with that carry water? Is it just taken off the certificate and considered live flow?

Emelie walked the Working Group through the current pathway.



Emelie went over the benefits of the pathway:

- It meets the needs of the Habitat Conservation Plan while also benefiting NUID supply certainty
- Mechanism to protect water in stream that meets timing needs of the Habitat Conservation Plan
- Cancels a portion of piping district's certificate
- Transparency in accounting, monitoring, and measurement
- Consistency across State grant programs

Emelie noted challenges with the pathway:

- Permanency of transaction
    - Getting water to NUID relies on interdistrict forbearance agreements
        - No existing mechanisms to transfer carry water to NUID
- Auurance of benefit
    - Flow augmentation releases relies on NUID actually getting the water conserved
        - Discussions occurring on opportunities to condition storage transfer/new secondary right
- Transaction costs of storage transactions

Kimberley Priestley, WaterWatch of Oregon – I'm always pointing at the nuances, just when Emelie was describing it, it was a very broad statement and so in this context in this group, we understand what it's applying to. I was just noting that if this conversation went outside the Collaborative, any statements about limitations on the Conserved Water Act. I would say to please limit it to this situation only because there are interests out there outside of the Deschutes that want to change the Conserved Water Act in ways that concern us. It was just a messaging thing. We do also have concerns about the secondary water rate being for both irrigation and flow of augmentation because in our minds that takes away certainty for the in-stream piece and I very much understand the situation we're talking about. If a new ID doesn't get the full 5,000 and you know, we would. We are interested in addressing that. I think just having a blanket, a water right, that simply irrigation and flow augmentation without sideboards or conditions it really pouts the in stream piece at risk.

Emelie McKain, OWRD – Both are really great points. I don't mean to bash the ACW Program. I think it's a fantastic program and we're taking those pieces whenever possible to apply to this pathway. There's, I think just the acknowledgement that in this specific situation with the regulatory drivers, we have different needs and you know to your second point around assurances with that new secondary right, we are you know trying to figure out what types of conditions can be placed on the new secondary right to ensure that the intent of this pathway is implemented, you know in perpetuity. This is a permanent transaction, so we want to be able to document the intent and make sure that as water masters change over or even as staff changes over, that it's still implemented as intended.

Kimberley Priestley, WaterWatch of Oregon – I appreciate that. I would just ask the department to think about whether there are other ways of doing it as well. I know there's been conversations in a different group about maybe a statutory fix, but because I think conditioning addresses part of it. However, the reality is that NUID would be the water right holder and so there would be nothing to stop them from in 30 years asking for a transfer. Maybe that's something that could be worked in as part of the conditions as well. We have seen certificates that say this is not transferable to XYZ.

Emelie McKain, OWRD – I'd say for the purpose of this conversation, there are a lot of nuances to this. How we word the conditions of the new secondary rights, and the language of the forbearance agreement and what not. Those pieces are continued to be the nuts and bolts and are being documented and worked out. The overall pathway, there is good agreement on the intent and direction that we are heading in and that's why we wanted to share this direction with the group today as it of course could inform and be informed by some of the priorities within the plan in terms of how we would refine this or make adjustments to it.

Todd Heisler, Central Oregon LandWatch – Let me just point out that if we are really trying to mirror the Allocation of Conserved Water Program, which the normal process water goes into the stream protected, it's a water right in stream, its managed by the State. When there are shortages, that water right gets cut back, it's managed by the State. I don't understand why that same thing doesn't happen here. I get that the reservoir needs to have two uses and that transfer needs to be for two things, but the purposed of the secondary

water right is an in-stream purpose and it can be managed by the State the same way it does with Allocation of Conserved Water today. When you have a drought and North Unit is not fully served by the summer side, then the State comes in and reduces the value of that secondary water right in the Upper Deschutes. I don't understand why it's so complicated. It's kind of exactly what we are doing in the summer, and it would avoid all these sideboards and conditions that we would have to set up. Just let the State have the water right and let them to do the job that they already do.

Owen McMurtrey, COCO – I just want to raise the same question I did yesterday just about protect seeing the flows augmentation releases all the way to Lake Billy Chinook. I am just fearful that we're going to be in a position in 12 years where those winter releases from Wickiup are high. That we have a lot more water in the Middle Deschutes that is really required to meet whatever in stream values there are there. We are not in a position in this Basin to let water go. I can see some situations where we might regret protecting flow releases to Lake Billy Chinook. This Plan is to make the [audio bad] if there's a way to not protect that water all the way to Lake Billy Chinook and they are still meeting their obligations, I think we should just explore if we can and how we could make that happen. In the Middle Deschutes there's a 660 CFS in stream water right and I would hate for this to end up being an additive to that in some way because its from a different source.

