



COMMUNITY DEVELOPMENT

DESCHUTES COUNTY PLANNING COMMISSION

5:30 PM, THURSDAY, OCTOBER 28, 2021

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St - Bend

(541) 388-6575 | www.deschutes.org

AGENDA

MEETING FORMAT

The Planning Commission will conduct this meeting in person, electronically and by phone.

Members of the public may view the Planning Commission meeting in real time via the Public Meeting Portal at www.deschutes.org/meetings.

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

<https://us06web.zoom.us/j/84287305740?pwd=bUlwcEpvUkrR4L3FGM0ExUXBaS093QT09>

Passcode: 697889

Using this option may require you to download the Zoom app to your device.

Members of the public can access the meeting via telephone, dial: 1-312-626-6799. When prompted, enter the following Webinar ID: 842 8730 5740 and Passcode: 697889. Written comments can also be provided for the public comment section to planning@deschutes.org by 5:00 p.m. on October 28. They will be entered into the record.

I. CALL TO ORDER

II. PUBLIC COMMENT

III. ACTION ITEMS

- [1.](#) Public Hearing - 2021 Housekeeping Amendments (*Kyle Collins, Associate Planner*)
- [2.](#) Preparation for Water Panel Discussions (*Kyle Collins, Associate Planner*)
- [3.](#) Recap of 10-14-21 Rural Econ panel discussion (*Peter Russell, Senior Transportation Planner*)

IV. PLANNING COMMISSION AND STAFF COMMENTS

V. ADJOURN



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 617-4747.

NOTICE OF PUBLIC HEARING

MEETING FORMAT

In response to the COVID-19 public health emergency, Oregon Governor Kate Brown issued Executive Order 20-16 (later enacted as part of HB 4212) directing government entities to utilize virtual meetings whenever possible and to take necessary measures to facilitate public participation in these virtual meetings. Since May 4, 2020, Deschutes County public hearings have been conducted primarily in a virtual format. Additionally, on August 13, 2021, the Public Health Division of the Oregon Health Authority adopted into Administrative Rule requirements that all persons 5 years of age or older must wear face coverings and/or masks in indoor spaces (OAR 333-019-1025).

The Deschutes County Planning Commission will conduct the public hearing described below by video and telephone. If participation by video and telephone is not possible, in-person testimony is available. Options for participating in the public hearing are detailed in the Public Hearing Participation section.

PROJECT DESCRIPTION

FILE NUMBER: 247-21-000862-TA

APPLICANT: Deschutes County Community Development Department

PROPOSAL: Text Amendments (“Housekeeping Amendments”) to clarify existing standards and procedural requirements, incorporate changes to state and federal law, and to correct errors found in various sections of the Deschutes County Code

HEARING DATE: Thursday, October 28, 2021
HEARING START: 5:30 pm

STAFF CONTACT: Kyle Collins, Associate Planner
Kyle.Collins@deschutes.org, 541-383-4427

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov and <http://dial.deschutes.org>

PUBLIC HEARING PARTICIPATION

- If you wish to provide testimony during the public hearing, please contact the staff planner by 5 pm on October 27, 2021. Testimony can be provided as described below.
- Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:
<https://us06web.zoom.us/j/84287305740?pwd=bUlwcEpvUkR4L3FGM0ExUXBaS093QT09>

Using this option may require you to download the Zoom app to your device.

- Members of the public can access the meeting via telephone, dial 1-253-215-8782. When prompted, enter the following: Webinar ID: 842-8730-5740 and Password: 697889.
- If participation during the hearing by video and telephone is not possible, the public can provide testimony in person at 5:30 pm in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend. Please be aware County staff will enforce the 6-foot social distancing standard in the hearing room. Additionally, all participants attending in person must wear a face covering at all times.

Copies of the staff report, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at the Planning Division at no cost and can be purchased for 25 cents a page. The staff report should be made available 7 days prior to the date set for the hearing. Documents are also available online at www.deschutes.org.

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**MEMORANDUM**

TO: Deschutes County Planning Commission

FROM: Kyle Collins, Associate Planner

DATE: October 21, 2021

SUBJECT: Water Panel Discussions – Preparation for Comprehensive Plan Update

I. BACKGROUND

Following the completion of a four-part Water Panel series in December 2018, the Planning Commission directed staff to create a report to summarize the dialogue and key issues in water management as presented by the panelists. A copy of the final 2018 Water Panel Series Report is provided as Attachment 1.

The 2018 Water Panel consisted of multiple researchers, agency professionals, and interest groups with an interest in water use in Deschutes County and the larger region. The following is a list of the previous panelists and their respective affiliations:

- Kyle Gorman - Oregon Water Resource Department
- Stephen B. Gingerich, Ph.D - U.S. Geological Survey Oregon Water Science Center
- Bridget Moran - U.S. Fish and Wildlife Service
- Brett Hodgson - Oregon Department of Fish and Wildlife
- Mark Buckley - ECONorthwest
- Mylen Bohle - Oregon State University Extension
- Leslie Clark - Central Oregon Irrigation District
- Margaret Matter - Oregon Department of Agriculture
- Bill Duerden - City of Redmond
- Craig Horell - Central Oregon Irrigation District
- Mike Taylor - Coalition for the Deschutes
- Adam Sussman - GSI Water Solutions

In preparation for the forthcoming Deschutes County Comprehensive Plan Update (*Deschutes 2040*), staff will begin preparations for a follow-up Water Panel series with the Planning Commission.

II. PURPOSE

The forthcoming Water Panel is intended to supplement previous discussions and provide an initial conditions framework for the Comprehensive Plan Update. While the panel discussions are intended to provide guiding information for the Board of County Commissioners, the Planning Commission, and Deschutes County citizens, they are not intended to provide specific goals or policies.

