

## Basin Study Work Group Steering Committee (BSC) Meeting

October 6, 2015, 10:00 pm - 12:00 pm

Barnes and Sawyer Room, Deschutes Services Building, 1300 NW Wall Street, Bend, OR 97701

### ATTENDANCE

**Brendon Hirschberg**, Arnold Irrigation District

**Mark Reinecke**, Avion Water Company

**Betty Roppe**, Central Oregon Cities Org.

**Dave Dunahay**, Central Oregon Fly Fishers

**Craig Horrell**, Central Oregon Irrigation District

**Adam Sussman**, City of Bend

**Tom Hickman**, City of Bend

**Richard Ladeby**, City of Madras

**Eric Klann**, City of Prineville

**Betty Roppe**, City of Prineville

**Chris Gannon**, Crooked River Watershed Council

**Alan Unger**, Deschutes County

**Tod Heisler**, Deschutes River Conservancy

**Terry Smith**, Lone Pine Irrigation District

**Tom Davis**, Native Reintroduction Network

**Tom Bennett**, Natural Resources Conservation Service

**Mike Britton**, North Unit Irrigation District

**Mike Kasberger**, Ochoco Irrigation District

**Paul Lipscomb**, Oregon Land and Water Alliance

**Kyle Gorman**, Oregon Water Resources Department

**Bob Spateholts**, Portland General Electric

**Marc Thalacker**, Three Sisters Irrigation District

**Mike Tripp**, Trout Unlimited

**Ken Rieck**, Tumalo Irrigation District

**Doug DeFlicht**, Bureau of Reclamation

**Jennifer O'Reilly**, U.S. Fish and Wildlife Service

**Peter Lickwar**, U.S. Fish and Wildlife Service

**Jason Gritzner**, United States Forest Service

**Jeff Wieland**, Upper Deschutes River Coalition

**Ryan Houston**, Upper Deschutes Watershed Council

**Rex Barber**, Water for Life

**Kimberley Priestley**, WaterWatch

**Jon Treasure**, Confederated Tribes of Warm Springs

**Bonne Lamb**, Oregon Department of Environmental Quality

**Margaret Matter**, Oregon Department of Agriculture

**Ellen Hammond**, Oregon Department of Agriculture

### Member Organizations Not Present:

Bend Paddle Trail Alliance

Oregon Department of Environmental Quality

### Member Organizations Participating by Email:

**Suzanne Butterfield**, Swalley Irrigation District

**Bill Duerden**, City of Redmond

**Chris Gannon**, Crooked River Watershed Council

**Bonnie Lamb**, Oregon Department of Environmental Quality

### Also Attending:

**Jer Camarata**, member of the public (incoming Swalley manager)

**Julie Keil**, DRC Board Member(Phone)

**Troy Brandt**, River Design Group

**Pete Gruendike**, River Design Group

**John Amoroso**, Oregon Water Enhancement Board  
**Davis Pilz**, Ecosystems Economics LLC  
**Jeff Perrault**, member of the public

**Jim Powell**, member of the public  
**Bea Armstrong**, Deschutes River Conservancy  
**Shon Rae**, Central Oregon Irrigation District  
**Harmony Burrigh**, Oregon Water Resources Department  
**Jonathan La Marche**, Oregon Water Resources Department  
**Brandon Mahon**, Anderson Perry & Associates  
**Owen McMurtrey**, GSI Water Solutions  
**Phil Chang**, Senator Jeff Merkley  
**Sally Russell**, Bend City Council  
**Dave Walsh**, Bureau of Reclamation

In addition, **Mike Relf**, Bureau of Reclamation Basin Study Project Manager and **Niklas Christensen**, Watershed Professionals Network Technical Director attended. **Mary Orton**, The Mary Orton Company facilitated discussion surrounding the 60 day notices of intent to sue. **Kate Fitzpatrick**, Deschutes River Conservancy, attended as Process Coordinator. **Kelsey Wymore**, Deschutes River Conservancy, attended and took meeting minutes.

