



CAPITOL LAKE — DESCHUTES ESTUARY

Long-Term Management Project Environmental Impact Statement

Meeting Notes Summary

Date: April 6, 2021

Time: 1 to 3 p.m.

Location: Zoom

CLDE EIS: Funding and Governance Work
Topic: Group Meeting

Meeting Participants

Work Group Members

- Jay Burney, City of Olympia
- Rich Hoey, City of Olympia
- Jeff Gadman, Thurston County
- John Doan, City of Tumwater
- Sam Gibboney, Port of Olympia
- Justin Long, LOTT Clean Water Alliance
- Ray Peters, Squaxin Island Tribe
- Kristin Swenddal, Washington Department of Natural Resources (WDNR)

Department of Enterprise Services

- Linda Kent
- Ann Larson
- Carrie Martin
- Dave Merchant, Office of the Attorney General

Environmental Impact Statement (EIS) Project Team

- Lorelei Juntunen, ECONorthwest
- Sarah Reich, ECONorthwest
- Tessa Gardner-Brown, Floyd|Snider
- Ray Outlaw, EnviroIssues

Public

- Dave Peeler



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Welcome and Introductions

Carrie Martin welcomed attendees to the April 6, 2021 Funding and Governance Work Group (FGWG) meeting.

Lorelei Juntunen reviewed the meeting agenda, which supports continued conversation about governance options in the context of different alternatives. A primary goal for the meeting is to discuss a shared statement on governance from this work group to be included in the Draft EIS to demonstrate progress.

Carrie said we are continuing where we left off at the January 6, 2021 meeting but focusing on what this might look like for the Estuary and Hybrid alternatives because they represent the greatest change in conditions relative to today. The Managed Lake is still being evaluated, but it is similar to existing conditions and so governance may look similar as well. Sediment transport under the open systems is significant and a strong governance model will be critical to avoiding the impact from that sediment.

Governance Strategies

Dave Merchant reviewed the previous discussion on governance models. He reviewed strengths and weaknesses for each option and then provided his recommendation that the Interlocal Agreement is the option that best fits the needs of the project.

Dave presented a sample Interlocal Agreement (ILA) and reviewed content sections, assumptions, and questions. The purpose of this exercise was to identify key assumptions that would need to be confirmed by the FGWG in an ILA; and to demonstrate the nature, content and level of detail of an ILA. This sample ILA gives the FGWG something to “push against,” or comment on, to facilitate continued discussion.

Key issues to be confirmed or addressed include:

- Membership
- How to withdraw from or terminate the agreement
- Option to form a separate entity (e.g., non-profit, LLC, miscellaneous corporation)
- Body subject to Open Public Meeting Act



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- Funding mechanisms
- Voting requirements
- Public Development Authority could be formed within the Interlocal Agreement, which provides bonding authority
- Dispute resolution mechanism
- Interaction with community non-profits or potential future watershed councils (*added per public comment*)

Comment: It would be valuable to take a closer look at the document.

Question: Do you have strong recommendations regarding key components?

Response: Dave recommended the overall structure of an ILA and adopting a non-profit within the ILA. He said there are many questions and issues throughout the document that will need to be discussed and agreed upon.

Sarah Reich said this document was not sent in advance because it is not complete and should not be considered as something you need to prepare to sign. The objective is to collectively decide if this is a path we want to continue and eliminate other options from consideration.

Comment: Of everything in this matrix, the ILA seems to be the most versatile. It is easy to draft but difficult to negotiate. It is also the easiest to change as circumstances change. For example, we may not want to include a withdrawal clause.

Comment: The ILA should have a defined mechanism for how to change the agreement.

Comment: You don't want an entity to walk away in a moment of anger or frustration.

Comment: There should be two possible options for amending the agreement (minor vs. significant). Regarding the other governance models that we had evaluated, a Special Purpose District is about relating stakeholders to a functional service, which is not the case here. A Joint Municipal Utility Authority doesn't seem to work for this scenario.

Question: What is the difference between an ILA with a non-profit vs. a non-profit.



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A non-profit is its own entity but there are restrictions on whether it is a public entity. You could probably work through some of those issues, but an ILA clearly allows for everything you want to do.

Comment: The state auditor's office would consider a non-profit a public entity if any member was a public agency. You could eliminate the non-profit as a separate entity.

Comment: The only governance option that seems workable is the ILA.

Question: How would a governing board work – would the lawmakers abdicate their authority to a board like this?

Response: Dave described that within its scope it would govern itself, but lawmakers might have the authority to modify that scope.

Question: Would the state need to transfer property ownership to this entity?

Response: Dave responded that we would need to research what is possible. It would make sense if the entity owned and controlled the assets, but it needs to be researched. Perhaps not ownership, but a very long lease.

Comment: To some degree, the state can override any agreement we make.

Comment: Regardless of the option, the entity needs to have complete control over the assets.

Tessa Gardner-Brown asked whether port management areas are an analog, although the bedlands are not formally transitioned to the port, ports become stewards in a long-term capacity and they do not need to go back to WDNR for every management action or decision being made.

Comment: There is a big difference with ports, which have a very specific legal objective. Ports and the state must work together. In our case, that requirement to work together is not the same.