At this stage, there are two major items for the Commission to discuss in regards to the new Water Panel:

- 1) Panel Composition
- 2) Major Topics/Themes and Discussion Format

Panel Composition

In addition to the 2018 Water Panel participants, staff has compiled a list of possible panelists, provided as Attachment 2. The compiled list is based on the current members of the Deschutes Basin Water Collaborative (DBWC). The DBWC is a broad group of stakeholders brought together in 2020 to collaborate on critical water allocation and management issues in the Deschutes Basin, and develop strategies to meet stream flow, ecological, agricultural, and community needs for water. The DBWC was built on the momentum of the Upper Deschutes Basin Study Working Group, the Water Summit convened by the Confederated Tribes of Warm Springs and the State of Oregon in the fall of 2018, as well as the legacy of the Deschutes Water Alliance.

The current DBWC members and the previous Water Panel members are not intended to be fully comprehensive of all possible perspectives or user groups related to water issues in the region. While these groups may provide an idea of who could be included in the forthcoming Water Panel, the Commission may also direct staff to reach out to parties or representatives not included in these groups.

Major Topics/Themes and Discussion Format

In addition to the panel composition, the Commission will need to address an appropriate discussion format and general discussion topics. During the 2018 Water Panel discussions, the Commission elected to break the panel into representative groups across four separate topic areas:

- 1) Hydrology of the Upper Deschutes Basin
- 2) Environmental and Economic Impacts
- 3) Agricultural Water Consumption and Efficiency
- 4) Projections and Planning

Each of these discussion topics included 2-4 panelists based on professional background, training, or association with relevant stakeholders. The Commission may wish to continue the forthcoming Water Panel under a similar framework or provide alternative options. Possible alterations may include:

- Additional panel discussions on differing topics
- Larger/smaller panel groups for individual topics
- Additional discussion sessions on topics with special relevance or nuance

III. NEXT STEPS

Staff will return in the coming weeks to discuss any final decisions made by the Commission regarding panel composition, panel discussion topics, and any other relevant items. At this stage, the Commission may direct staff to conduct additional research or outreach to provide background information for the Water Panel.

While no formal dates have been set regarding panel discussions, staff anticipates the first discussions will occur in late winter or early spring 2022. Ultimately, all items discussed by the Water Panel will be compiled into a final report and presented to the Planning Commission. This same report will guide a portion of the initial conditions summary included in the Comprehensive Plan Update.

ATTACHMENTS

- 1) 2018 Water Panel Series Final Report
- 2) Deschutes Basin Water Collaborative Membership

Organization	Prim/Alt	First Name	Last Name
Arnold Irrigation District	(P)	Colin	Wills
Arnold Irrigation District	(A)	Juanita	Harvey
Avion Water Company	(P)	Jason	Wick
Avion Water Company	(A)	Garrett	Chrostek
Avion Water Company	(A)	Mark	Reinecke
Central Oregon Cities Organization	(P)	Mayor Steve	Uffelman
Central Oregon Cities Organization	(A)	Adam	Sussman
Central Oregon Cities Organization	(A)	Doug	Riggs
Central Oregon Intergovernmental Council	(P)	Tammy	Baney
Central Oregon Irrigation District	(P)	Shon	Rae
Central Oregon Irrigation District	(A)	Craig	Horrell
Central Oregon LandWatch	(P)	Tod	Heisler
Central Oregon LandWatch	(A)	Rory	Isbell
Central Oregon LandWatch	(A)	Carol	Macbeth
Central Oregon LandWatch	(A)	Paul	Dewey
City of Bend	(P)	Eric	King
City of Bend	(A)	Patrick	Griffiths
City of La Pine	(P)	Jake	Obrist
City of Madras	(P)	Royce	Embanks
City of Madras	(A)	Gus	Burril
City of Prineville	(P)	Mayor Steve	Uffelman
City of Prineville	(A)	Mike	Kasberger
City of Redmond	(P)	Bill	Duerden
City of Redmond	(A)	Josh	Wedding
Coalition for the Deschutes	(P)	Holly	Mondo
Coalition for the Deschutes	(A)	Sean	Coleman
Confederated Tribes of Warm Springs	(P)	Bobby	Brunoe
Confederated Tribes of Warm Springs	(A)	Brad	Houslet
Crook County	(P)	Brian	Barney
Crook County	(A)	Tim	Deboodt
Crooked River Watershed Council	(P)	Chris	Gannon
Crooked River Watershed Council	(A)	Garry	Sanders
Deschutes County	(P)	Phil	Chang
Deschutes County	(A)	Adam	Smith
Deschutes River Conservancy	(P)	Kate	Fitzpatrick
Deschutes River Conservancy	(A)	Natasha	Bellis
Deschutes Soil and Water Conservation District	(P)	Erin	Kilcullen