### AGENDA

The group used the following agenda as a guide during their meeting:

1. Welcome, Self-Introductions, and Approval of Minutes
2. Overview of Basin Study Context and Schedule
3. Study Team Introductions
4. Discussion of Notices of Intent to Sue (Facilitated by Mary Orton)
5. New Member Requests
6. Reclamation Updates

### WELCOME, INTRODUCTIONS

BSC Chair Craig Horrell welcomed the group and asked everyone to introduce themselves.

### OVERVIEW OF BASIN CONTEXT AND SCHEDULE

Craig and Kate are working with Salem Opeifa with the Oregon Water Resources Department to finalize the DBBC-State Agreement and are in the process of getting all the chosen consultants under contract. There are four fully executed contracts and the members of those are here today.

Kate said it will be helpful for BSWG members to refer to the Basin Study overview graphic and the project schedule to track Study Elements as the Basin Study proceeds. She brought print outs for everybody today, and asked everyone to bring these to each meeting, or have them accessible electronically. This will hopefully help keep each member oriented as well as keep the printing down. Other useful documents to bring on a regular basis are the charter (also printed out today), the MOA/Plan of Study and Consultant scopes of work. She will set up a dropbox site accessible to BSC members where they can access these foundational documents on-line.

Niklas gave a brief overview of the current project status and walked through the schedule. Niklas fills the role of Technical Director.

### STUDY TEAM INTRODUCTIONS

Kate introduced the following consultants:

- Brandon Mahon with Anderson Perry, who is doing the Water Conservation Assessment #1. A-P will be starting its work soon, in close consultation with Niklas. The first step will be a review of existing conservation plans and documents for each district.
- Ray Hartwell with Ecosystem Economics.
- Adam Sussman and Owen McMurtry with GSI. GSI and EE are working on the Water Rights, Legal, Policy and Socio-economic Assessment (LPE) and are having a kick-off meeting with Kate and Niklas tomorrow.
- Troy Brandt and Peter Gruendike with River Design Group.

Troy Brandt with River Design Group gave an overview PowerPoint presentation (Attachment 2) of their team and expected contract work. The project goals are to identify how instream flows relate to instream and adjacent wetland aquatic habitat and riparian conditions, focusing on redband trout, Oregon spotted frog and riparian function. This data will be used in the USBR water resource model. They will be collecting data at two sites, Dead Slough and Bull Bend, which are upstream of the the Little Deschutes, the Fall and Spring Rivers, and are thought to be fairly representative sites. Their project schedule should have data collection wrapped up in November. Analysis will occur in winter/spring, with a project report in late summer/early fall. The River 2D model will be used.

Kate added that RDG will be scheduling a workshop in November to identify habitat suitability criteria with a technical working group and it will be open to those who want to listen to keep informed of technical details.

Mike Britton asked for the presentation to be available in dropbox online.

#### **DISCUSSION ON 60 DAY NOTICES OF INTENT TO SUE**

Craig introduced this discussion by acknowledging that BSWG has had over 2 years and 250 hours of meetings and, in that time, the group has made great progress. He listed off the accomplishments of BSWG while acknowledging the challenges ahead in the next two years. Accomplishments include applying for and securing a Basin Study, developing and agreeing to a charter and developing a Plan of Study for \$1.5 million worth of work. He noted that two sixty-day notices of intent to sue have been sent to parties at the table. His hope for this discussion is that we have an open, candid manner of approach and continue to work together successfully.

Mary Orton introduced herself and gave a brief background of her work with this group. She identified that the DBBC requested this agenda item be on the BSWG agenda and is paying for her services as a facilitator, but that she works for the group as a whole.

Mary acknowledged that the issue of litigation is an emotional issue, for everyone involved. She asked everyone to do their best to be candid and open, and to say how they feel and ask their questions without personal attack.

Mary briefly reviewed the two 60-day notices to sue. One was to Bureau of Reclamation from Advocates of the West on behalf of Center for Biological Diversity. The second was to Bureau of Reclamation, Central Oregon Irrigation District, Tumalo Irrigation District and North Unit Irrigation District from EarthJustice on behalf of WaterWatch. She reminded the group that they

talked about the possibilities of lawsuits when the BSWG charter was being developed in 2014. Mary said she has been part of multiple collaborative processes that survived a lawsuit while dealing with impacts.