Comment: The goals and functions of ports are quite different.



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Comment: To protect the integrity of the governance model it needs to address the volatility of politics.

Question: Is there a potential request to the legislature to create, through policy, a new mechanism to management?

Response: Dave described that in internal discussions, members of the group believed that going forward with an existing agreement and governance model would be most likely to be successful, even if it needed to be modified.

Comment: Something formed by the legislature would be a more durable solution.

Ann noted the North Cascades Gateway Center (SWIFT Center) and how it was transferred to the Port of Skagit. Dave and Ann will research how that process worked.

Comment: The state is looking for all entities in the group to help find a solution for governance in the future. The legislature needs to be understanding that being responsible for upkeep of something we do not control will be difficult to sell to each respective entity.

Comment: We must better understand the scope of what we are trying to do before we can make many decisions. We have agreed that most upfront costs should be borne by the state and that our focus would be on operations and maintenance. We need to get a better understanding of what is involved, and the costs associated before making more decisions.

Lorelei noted we are trying to identify as many agreements as we can at this stage. It sounds like the group is coalescing around an ILA but there is not a request to commit at this stage given that the group needs more information about costs and maintenance requirements. We should capture issues and come back to them later.

Comment: It seems like everyone is on board with an ILA.

Comment: I agree, the ILA seems most logical at this point but until we get further along it might be difficult to make an absolute decision.

Comment: We can tentatively identify the ILA, but much work needs to be done.



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Sarah said the group would take the questions and comments and come back to the group with next steps.

Question: Are you going to share the documents that were presented today? There are levels of vetting that we need to work through.

Not at this time, but we will share later when we have a structure for the feedback we are looking for. The document is an example only, it is not intended to be shared for a legal review by each entity.

Summary Statement on Governance for Draft EIS - Discussion

Tessa provided a brief presentation summarizing the key content that could be included in the Draft EIS regarding work of the FGWG. It will be helpful to report out on our progress regarding governance because this is so critical to getting the capital request and moving the preferred alternative forward.

Tessa described what this summary might look like in the Draft EIS and asked for feedback.

The summary will describe the funding and governance goals, the primary contents of our meetings together (ten in total), and the recommendations we have agreed on (see presentation page 3) for allocation of construction and long-term costs. The document would then summarize the governance options that have been discussed and recommendations to consider going forward. The section would close with a commitment to providing a funding and governance model for the Preferred Alternative identified in the Final EIS.

Comment: The Draft EIS should be very explicit as to why the state should bear the costs of the upfront construction. The state built the dam and has been managing it for decades. Our focus is really on long-term management.

Question: How does everyone feel about this commitment in advance of the Preferred Alternative being identified?

Question: Can we make it very clear that we are not committing to anything other than continuing this discussion? We are not committing our jurisdictions to funding or a specific governance model.



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Comment: We should include a statement that expresses a strong commitment to continue to negotiate towards a long-term agreement.

Tessa noted understanding that the recommendation would likely be dependent on the Preferred Alternative.

Question: Can we see the summary statement before it is published in the Draft EIS?

Tessa committed to sharing the summary language and providing some time for review.

EIS and FGWG Next Steps

Tessa shared a series of slides regarding next steps. The EIS project team is on track to publish the Draft EIS on June 30, as directed by the legislature. We will continue to keep work groups updated on that work. Tessa reviewed the primary chapters for the EIS (see presentation slide 4).

After release of the Draft EIS, there will be a 45-day public comment period. During this time there will be various efforts to engage the community including an online open house, work group meetings, briefings, an online public meeting, public notices, and information available onsite around the lake (see presentation slide 5).

Question: Why did we change from 30 to 45 days for the comment period?

Primarily to provide the most opportunity for informed public comments. Given it is summer there will be a lot of things going on and it is a complex document. It is a decision the lead agency can make, and it is done commonly for large EIS documents. It is also consistent with the amount of time allowed during scoping.

Before the Draft EIS is released we will meet with the other work groups to preview the content and outreach. We will also discuss and collect feedback on the preferred alternative selection criteria; a summary of this discussion will be included in the Draft EIS.

After the Draft EIS (first two weeks in July) we are targeting to meet with EWG, TWG, and CSB to describe key findings, answer questions, and review the process and engagement opportunities. The FGWG is invited to participate in one of those meetings, particularly the EWG.



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After the Draft EIS comment period (fall 2021) we would reconvene the EWG, TWG, and CSB to revisit the preferred alternative selection criteria in the context of public feedback. Around that time, we would reconvene the FGWG to work towards identifying a long-term funding and governance model.

Question: Will there be an Executive Summary that accompanies the Draft EIS?

Yes, the briefings will likely leverage the Executive Summary and that level of detail.

Public Comment

Dave Peeler – Thank you for sharing the meeting. As you consider the governance model, I didn't hear how other entities might get involved, for example non-profits. When you think about forming an underlying non-profit you might include it there. There is quite a bit of interest in the formation of a watershed council, and I am curious how that might affect other issues beyond the Lake.

Adjourn

Carrie thanked the group for participating and adjourned the meeting at 2:28 pm.