Kate Fitzpatrick, Deschutes River Conservancy – Can you (Emelie) speak quickly to whether or not the State could hold the secondary water right?

Emelie McKain, OWRD – We have an ongoing case on that matter, so I'm actually not going to be able to comments on that.

Jessi Talbot, COID – I think it would be really important to not forget about the HCP and really elaborate on those benchmarks within the Plan. Those flow rates of where we are going to be and into the future because that really ties into our daily conversation now and sometimes it's hard to really picture what the Deschutes Basin will look like when we are 15 years into the HCP. This is just a more generalized comment of the importance of making sure the HCP is referred to in multiple places within the Plan.

11:55-12:25 **7. Commission Presentation Review** *DRC Staff*

Attachment B_Memo & Response

Kate Fitzpatrick, Deschutes River Conservancy – We have about 15 minutes so let's skip onto the Commission Presentation. Emelie McKain with OWRD will be joining us shortly, so I can introduce the context of the Oregon Water Resources Commission which is the governing body for the Oregon Water Resources Department. They will be coming to Bend June 13th and 14th. The Oregon Water Resources Commission roams around the state for their quarterly meetings and as a part of that meeting, they have invited the Deschutes Basin Water Collaborative to present on the work that we are doing. We will have 45 minutes to present. This is a really timely opportunity for us. There's a lot of conversations going on at the State level right now around how water policy and management needs to modernize and keep up with the need. This is also a great opportunity for us to present on the work that we are doing and continue to gather support around it. Staff has drafted an outline and

we are looking for input from this group. We, of course, only want to convey things that the group is comfortable with. Our main goals are to remind them who we are and continue to galvanize support for our efforts and let them know what we need form them in the future. We do not have names attached to this presentation yet, so that's something that we can discuss. First, lets look at the structure we thought we would do. An overview of course with a slide on the history. This is straight out of the brochure from history of working together and how membership works. This is basic information on who we are and what our goals are. There will be graphics that outline the major issues in the Basin; what are the shortages; who feels the shortages; interests; and major water supply solutions. We will also talk about some of the stumbling blocks or roadblocks that the group has come across. We will cover policies that aren't conductive to what we are trying to do. This can be a little sticky, but for example, we have the Conserve water Act that doesn't necessarily support the movement of water between districts. It will be important to get a voice from agriculture, in-stream, and municipal in the room. We will talk about why they see benefit in the Plan and also some of the challenges form their prospective/view. It might be important to convey the level of complexity that we are working with. A lot of other Place Based Plans are at a much higher level that we are at right now. I think that will give the Commission a good understanding of why it takes this much time and what kind of support we need. We can explicitly talk about how the State can support our effort. Not every Basin has a Senior Water Advisor like we do with Emelie. It has been useful for us to liaise with the State at the Salem level. Obviously, we need funding both to continue the planning effort as well as for the implementation. I think it's useful to have asked the State for clarity around approval by the Commission, as well as how does the state continue to interact with us and interact with the Plan to work through some of the roadblocks that we face? If the group is interested, it might be interesting to tie some of the broader State water conversations. Right out of the gate, the first two seem to really apply to us. The number one was high quality water data. We are lucky in the Deschutes Basin, we are pretty data rich, but we always need more data and then priority area 2 is the need for robust coordinated water planning and management systems premised on integrated and place-based principles. That's what this group is working on, and we can show them that these recommendations support the work that we are doing.

Kimberley Priestley, WaterWatch of Oregon – I know I've raised this pint in earlier discussions related to the planning process, and I think it does overlay here. It makes me a little nervous to outline roadblocks because what one interest might see as the roadblock, another interest might see as an essential protection or tool. My ask would be that the group, especially on that point on the solutions and roadblocks, that we see what is going to be presented because in a way we are getting a little ahead. Putting the cart before the horse on some of these. I want to make sur that we have an opportunity to weigh in. I would also ask that in the presentation the point is made that we haven't come to agreement on all these things. When you are talking about solutions, I agree, high level solutions are fine that are within current law, but starting to go down the track of regulatory or policy roadblocks would make me nervous because we haven't made agreements there. Different people have different interpretations of the word implementation. This came up as a topic within the Regional Water Management Work Group. WaterWatch was part of that. Some people think there should be State attention on

coordinating implementation. Others think it should go further than that, but again, this all ties into what the final document is because if for instance, looking into new storage, which I think some other place-based plans have and investigating, that's different. When it comes to the implementation stage, that is not saying the State should just give money to storage projects [audio not clear]. So again, I think that we just need to be aware of the nuances and then I do have comments on the Governor's work, but maybe I should wait for that agenda item.