Organization	Prim/Alt	First Name	Last Name
Deschutes Soil and Water Conservation District	(A)	Todd	Peplin
Deschutes Soil and Water Conservation District	(A)	Jeff	Rola
Great Old Broads for Wilderness	(P)	Joanne	Richter
Great Old Broads for Wilderness	(A)	Nancy	Gilbert
Jefferson County	(P)	Kelly	Simmelink
League of Women Voters of Deschutes County	(P)	Becky	Powell
League of Women Voters of Deschutes County	(A)	Celeste	Brody
Lone Pine Irrigation District	(P)	Terry	Smith
North Unit Irrigation District	(P)	Mike	Britton
Ochoco Irrigation District	(P)	Bruce	Scanlon
Oregon Dept. of Agriculture	(P)	Theresa	DeBardelaben
Oregon Dept. of Agriculture	(A)	Maria	Snodgress
Oregon Dept. of Environmental Quality	(P)	Karen	Whisler
Oregon Dept. of Fish & Wildlife	(P)	Mike	Harrington
Oregon Dept. of Fish & Wildlife	(A)	vacant	vacant
Oregon Environmental council	(P)	Karen	Lewotsky
Oregon Governor's Office	(P)	Annette	Liebe
Oregon Land And Water Alliance	(P)	Paul	Lipscomb
Oregon Natural Desert Association	(P)	Ryan	Houston
Oregon Natural Desert Association	(A)	Mark	Salvo
Oregon Water Resources Dept.	(P)	Kyle	Gorman
Oregon Water Resources Dept.	(A)	Harmony	Burright
Oregon Water Resources Dept.	(A)	Jonathan	La Marche
Portland General Electric	(P)	Megan	Hill
Portland General Electric	(A)	Greg	Alderson
Portland General Electric	(A)	Rebekah	Burchell
Individual Member	(P)	Ron	Nelson
Individual Member	(P)	Yancy	Lind
Sunriver Anglers	(P)	Jeff	Wieland
Swalley Irrigation District	(P)	Jer	Camarata
Three Sisters Irrigation District	(P)	Marc	Thalacker
Trout Unlimited - Deschutes Redband Chapter	(A)	Shaun	Pigott
Trout Unlimited - Deschutes Redband Chapter	(P)	Mike	Tripp
Trout Unlimited - Deschutes Redband Chapter	(A)	Herb	Blank
Trout Unlimited - State	(P)	Chandra	Ferrari
Trout Unlimited - State	(A)	Darek	Staab

Organization	Prim/Alt	First Name	Last Name
Upper Deschutes Watershed Council	(P)	Kris	Knight
Upper Deschutes Watershed Council	(A)	Kolleen	Miller
US Fish and Wildlife Service	(A)	Peter	Lickwar
US Fish and Wildlife Service	(P)	Bridget	Moran
US Forest Service	(P)	Jason	Gritzner
Water for Life	(P)	Rex	Barber
WaterWatch of Oregon	(P)	Kimberley	Priestley
Wild River Owner's Association	(P)	Mike	Taylor



COMMUNITY DEVELOPMENT

PLANNING COMMISSION WATER PANEL SERIES REPORT



117 NW Lafayette Avenue
P.O. Box 6005
Bend, OR 97703-6005
www.deschutes.org/cd
(541) 388-6575

February 2019



Key Participants

PLANNING COMMISSION

Dale Crawford - At Large (Chair) - Water Panel Subcommittee
 Maggie Kirby - Bend Area (Vice Chair) - Water Panel Subcommittee
 Jim Beeger - Bend Area - Water Panel Subcommittee
 Steve Swisher - Sisters Area
 Hugh Palcic - South County
 Jessica Kieras - Redmond Area
 Les Hudson - At Large

PANELISTS

Kyle Gorman - Oregon Water Resource Department
 Stephen B. Gingerich, Ph.D - U.S. Geological Survey Oregon Water Science Center
 Bridget Moran - U.S. Fish and Wildlife Service
 Brett Hodgson - Oregon Department of Fish and Wildlife
 Mark Buckley - ECONorthwest
 Mylen Bohle - Oregon State University Extension
 Leslie Clark - Central Oregon Irrigation District
 Margaret Matter - Oregon Department of Agriculture
 Bill Duerden - City of Redmond
 Craig Horell - Central Oregon Irrigation District
 Mike Taylor - Coalition for the Deschutes
 Adam Sussman - GSI Water Solutions

DESCHUTES COUNTY LONG RANGE PLANNING STAFF

Nick Lelack, AICP - Director
 Peter Gutowsky, AICP - Planning Manager
 Matt Martin - Associate Planner
 Nicole Mardell - Associate Planner

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Photo Source: Central Oregon Irrigation District

Executive Summary

Purpose

The Deschutes County Planning Commission is the County's citizen involvement committee responsible for carrying out a comprehensive planning program, using public input to coordinate its activities with other jurisdictions, planning bodies, and districts. Their role is to advise the Board of County Commissioners on citizen involvement programs and study and propose such measures as are advisable for promotion of the public interest, health, safety, comfort, convenience, and welfare (DCC 2.52.100). Realizing the impact of water use and water law in land use and development proceedings, the Planning Commissioners requested staff to organize a series of expert panels within the field of water management. The information gained from each panel of experts could then be used to better inform the Planning Commission, general public, and Board of County Commissioners, in land use decision making. The Commission determined the need for four separate panels:

- Hydrology of the Upper Deschutes Basin
- Environmental and Economic Impacts
- Agricultural Water Consumption and Efficiency
- Projections and Planning

A Water Panel Subcommittee was formed to develop the agenda and identify speakers for each panel. Summaries and notes from each panel are found in pages 5 to 8 of this report. Although the panelists represented a diversity of individuals, bodies, and authorities within the agricultural industry, environmental nonprofits, and government entities, three key issues and themes rose to prominence throughout the series.