As a party having sent (represented by) one of the 60-day notices, Kimberly started with introductory comments. She stated that one of WaterWatch's interests in this basin is to see flows restored and normalized in the upper Deschutes. Despite a decade of collaborative efforts, sufficient progress has not been made in the upper river. WW believes that the Basin Study is important and hopes it provides information on cost-effective solutions. Their hope, however, that BSWG will result in real change has been diminished by their experience with other processes in the basin, specifically the HCP. The HCP has taken eight years, with few results. WW feels there were promises made that those at the table would be given an active role in the process, and that these promises fell short. WW lent their name and support to the process, which was useful to help get it funded, and then feel they were shut out of the process when draft conservation measures were developed. They feel similarly that they lent their support for the 10J process to play out, and expectations have been unfulfilled there, as well.

WW's interest is still that the basin come up with a credible plan and commitment to change water management practices and restore water in the upper Deschutes. WW thinks the BSWG is important and intends to participate in the development of water management solutions. WW recognizes that this is a public process, using public funds, with public meetings and documents available to the public.

The main points of discussion included the following:

- Many expressed disappointment that WW did not make this statement before issuing the 60 day notice, and did not try to resolve the issues at the table.
  - Mary clarified that there was a paragraph in the Charter that both DBBC and WW advocated successfully to take out, that a party notify the group if they were going to the courts. She noted that there still was a provision in the Charter that encouraged parties to resolve issues through discussion.
- Other parties at the table are advocating for their own interest in a number of different forums without consulting the BSWG first.
- The HCP covers a narrower range than the Basin Study- specifically, the impacts of DBBC/City of Prineville management actions on the covered species. One of the species the HCP covers is the Oregon spotted frog, but it will not necessarily generate the whole restoration solution for the Upper Deschutes.
- The possibility of the collaborative and the regulatory processes (BSWG and HCP) colliding has always been present, and should not come as a surprise. We should think about focusing on where to go from here to find synergy between the two processes in as collaborative a way as possible.

- The information that is being generated by these two separate processes can be used to solve our common problems in the basin. We should consider a grander agreement that includes ESA protection but also creates assurances for rivers- a real commitment that takes care of one another's needs.
- One major risk of potential legal threats to this process is that it constrains the parties' ability to talk openly and creatively about water management issues. Some expressed fear of speaking openly only for that information to be used against them in a lawsuit. Others echoed a concern that the quality of the study may be diminished because people are fearful of discussing creative ideas.
- There was discussion of whether BSWG is generating information or solutions. Clarification that while management decisions will not be made in the Basin Study, the Basin Study is looking at potential solutions. Part of the Plan of Study entails coming up with a suite of scenarios, or range of options, to address imbalances.
- Concern that WW is at the table to gather information for litigation; and discussion that this level of vulnerability was always there, as this has always been a public process generating public information.
- A shared hope that the study will generate good information, and will lead to a path forward to collaborative solutions, and varying levels of confidence that commitments will be made to agree to solutions.
- Several people expressed a hope that any legal action leaves time and space for the studies to move forward, information to be generated, and solutions to be considered.
- Concerns that the DBBC, BOR, or the State would opt out of the Basin Study. None of the parties indicated this was likely.
- Continued honest discourse will be critical, and can only help us if are all truly supportive of collaboration.
- Future discussion should focus on how to manage risks to ensure the most collaborative, transparent process possible to generate good information about how to meet future water needs in the basin.
- Kimberley did not answer direct questions about legal action, as advised by attorneys. Craig suggested he have his attorney call WaterWatch's attorney to discuss, and WaterWatch agreed.

Mary thanked everyone for being open and honest. She suggested that the BSWG to keep talking to work through these issues as they evolve, and said that they would figure out as time went on how much they could comfortably say in public.

Kate thanked Mary for facilitating.