Kate Fitzpatrick, Deschutes River Conservancy – Let me address the third point which is what I was thinking when I wrote the implementation, was continued funding for projects on the ground. Not touching on whether the State is driving it or we are driving it. Under the current policy framework, needing money to do the projects. Does that make it clear?

Kimberley Priestley, WaterWatch of Oregon – Yeah, and again, it's just the piping projects. There's general support when it's the one-to-one switch, but again without having the Plan, we don't necessarily know what those projects might be. It's just nuances and delivery.

Kate Fitzpatrick, Deschutes River Conservancy – We can frame that as funding for implementation when we reach agreement around the Plan.

Ellen Hammond, Jefferson County Soil & Water Conservation District – Hey, my question was simply, you mentioned we need more data, but I think that common people tend to say that and it's always good to be a lot more specific on what we actually need. I just wanted to mention that.

Kate Fitzpatrick, Deschutes River Conservancy – Yeah, and again, I don't know that this group has identified data needs yet, even though we probably all have some in our heads.

Any other comments before we turn to Kimberly's other questions?

Kimberley Priestley, WaterWatch of Oregon – Yeah, actually, on Ellen's pint, one thing that might be useful is when you are talking about data in the Deschutes, I do think it would be helpful for the Commission to hear how much work has gone into building data. We are where we are in the Deschutes Basin because of the money and resources that have gone into this Basin to develop data so that good decisions can be made and planning can be done effectively. I say that because I think you said this, but I think the Deschutes is in a position that most other Basins are not and so we are lucky from that perspective and it elevates the broad push across spectrums for the need of data. I just wanted to add that.

Kate Fitzpatrick, Deschutes River Conservancy – Yeah, thank you, Kimberly. That's kind of hat I was trying to do with that. I think we can add onto that and say there may be additional needs in the future that we can convey, but that's not the major point of our presentation today but it's more to the point that part of the reason we are where we are is because we have water data which really helps support the State's efforts to fund that across the state.

Jim Powell, Citizen – I was curious about your section about how the State can support us, and particularly the third item. Are you planning to ask about the potential for pilot projects that would have some safeguard around them? Maybe if the group comes up with some innovative ideas that are contrary to what exists in current statute it wouldn't require a major legislative action or some massive change in the way that water is looked at in the State as a whole. It might be something that could be tried within a basin for a limited amount of time to see whether or not it would work and how it would work.

Kate Fitzpatrick, Deschutes River Conservancy – As a group, how do we feel about that? Any concerns about that Kimberly?

Kimberley Priestley, WaterWatch of Oregon – Again, I think that this goes back to my earlier point where I think we are getting ahead of ourselves. Putting the cart before the horse in this presentation. I think that's a huge conversation and implicates a sort of State management across Oregon. I'm not saying that's not something we talk about, but we as a group have not decided that that is something we agree on. I definitely don't want to squash people's voices. Maybe the way to approach every agenda item also brings with it an opportunity for public comment. My suggestion would be that the messaging from the DRC or form the Collaborative spokespeople is within the sideboards of the DBWC. Then if people have comments or suggestions, they want to make that haven't been discussed or agreed upon within the Collaborative, they could offer their perspective after the fact. I'm not saying I'm in opposition to any of these ideas, I'm just saying that is a particular topic is something that has come up time and time again and it's pretty controversial and as a group we have not made a decision one way or another.

Kate Fitzpatrick, Deschutes River Conservancy – What about, and it's okay of the answer is no, Kimberly. What about the statement that's very provisional. If the group were to come up with a concept that merited a pilot program, is that towing the line too much in your opinion?