Key Issues and Themes

- **WATER LAW**
Current laws regulating water strictly limit flexibility in water use and management, and are little changed in principle from the original regulations developed in the early twentieth century. Comments from almost all panelists denoted a need to revise Oregon's water laws to reflect current (and future) conditions; to re-examine the principles of allocation (for agriculture, fisheries, municipalities, environmental groups and other sectors), the efficiency of delivery, flexibility in use and monitoring and enforcement.
- **STATEWIDE WATER POLICY**
Many stakeholders are involved in water management including sovereign tribal nations, governmental entities, nonprofits, irrigation districts, private consultants, and water users. Each group has identified interests and perspectives that may align or contradict others, particularly in the areas of advocacy regarding the current system for holding water rights and uses where water rights may be under- or over-allocated. Although improvements could be made in the current system by voluntary collaboration or specific litigation, a larger-scale systematic change is needed, potentially through a statewide governmental review to revisit and modernize water use priorities, allocation, regulation, and management.
- **EDUCATION AND FUNDING**
Panelists offered examples of outreach and educational programs that have proven to be successful in promoting efficient water use in agricultural, commercial, and residential markets. In order to achieve larger-scale change, financial resources are needed, both to improve efficiency in water delivery to end uses (e.g. canal piping) but also to educate water users on efficient practices.

Meeting 1: Hydrology of the Upper Deschutes Basin

The Planning Commission convened the first panel to examine water availability and consumption in the Upper Deschutes River Basin. The group discussed aquifer structure, ground and surface water interaction, reservoir storage capacity, water law and water rights, impacts of climate change, monitoring data and mapping, and water projections. Additional background on Oregon's water use system can be found in the Upper Deschutes Basin Study funded by the Bureau of Reclamation in 2018.

A few key insights from this discussion include:

- ROLE OF OREGON WATER RESOURCES DEPARTMENT**
 Oregon Water Resources Department (OWRD) regulates and measures water supply at a statewide scale. There are five regional managers in the basin; each region has two water masters responsible for regulating water use. As of 1988, no new water rights could be issued in the basin due to a lawsuit limiting water withdrawals affecting the free flowing character of lower Deschutes River (Diack vs. City of Portland). Therefore, property owners seeking water rights must complete a water rights transfer, with expensive market rates per acre-foot.
- ADVOCACY AND CONSERVATION**
 Oregon experiences water restoration achievements greater than any other state. The Deschutes River Conservancy, established in 1998, preserved the first instream flow right in Oregon along Whychus Creek. Recently, the Oregon Spotted Frog was listed to the federal Endangered Species Act (further details on page 6). This listing triggered a lawsuit against the Bureau of Reclamation and irrigation districts, which compelled the districts and the City of Prineville to prepare a Habitat Conservation Plan (HCP), consistent with the National Environmental Policy Act (NEPA).
- WATER DEMAND AND SUPPLY**
 Per USGS reporting, municipal water use over a 50-year period is approximately 16,000 acre-feet. Comparatively, irrigation water use over a 50-year period is approximately 724,000 acre-feet. Water levels are declining primarily due to climate change (70% loss), pumping (20% loss), and lining of water transmission lines and canals (10%). Approximately 50% of diverted water is lost through seepage and only a fraction is recaptured instream. Moving forward, there is a need for upgrading irrigation delivery systems such as canals, on-site agricultural irrigation equipment and incentivizing efficient water practices.

DATE

March 8, 2018

PANELISTS

Kyle Gorman
 South Central Region Manager,
 Oregon Water Resources
 Department

Stephen B. Gingerich, Ph.D
 Research Hydrologist,
 U.S. Geological Survey
 Oregon Water Science Center

VIDEO LINK

[http://deschutescountyor.iqm2.com/
 Citizens/SplitView.aspx?
 Mode=Video&MeetingID=1963&Format
 =Agenda](http://deschutescountyor.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1963&Format=Agenda)

BASIN STUDY LINK

<https://www.deschutesriver.org/what-we-are-doing/upper-deschutes-basin-study/basin-study-documents/>

Meeting 2: Environmental and Economic Impacts of Water Use

The second panel focused on the environmental and economic impacts of water use. Panelists discussed the relationship between water, wildlife habitat, recreational activities, and associated economic benefits within the Upper Deschutes River Basin.

A few key insights from this discussion include:

- HABITAT CONSERVATION PLAN (HCP)**
An HCP is a tool used between the federal government and cooperating partners to comply with the federal Endangered Species Act. The U.S. Fish and Wildlife Service (USFW) is working with eight irrigation districts and the City of Prineville on an HCP to prevent litigation associated with potential damage to Oregon Spotted Frog and Bull Trout populations and their habitats. USFW is responsible for monitoring and quantifying impacts to protected species, Oregon Department of Fish and Wildlife (ODFW) is responsible for protecting sensitive animals not listed as endangered. Panelists explained that restoration of an ecological system is 10-20 more expensive than initial preservation, therefore USFW and ODFW are proactive in promoting preservation of sensitive environments.
- PARTNERSHIPS**
A shared vision among all stakeholders is to modernize irrigation systems to reduce loss and promote higher instream flow return. Irrigation canals experience 40% to 60% loss. Upgrading systems can aid business operations of irrigation districts and stream flow for habitat preservation.
- RECREATION**
The Upper Deschutes Basin includes quality angling and hunting opportunities, including premier trout fishing near the upper section of the Deschutes River. Revenues from hunting permits primarily fund ODFW as it is a user based department. Moderating stream flow (to mitigate winter low water and summer wash out) and conserving native species can help maintain the outdoor recreation economy Central Oregon has built.

DATE

April 12, 2018

PANELISTS

*Bridget Moran
Bend Field Officer Supervisor
U.S. Fish and Wildlife Service*

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

*Brett Hodgson
Fish Biologist
Oregon Department of Fish and Wildlife*

*Mark Buckley, Ph.D
Partner, ECONorthwest*

VIDEO LINK

<http://deschutescountyor.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2005&Format=Agenda>

Meeting 3: Agricultural Water Consumption and Efficiency

The third panel of the series was originally slated to discuss water consumption and efficiency in all industries. Per information provided in the two previous panels, the Planning Commission decided to focus on water use within the agricultural industry, as it is the largest water consumer in Deschutes County and Central Oregon as a region.