### NEW MEMBER REQUESTS

Kate directed the group to the attachment to the agenda with the emails from Oregon Department of Agriculture (ODA) and the Deschutes SWCD requesting membership of BSC. Both ODA and the Deschutes SWCD are actively working on irrigation efficiencies within the Deschutes Basin. It was noted that while they have not been at the table to-date, this is because they had not been invited. Kate suggested that it was time to bring these efforts together. Rex noted that he is on the Deschutes SWCD Board and has been involved with BSWG, but it will be useful to have technical staff involved. Others spoke highly of the expertise and value these two agencies will bring to BSWG.

**ALL GREEN CARDS** on the vote for Oregon Department of Agriculture and Deschutes Soil and Water Conservation District to become members of BSWG.

### BOR UPDATE

Mike gave a brief update of the Bureau of Reclamation's activities

- There is a new basin study report from the Santa Fe Basin Study on the Bureau of Reclamation's website.
- Mike, Niklas and Kate are close to finishing a project management plan that will be used as a high level tracking tool. It will be distributed to the planning team.
- We are looking favorable to be on-track to use the GS Flow Model for the study.
- BOR is working on getting the storage assessment piece going, and it looks likely that Reclamation personnel out of the Denver office may be able to lead this work.
- There is an internal Crooked River Pilot Study that will look at climate change inputs on reservoir operations, and should be complementary to the Basin Study.
- Lynn Holt, the Reclamation public affairs person has retired, and Dave Walsh is now helping with communications on the Reclamation side.
- Mike has been checking the Basin Study email address, but there has been little traffic.
- Mike will be working to get the Reclamation study team engaged with the non-fed study team.

### PUBLIC COMMENT

There was no public comment.

### NEXT STEPS

The next meeting is November 3, 2015 in the DeArmond room from 10-Noon.

Meeting adjourned by Craig Horrell.

**MEETING EVALUATION**

Members were provided forms on which to write one piece of feedback about what they liked about the meeting, indicated below with a plus symbol (+), and one piece of feedback about what they would like to change for the next meeting, indicated with a delta symbol ( $\Delta$ ). Each check mark ( $\checkmark$ ) indicates that someone repeated an item. The following comments were received.

+	$\Delta$
+	$\Delta$

## ATTACHMENT 1: BSC ACTIVE MEMBERS LIST

From Section 3.a of the Charter: “If a member organization does not participate in decision-making at two consecutive meetings by attendance or by email (see 4.a.vi), that organization cannot participate in decision-making until after it participates at two of the prior four meetings.”

<b>Organization</b>	<b>6/8/15</b>	<b>7/7/15</b>	<b>8/4/15</b>	<b>10/6/15</b>
Arnold Irrigation District	P	P	P	P
Avion Water Company	P	P	P	P
Bend Paddle Trail Alliance				
Central Oregon Cities Organization	P	P	P	P
Central Oregon Flyfishers	P	P	P	P
Central Oregon Irrigation District	P	P	P	P
City of Bend	P	P	P	P
City of Madras	P		O	P
City of Prineville	P	P	P	P
City of Redmond		P		O
Crooked River Watershed Council	P	P	P	O
Deschutes County		P	P	P
Deschutes River Conservancy	P	P	P	P
Lone Pine Irrigation District	P	P	P	P
Native Reintroduction Network		P	P	P
Natural Resources Conservation Service	P		P	P
North Unit Irrigation District	P	P		P
Ochoco Irrigation District	P	P	P	P
Oregon Department of Agriculture				P
Oregon Dept. of Environmental Quality	P	O		O
Oregon Land and Water Alliance		P	O	P
Oregon Water Resources Department		P	O	P
Portland General Electric	P	P		P
Swalley Irrigation District	P	P	P	P
Three Sisters Irrigation District	P	P	P	P
Trout Unlimited	P	P		P
Tumalo Irrigation District	P	P	P	P
U.S. Bureau of Reclamation	P	P	P	P
U.S. Fish and Wildlife Service	P	P		P
U.S. Forest Service	P	P	P	P
Upper Deschutes River Coalition	P	P	P	P
Upper Deschutes Watershed Council	P	P	P	P
Water for Life	P	P	P	P
WaterWatch of Oregon	P			P