Kimberley Priestley, WaterWatch of Oregon – It depends on what we are talking about. If we are talking bout something that's within existing law, that's very different than something outside of current statute. I just think we need to be very careful. The whole concept of, and I know we aren't specifically a place designated place-based fund, but we are trying to follow that. There are very divergent opinions on place-based planning and in some places, they are being used by some to try and undermine State management of water. That's not something WaterWatch would support. Some in the dispute space might support that, but we have been on the record that we wouldn't, you know? We haven't even jumped into Chapter 4; we haven't had the hard decisions yet. You could tee it up as we may have conversations about pilot projects, and I think there's a way to do that. Any presentation that is put into the record, people can pick it up and then carry it to Salem and can be presented however they might wat to outside of the Collaborative. I think the Collaborative itself just needs to be very careful. Careful might not be the right word. I'm struggling for the right word. We need to adhere to the Charter and communicate within the bounds of the Charter and what we have and haven't agreed to.

Kate Fitzpatrick, Deschutes River Conservancy – This was not an unanticipated conversation, so we just keep it a little broader and we need clarity on how the state will interact with the place-based plan and recommendations of the group. We need to know from the State, how are you going to support us? How are we going to interact with you? What's the framework look like? If you have any thoughts on what would be useful, Emelie? And it sounds like Jim, one opportunity would be to also submit comment outside of this agenda.

Jim Powell, Citizen – That's true and I would just like to remind the group that you would not have instream beneficial use or a conservation act if it hadn't been for a group of people that stepped outside of the box.

Kimberley Priestley, WaterWatch of Oregon – Well, yeah, just to clarify that point. I know it's come up quite a bit. The In-stream Water Rights Act was drafted by WaterWatch of Oregon. It didn't emerge from a collaborative group of diverse stakeholders. There were many, many people that signed on to the bill, but they are all primarily conservation groups. The Deschutes is lucky and that we have people at the table trying to solve difficult problems. There are also the many levels of regulatory levers that have made some of these conversations happen. The groundwater mitigation program is based on the Scenic Waterway Act, both the original act and the amendments that were adopted in 1995 that clarified the groundwater piece. The attention on the Upper Deschutes came about because of the ESA, so there have been regulatory levers that brought people together so we may just have different perspectives.

Kate Fitzpatrick, Deschutes River Conservancy – any other thoughts or comments?

Emelie McKain, OWRD - Thanks, sorry to be late and missed this important conversation. I think you know with the Commission then the Water Resource Commission coming to Bend for their June meeting, they do typically travel around the state and try and get out into different basins. So, you know, they went out in Eastern Oregon a few meetings ago and so are kind of making their rounds, so to speak. They are looking forward to being in the Basin engaging with local partners and getting out on a field tour as well. The meeting will be two days, Thursday the 13th and Friday the 14th of June. Thursday morning is when this conversation about place-based planning efforts and the Collaborative will occur at the Commission ad they move around the State and visit different basins. They have a tradition of inviting the local collaborative groups that are engaged in place-based planning to speak with them. So, this was an invitation, following tradition, of their precedent around the State. I think as Kate was saying earlier, they are really looking for context of what this group is about, what the goals are, how the process is going, and some perspective on how the State can better engage and support this effort. What some of your hopeful outcomes are so that they can have that in their mind in terms of agency priorities and funding and policy decisions. Certainly open to perspectives you all have the floor at the meeting in the past presentations from different place based planning groups, it hasn't been a formal presentation in the sense of these are our definite priorities and we are in agreement about XYZ pathways. It has been more of an exploratory conversation and sharing really where

folks are at right now in time. I don't think there are expectations that we come with. Be real with them about some of the things that we are grappling with as a Collaborative. Some of those challenges and opportunities. The Commission will also hear form some Staff about projects that are occurring in the Basin and progress on those. We will take them out in the field that Thursday afternoon to see some of the topics that I'm sure we will be covering in the morning in real life. So to continue that conversation about Basin opportunities, challenges, planning priorities and so forth. On Friday the of the Commission meeting there will be an agenda topic dedicated to the statewide groundwater allocation rulemaking that is occurring. There will be a public comment period attached to that agenda item so that comments related to the rulemaking effort be concentrated in that agenda item on Friday. They are not part of our place-based planning conversation, but they are focused on that so that we can make it an official part of the record. This is a public meeting. The agenda will go out today. There will be both a virtual option and in person option.