A few key insights from this discussion include:

- AGRICULTURE IN DESCHUTES COUNTY**
 Deschutes County has the highest number of individual farms in Central Oregon (1,000), compared to Crook (680) and Jefferson (480) counties. Most of these farms are between 0.5 and 10 acres. The oldest water rights in the area are from 1870-1880 and were initially allocated for the production of potato crops. Throughout time, crops have changed based on disease and popularity, including chickpeas, hemp, wheat, rye, alfalfa, marijuana, vineyards, etc. As water rights are tied to the original crop grown on the property, panelists described the difficulty in amending water rights to reflect water demands associated with new crops.
- EFFICIENT IRRIGATION**
 Since no new water rights can be allocated, there is a premium for maintaining water rights on a property for future sale, even if the primary use of the property is not agriculture. A common issue in Deschutes County is misinformation on beneficial use, wherein many farmers use flood irrigation, water open pasture areas including rock and poor soils, and use irrigation systems incorrectly. Changes to water law could address some of the issues associated with water right transfers and beneficial use. Education could also lead to applying water efficiently to beneficial uses with modernized technology.
- TRENDS IN EFFICIENCY**
 OSU Extension works with the Oregon Department of Agriculture and Central Oregon Irrigation District to provide onsite education to farmers as well as larger policy and programmatic elements. A traditional center pivot irrigation system averages 50-85% efficiency, whereas a dragline pivot system averages 98% efficiency. Even minor upgrades to older irrigation systems, such as replacement of valves, can result in an 18% increase in irrigation efficiency.

DATE

August 23, 2018

PANELISTS

*Mylon Bohle
Area Extension Agronomist
Oregon State University Extension*

*Leslie Clark
Director of Water Rights
Central Oregon Irrigation District*

*Margaret Matter
Water Resource Specialist/Program Lead
Oregon Department of Agriculture*

VIDEO LINK

<http://deschutescountyor.ig2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2048&Format=Agenda>

Meeting 4: Projections and Planning

The fourth and final panel of the series focused on planning for water use in growing communities. Panelists discussed their procedures for projecting water supply and demand, interagency collaboration, successes in innovative programming, and barriers preventing modernization of water management policies.

A few key insights from this discussion include:

- PROGRAM EFFICIENCY**
Municipal capital improvement plans (CIPs) estimate growth by using land use assumptions. The largest urban water uses are typically greenspace and park areas owned by a municipality, park district, or school district. Bend and Redmond utilize two of the top rated water efficiency programs in the state. Redmond has a WaterHawk program that detects leaks and water losses, while also helping users understand their consumption levels. Support from elected officials is needed to implement these programs as minimal grants are available.
- BASIN STUDY WORK GROUP**
Using Bureau of Reclamation funding, a 47-member working group recently completed the Upper Deschutes Basin Study (link on page 5). The study provided a 'state of the basin' and a shared vision for the future, but the study is not designed as a plan to identify any specific actions or suggested partnerships. Previously, the Deschutes Water Alliance served as an impartial convener for all water management stakeholders, but the group is no longer able to serve in the role. Coordination and partnerships among irrigation districts, nonprofits, local governments, sovereign tribal nations, and other interested parties are needed to effectively advocate for changes to water law and to identify funding for system upgrades and efficiency programs.
- CHALLENGES IN WATER MANAGEMENT**
There is a scarcity of water rights in the Deschutes Basin. This drives up the price and value of existing water rights held by patrons. Existing irrigation canals are often seen as valuable aesthetic resources to abutting property owners. Piping projects have recently experienced opposition as owners pursue historic designations. Climate change is also impacting water levels in the Deschutes River, but there is very little room for adaptation at the local level. There is a need for state-led changes to water law.

DATE

December 13, 2018

PANELISTS

*Bill Duerden
Public Works Director
City of Redmond*

*Craig Horrell
Manager
Central Oregon Irrigation District*

*Mike Taylor
Board President
Coalition for the Deschutes*

*Adam Sussman
Principal Water Resources Consultant
GSI Water Resources*

VIDEO LINK

*[http://deschutescountyor.iqm2.com/
Citizens/SplitView.aspx?
Mode=Video&MeetingID=2194&Format=
Agenda](http://deschutescountyor.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2194&Format=Agenda)*

Additional Resources

Meeting Notes:

Panel	Comments
<p data-bbox="126 842 318 993">Hydrology of the Upper Deschutes basin (March 5, 2018)</p> <p data-bbox="110 1077 324 1486">Kyle Gorman – South Central Regional Manager, Oregon Water Resource Department Stephen B. Gingerich, Ph.D. - Research Hydrologist, U.S. Geological Survey Oregon Water Science Center</p>	<ul data-bbox="362 464 1437 1873" style="list-style-type: none"> • OWRD regulates and measures water supply. • Mr. Gorman is 1 of 5 regional managers. He focuses on the Klamath, Deschutes, and Lake watersheds. There are two water masters in this area, each responsible for regulating water use based on the law of prior appropriation. • The Deschutes River is a managed system. There are three reservoirs: Crescent, Crane, and Wickiup and five irrigation districts. • From 1962 to the mid-1980s, the middle Deschutes River only had 30 cfs during the summer. • A USGS 1998 water study broadened everyone’s understanding of how groundwater is tied to the Lower Deschutes River. • Starting in 1988, no new water rights could be issued in the Upper Deschutes basin due to a lawsuit brought against the state (Diack vs. City of Portland, 306 Or 287, 299. 1998), which obligated OWRD to limit water withdrawals if such use will diminish the free flowing character of Scenic Waterways (Lower Deschutes River). • As a result, in the Deschutes Basin, new water rights must first mitigate the use by improving surface water flows. OWRD quantifies general zones for mitigation. • The Deschutes River Conservancy was established in 1996. In 1998, they preserved the first instream flow right in Oregon along Whychus Creek. Oregon experiences restoration achievements are greater than any other state in the West. • Municipal groundwater sources are predominantly groundwater. • The listing of Oregon spotted frog to the federal Endangered Species Act triggered a lawsuit against the Bureau of Reclamation and irrigation districts. A federal judge issued a hold for the parties to explore collaboration. • Prior to the ESA listing, the outflow out of Wickiup was 20 cfs ,and 5 cfs at Crescent. Today, there is 1,000 cfs out of Wickiup and 20 to 30 cfs out of Crescent. Crane Prairie is being managed for the spotted frog for spring and fall nursery. The lake levels remain between 2 and 3 feet. • From 2000 to 2008, DRC promoted instream flows. Over the last 5 to 10 years, interest has leveled off. • Transferring irrigation rights for mitigation are held by irrigation districts based on a 2008 ruling, <i>Fort Vannoy Irrigation district v. Water Resources Commission</i>. The Oregon Supreme Court held that irrigation districts are the holders and owners of water rights beneficially applied by its members but certificated in the name of the district. The Court held that water rights, like legal title to other property, vests in the irrigation district and are held by it in trust, are dedicated and set apart for, the uses and purposes set forth in the Irrigation District law. The Court also held that the Board of Directors for the irrigation district is authorized and empowered to hold, use, acquire, manage and dispose of a water right as provided in the Irrigation District law. Private water rights are eligible for mitigation. However, there are few of them. • Facebook paid \$15,000 (ac/ft) for mitigation credits in Crook County. In Deschutes, mitigation credits have sold for \$2,000 (ac/ft). • DRC operates temporary mitigation credits. They are leases. Irrigation districts are supportive because patrons are still on their rolls.

Additional Resources

Meeting Notes:

Panel	Comments
<p>Hydrology of the Upper Deschutes Basin continued</p>	<ul style="list-style-type: none"> • USGS is a non-regulatory agency that is recognized as the nation’s leading science agency. • In the mid-1990s, USGS published a series of reports addressing hydrology, geology and groundwater recharge. • First model in 2000/2001 identified groundwater and surface water relationship. • In 2017, USGS identified a state of the art model, examining different scenarios on groundwater pumping impacts to stream flow. • Basin study modeling revealed that municipal use over a 50-year period utilizes only 16,000 ac/ft, in contrast to irrigation use, which is 724,000 ac/ft. • The upper Deschutes basin aquifer recharges at 3,800 cubic feet per second. • Groundwater wells are measured every quarter. There are 25 to 30 wells. Trends show water levels declining. • The reason is due to climate change. It is estimated that 70% of the declines are due to climate, 20% to pumping; and 10% to lining (less water transmission loss) and other irrigation efficiency measures. • The federal Endangered Species Act represents the greatest threat to water use. • Irrigation districts need to improve delivery systems to aid upper and middle Deschutes River flows. • Patrons and Irrigation Districts will need to change their attitudes related to water consumption. Recognizing that about 50% of the diverted water is lost through seepage and is a net loss to the Upper and Middle Deschutes River (although a fraction is re-captured in the Lower Deschutes) it is important that water delivery and use adapts to future need rather than be bound by historic practice; move away from flood irrigation, improve efficiency of delivery and use to grow the same crop with less water but preserve the individual ‘Water Right ‘ in whole, help under-capitalized end users meet the cost of upgrade, pipe to an on demand system (this alone will reduce water demand by 20%), establish incentives for users that improve their water use efficiency. The costs for upgrading irrigation delivery systems is expensive. • Carey Water Rights allow one to divert enough water to meet delivery demand.

Additional Resources

Meeting Notes:

Panel	Comments
<p>Environmental and Economic Impacts of Water Use (April 12, 2018)</p> <p>Bridget Moran - Bend Field Office Supervisor, U.S. Fish and Wildlife Service;</p> <p>Jennifer O'Reilly – Biologist, U.S. Fish and Wildlife Service;</p> <p>Brett Hodgson - Fish Biologist, Oregon Department of Fish and Wildlife; and</p> <p>Mark Buckley, Ph.D – Partner, ECONorthwest</p>	<ul style="list-style-type: none"> • USFWS working with 8 irrigation districts and Prineville on a Habitat Conservation Plan. An HCP is a tool to comply with the federal Endangered Species Act; it shields parties from litigation, in this case from injuring (take) the Oregon spotted frog and in the lower Deschutes River, bull trout. • An HCP lists activities that effect the listed species. For example, irrigation districts store and release water. Those two activities can harm the frog. It can take years of negotiation. The lifespan for an HCP can be 40 years. • It is a formal process that quantifies the effects of an operation following the National Environmental Policy Act (EIS, public comment, publish draft and ultimately final publication). • Once an HCP is final, it offers parties relief/regulatory assurance with an incidental take permit as long as they comply with the terms of the document. For irrigation districts, there is certainty as they invest in the long term maintenance and operation of their facilities. • Senator Merkley helped pass federal funding, PL5.66 that provides financial assistance to irrigation districts. For FY 2017 and 2018 there is a total of \$300M to assist irrigation districts modernize their facilities. It requires a 50% match from outside sources, which can include state and other sources. • An HCP allows irrigation districts to “minimize and mitigate their impacts to spotted frog to the maximum extent possible.” • Today, the Deschutes riverbed is 20% higher than normal (pre-irrigation). • USFWS is responsible for quantifying the impacts to the spotted frog to protect, enhance, and optimally, recover the species. • Each HCP has biological goals and objectives to establish biological function to the greatest degree possible. • There are benchmarks for federally listing species. The ESA has definitions for plants and animals. There is a five factor analysis/threat based approach. • ODFW is responsible for protecting sensitive plants and animals. When plants/animals experience significant threats, USFWS will analyze those threats, calling for data, and if necessary initiate a federal rule making process. • Oregon spotted frog is an indicator species for clean water, wetland viability, riparian health, and ecological function. • Prioritizing sensitive species is budget driven and can be political. Environmentalists sued USFWS for not protecting sensitive species. The lawsuit was eventually settled, which led to the process of listing the spotted frog under ESA. • Spotted frog habitat is located in Wickiup Reservoir, Crane Prairie Reservoir, and the upper Deschutes and Little Deschutes Rivers. • Bull frogs are a significant threat to the spotted frog. They are recognized as a top 10 invasive species. • USFWS has a safe harbor agreement with landowners to address impacts of bull frog listing.