Kate Fitzpatrick, Deschutes River Conservancy – One of the ways to avoid going too much into detail on roadblocks that we haven't fully explored. When we are talking about shortages and solutions, maybe that's where we talk about what the main goals of this Collaborative and agriculture can talk about junior water users. We are really trying to meet the instream flows in the Upper Deschutes as well as the Middle Deschutes and Tumalo Creek, and then the municipalities can talk about the efforts and the need to generate from water mitigation credits and that will give the a solid sense of what we are trying to solve. Then we can talk about some of the big buckets of tools we are using and I think in that it will be obvious what the challenges are. Even if we are trying to move senior water and junior water to the Upper Deschutes winter releases, that's a complex movement of water. That might just be enough to give them a sense of where we are at and the challenges that we are trying to work through.

Kate covered the Governor's memo stating that Staff wanted to send it out to the group because it is a big conversation happening around water. Staff wanted the Collaborative to have access to that and to read the conversation and keep up to speed. Nothing new was generated. They synthesized 13 plus studies that have already happened and summarized the six major themes that came out of the studies.

Kimberley Priestley, WaterWatch of Oregon – They presented yesterday at two hearings, one on the Senate side, one on the House side and I would encourage folks to listen to the one on the House side. I think they had a bit more time to flush things our a bit more. One thing I want to repeat to this group was that one of the authors did make the point that this is just the start of the list. It's not the full list and she spoke about there being many experts in Oregon and we need to leave room for that. One thing that stood out in all of them was the need to restore and protect aquatic ecosystems. Yet that did not make it as a stand-alone pillar. A lot of folks in the conservation community have noticed that. It's a good conversation starter but the conversations are bigger than the letter. That's the point I'm trying to make from out perspective.

Kate Fitzpatrick, Deschutes River Conservancy – We could send around the things that are relevant. I was encouraged by the Governor's office response to it and how they plan to use this as the start of the conversation and continue. Should we mention the memo or is there anything that's concerning to you if we just say we generally thing that it supports the work that we are doing?

Kimberley Priestley, WaterWatch of Oregon – I think there are some contingencies that do have pointed responses to the memo. I agree somethings overlap like the data and the tribal. The need for a less rigid, more efficient water administrative system. I know that's a topic of conversation that many people are interested in but if you look at the 13 records, I think that only pops up three times. It's not something that is a common theme across all the reports. There are some nuances there and the State is moving the conversation forward as improvements to the water right permitting process. WaterWatch would disagree that the message from those reports is the need for a less rigid water right administrative system. There are nuances like that. We have not endorsed this as a Collaborative. We just need to be careful not messaging things in a way that would imply that the Collaborative has agreed on something we haven't agreed on. For example, a lot of the agencies are not on the call today, federal and state.

Jeremy Allison, Central Oregon Land watch – Along those lines, I think Jeff Huntington said it, they talked about the "what" and the "why" not the "how". We are working on trying to find agreement around the "how" with some overlap to the starting places that the memo highlighted, and I think that's a broad statement.

Kate Fitzpatrick, Deschutes River Conservancy – Theres a lot of conversations going on at the State level and some of the things that are coming up that we feel like we support and are supported by this data, integrated planning, tribal centering, the tribe's equity and the need for funding. I think I have a sense of what is safe, and I know that takes a lot of trust. Is there anything else we would like to tell the State in how they can support us? [no one spoke up]

I feel like there should be some coordination among the agriculture and in stream voices since everything's so connected. Like the need to get water to the north unit because we need water in the winter. We should have an email exchange about who the spokes people are going to be ahead of time. Mike, are you anticipating being the municipal voice or Owen?

Mike Buettner, City of Bend – This is Thursday afternoon on the 13th? Lauria will be speaking on our behalf. There's a municipal stop earlier in the afternoon at our water filtration facility where they will hear from the City of Bend and the City of Redmond. I'm happy to coordinate more.

Kate Fitzpatrick, Deschutes River Conservancy – This is during the Commission meeting. It's just a chance to get different voices in the room and the municipal perspective.

Mike Buettner, City of Bend – We are happy to be there and support. Is there anything that you need in advance? We can coordinate on talking points.

Kate Fitzpatrick, Deschutes River Conservancy – Anyone from agriculture want to think about who wants to speak? Mike Britton is on the Planning Team, that's an obvious choice in my mind.

Mike Britton, NUID – I'm happy to do it. I'm sure Craig would be available. One of us would be.

Kate Fitzpatrick, Deschutes River Conservancy – The DRC would be happy to do the in stream. There are also other in stream interests in the group, I don't know if people have a strong opinion.

Kimberley Priestley, WaterWatch of Oregon – Can you spell out who is going to be presenting. It is DRC?

Kate Fitzpatrick, Deschutes River Conservancy – Bobby will help with the welcome and the overview. We would probably ask Commissioner Chang as the Co-Chair if he wanted to participate. I suppose that the DRC would probably do the plan process and the overview of the high-level strategies. Three other voices will be pulled in as well.

Kimberley Priestley, WaterWatch of Oregon – The only reason I'm asking is if the DRC is already having a large role in the presentation, which is fantastic. Then we might want to pull in a different voice for the in stream. That could be Central Oregon LandWatch. That can be decided later.

Kate Fitzpatrick, Deschutes River Conservancy – That could work. Both of you are in the Planning Team so we can touch base after. We can coordinate amongst the three of us through email.

Todd Heisler, Central Oregon LandWatch - Can I jump in really quick? That sounds good we can coordinate that. Before we get down into interests representing themselves. You have it in the 3rd bullet "shortages, solutions, roadblocks". Kimberly was talking about, maybe not the roadblocks, but setting up the larger context of the Basin, how it works, leaky canals, the water rights distribution being lopsided, seniors and juniors. Maybe some of them understand that maybe they don't, but the solutions and everything else is going to ring, they're going to understand it better if we set it up. So when the agriculture voices are addressing the shortages in North Unit, they get it, they'll understand. Really understanding the geography and what's really going on so that long before you allow any of the rest of us to jump in, we need a coherent view. What we found out in all the studies we have done over the last 20 years.

Kate Fitzpatrick, Deschutes River Conservancy – I do think it would be more effective to have a different in stream voice.

Becky Powell, League of Women Voters of Deschutes County – Yeah, thanks. I also think you should present to the Commission how limited this study is in terms of who's represented within the voices, how the basins are not represented in their entirety but are brought in pieces to make certain points. I think it's an important part of where you present this to the public that is not familiar with the Basin. The Plan is very difficult to make sense of to people who are not involved and it'll be limited when you look at the history you will be looking at the Deschutes Water Alliance, not the entire history.

Kate Fitzpatrick, Deschutes River Conservancy – Are there any plans on this?

Mike Buettner, City of Bend- To add onto Todd's comment. I attended both committee meetings yesterday and Owens and Holmes Committee which is basically a water committee. There were legislators on that committee that didn't understand what in stream meant. So, I think beyond just educating people that are on tours, there needs to be real efforts to educate folks in Salem on terminology, how the Basin works, exactly what Todd said. These are people making decisions, but they don't understand the basics of water, not just in our Basin, but in the State. That was my takeaway from that because Representative Bobby asked one of the attorneys to explain, what do you mean by in stream? They had to give a long legal definition, which probably confused him more than anything else. There needs to be just a grassroots level education effort for the people that are making these decisions in Salem.

Kate Fitzpatrick, Deschutes River Conservancy – Good point. I hope the Commission at least know what in stream is. We will assume nothing and then confirm. I'm hearing loud and clear.

Kimberley Priestley, WaterWatch of Oregon – I thought that Becky raised an interesting point about the history, because there have been, for instance, a Scenic Waterway Act and the groundwater Mitigation Work Group that really brought people to the table and that was pre-DRC. I think the DRC emerged partly out of those discussions. I thought that was an interesting point. Maybe something to consider in adding a few more data points to the background if you think it's appropriate.

Kate Fitzpatrick, Deschutes River Conservancy – Yeah, like regulatory drivers urging us towards this direction.

Emelie McKain, OWRD – I just have one procedural note on what to expect in the meeting. Of course, it will be in person and then you'll have me up there at the table too. I'll probably introduce the agenda item and then turn it over to whoever, kate or whomever is presenting on behalf of the Collaborative to start. Any planning related questions, you can also kick to me. I do not plan on being a voice as a part of the presentation or conversation, but happy to help.

Kate Fitzpatrick, Deschutes River Conservancy – It will be nice when we have a Plan so that we have agreement and can say more.

Emelie McKain, OWRD – I think this will be really helpful for them when we do go to them with a Plan for hopeful adoption, right? They better understand the context around the Basin, what we are grappling with.

12:25-12:30 **8. Roundtable Updates & Sharing** *Group*

Lauren asked for any roundtable updates.

- Emelie will share the Commission meeting once that is out.
- The Google Drive is online, it has all the Chapters, all comments, and how Staff has addressed those comments. The link is on the DBWC website.

12:30 **ADJOURN**