Additional Resources

Meeting Notes:

Panel	Comments
<p>Environmental and Economic Impacts of Water Use</p> <p>Continued</p>	<ul style="list-style-type: none"> ● It is more effective to protect ecological systems than to restore them. Restoration can be 10 to 20 times more expensive. ● Protecting intact core areas for the spotted frog is essential. It is an extraordinary planning opportunity. ● Irrigation canals experience 40% to 60% transmission loss. ● One goal is to modernize irrigation systems which allows surface water to return as instream flow. ● Conserving native species provides quality angling and hunting opportunities. ● State conservation goals can conflict with recreational goals. ● The upper Deschutes River is a premier trout fishery. There are a lot of opportunities to improve water quality and quantity for the whole ecosystem. ● Moderating stream flows improve ecological function. ● ODFW is a user based department. Revenue is focused on one spectrum, hunting, while there are significant demands associated with habitat conservation. ● There are opportunities to share water and move it around. Thirty percent of COID's patrons flood irrigate. ● Short term tools for irrigation districts are fallowing farms and leasing water for instream use.

Additional Resources

Meeting Notes:

Panel	Comments
<p data-bbox="126 621 334 779">Agricultural Water Consumption and Efficiency (August 23, 2018)</p> <p data-bbox="120 856 328 1031">Mylene Bohle - Area Extension Agronomist, Oregon State University Extension</p> <p data-bbox="120 1058 334 1194">Leslie Clark - Director of Water Rights, Central Oregon Irrigation District</p> <p data-bbox="120 1222 337 1434">Margaret Matter – Water Resource Specialist, Program Lead, Oregon Department of Agriculture</p>	<ul style="list-style-type: none"> ● OSU Extension works with Oregon Department of Agriculture (ODA) and Central Oregon Irrigation District (COID) and provides onsite services to farmers as well as developing larger policy and programmatic elements. ● History: Oldest water rights in DC are from 1870/1880, first crop was largely potatoes. Throughout time, crops grown have changed based on disease and popularity: chickpeas, hemp, wheat, rye, hay grass, alfalfa, Marijuana, wineries etc. ● Original water rights were tied to the crop (i.e. potatoes, alfalfa) which make them difficult to alter/change with new crops/new farming practices. ● DC has over 1,000 individual farms, compared to Crook County (680) and Jefferson County (480). Majority are “small farms” and range from >0.5 acre to 10 acres. ● Most efficient crops depend on the individual farm. Common practice for marijuana production is to use drip irrigation within greenhouses/indoor structures (100% efficient), dragline pivot irrigation (98% efficient), traditional center pivot (50-85% efficient). Even minor changes to pivots could result in an 18% increase in efficiency. ● Greatest opportunity for change within water use would be pasture areas. Many areas in DC where owners are misinformed of irrigation maintenance/operations, some are still watering juniper and rock. ● Alfalfa is the largest user of water, but in DC there’s a limited ability of large acreage parcels. ● ODA is researching how to adjust prior appropriate process to today – ie allocate enough water for farmers, fisheries, how to remap water to other irrigation districts, etc. Ex: Colorado is able to lease rural water to cities during droughts. ● COID would like to be able to move water from district to district. Example: North Unit irrigation district serves highly productive farms in Jefferson County but have junior water rights compared to COI, so are the first to lose water in a shortage. ● Changes to water law are needed but require action at the state level. ● More education/outreach regarding ag and water is needed, COID and OSU lack funding for positions currently. Each would prefer to have a staff person who could specialize in irrigation efficiency/outreach. ● Harney County recently undertook an initiative to switch all overhead pivots to Low Energy Sprinkler Application (LESA) pivots in response to over-allocation of water. Funding came from Energy Trust of Oregon and Bureau of Reclamation.

Additional Resources

Meeting Notes:

Panel	Comments
<p data-bbox="120 737 354 856">Projections and Planning (December 13, 2018)</p> <p data-bbox="120 932 347 1031">Bill Durden - Public Works Director, City of Redmond</p> <p data-bbox="120 1060 347 1159">Craig Horell - Manager, Central Oregon Irrigation District</p> <p data-bbox="120 1188 331 1325">Adam Sussman - Principal Water Resources Consultant</p> <p data-bbox="120 1354 337 1453">Mike Taylor – Board President, Coalition for the Deschutes</p>	<ul data-bbox="383 533 1503 1713" style="list-style-type: none"> • Coalition for the Deschutes established a new program recently called “A Shared Vision for the Deschutes” to engage a variety of project partners toward a unifying vision. • Although many wells in Deschutes County are relatively shallow, municipal wells in Redmond were dug to be quite deep and draw downs are not currently of concern. For Redmond, parks and green space are often the largest water consumers, but consumption is overall manageable. • The 47-member Upper Deschutes Basin Study work group has been highly effective in collaborating on a “state of the basin” report. The study is now complete, but it is only a study. There are not any action items or next steps proposed at this time. • Assessing water efficiency and consumption management is among the top priority of those managing water. COID has a System Improvement Plan to identify areas where losses can be curbed. Redmond has seen a decrease in water use due to low flow technology and metering. • Redmond’s WaterHawk program is in place to detect leaks and water losses in their utility system, as well as helping consumers understand their water consumption in detail and offering rebates to incentivize conservation. • Redmond shared concerns regarding population growth and infrastructure—water pressure in wells may be impacted during high use seasons. • Proliferation of wells in Redmond may lead to a drawn down of the aquifer during high use season. • Greatest opportunity for change within water use would be pasture areas. Many areas in DC where owners are misinformed of irrigation maintenance/operations, some are still watering juniper and rock. • Alfalfa is the largest user of water, but in DC there’s a limited ability of large acreage parcels. • ODA is researching how to adjust prior appropriate process to today – ie allocate enough water for farmers, fisheries, how to remap water to other irrigation districts, etc. Ex: Colorado is able to lease rural water to cities during droughts. • COID would like to be able to move water from district to district. Example: North Unit irrigation district serves highly productive farms in Jefferson County but have junior water rights compared to COI, so are the first to lose water in a shortage. • Changes to water law are needed but require action at the state level. • More education/outreach regarding ag and water is needed, COID and OSU lack funding for positions currently. Each would prefer to have a staff person who could specialize in irrigation efficiency/outreach. • Harney County recently undertook an initiative to switch all overhead pivots to Low Energy Sprinkler Application (LESA) pivots in response to over-allocation of water. Funding came from Energy Trust of Oregon and Bureau of Reclamation.



MEMORANDUM

DATE: October 21, 2021

TO: Deschutes County Planning Commission

FROM: Peter Russell, Senior Transportation Planner

RE: Rural Economic Development Opportunities / Panel Discussion / Recap

The Planning Commission (PC) on October 14, 2021, hosted a panel discussion on Rural Economic Development Opportunities with representatives from state agencies, Oregon Farm Bureau, High Desert Food and Farm Alliance, and County staff.¹ The conversation centered on real and perceived barriers for small-scale farmers and ranchers to undertake agri-tourism and/or commercial activities in conjunction with farm use. The discussion lasted approximately 2.5 hours.

On October 28 the Planning Commission will revisit the issues and themes identified by the panel, share observations, and consider other possible remedies to forward to the Board of County Commissioners (Board) for their consideration. Staff will then meet with the Board to summarize the topics and seek further direction.

I. BACKGROUND

Staff prepared a June 28, 2021, white paper on Rural Economic Development Opportunities in Deschutes County. Staff presented it to the Board on June 28, 2021 and to the Planning Commission on July 8. Besides citing Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and zoning, the white paper identified other contributing factors such as septic issues, building codes, and rural demographics. Staff shared the white paper with the panelists two weeks before the October 14 PC meeting. The panel discussed the challenges facing small operators and their entry into commercial activities in terms of fees, regulations, and the time land use review took. The panelists were:

- Jim Johnson, Oregon Department of Agriculture
- Jon Harrang, Oregon Department of Agriculture
- Matt Cyrus, Oregon Farm Bureau
- Carol McBeth, Central Oregon LandWatch
- Katrina Van Dis, High Desert Food and Farm Alliance
- Todd Cleveland, Deschutes County Environmental Soils Division

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-4>

- Randy Schied, Deschutes County Building Safety Division

II. PANEL DISCUSSION MAIN THEMES

Panelists possess a wide range of experience, both from a regulatory aspect, daily practitioner, and as a land use applicant. During the wide-ranging and open discussion, as well as in the question and answer period, the following major topics or themes emerged. These are not presented in any order of priority:

A. Explore changes in state law to house on-farm laborers

Ranches and farms typically exist far from urban centers. Agricultural workers can experience long commutes. State law imposes an acreage, median acreage/gross sales test or gross annual income test (\$40,000 to \$80,000) for farm-related and accessory dwellings. For small farms, these requirements are difficult to meet.

Lowering these requirements for small farmers requires a change to state law.²

B. Lower land use fees

The Community Development Department (CDD) is a fee-supported enterprise. The fee structure relates to the complexity of the land use application, such as outright permitted use compared to a conditional use permit and whether similar applications were approved administratively or appealed to a hearings officer or the Board. The Board sets the permit fees charged by CDD and would have to approve any changes.

Lowering fees would require Board action and a subsidy from the general fund.

C. Change state law to lower the income thresholds for agri-tourism and commercial activities in conjunction with farm use to recognize the income challenges facing small farmers

Farm use as defined by state law, means the current employment of the land for the primary purpose of obtaining a profit in money. State law requires agri-tourism and commercial activities in conjunction with a farm use to be incidental and subordinate to the primary farm use. In Deschutes County, the Board through a series of land use decisions defines incidental and subordinate income level at 40% to the primary farm use. In other words, a farm with an income of \$100,000 could only generate an additional \$40,000 on the incidental use. The agricultural use must also have a connection to agri-tourism and/or commercial activity (ex. growing flowers and incorporating them in wedding settings and making them available for sale). The area devoted to agri-tourism and/or the commercial activity must also constitute a small area of the overall farm. Lastly, the events themselves must also be incidental and occur infrequently.

² Oregon Revised Statute 215.277 sets the farmworker housing policies on agriculture land.

Lowering the incidental and subordinate requirements for small farmers requires a change to state law.

D. Remove commercial activities in conjunction with farm use as a conditional use and process as an administrative determination

Commercial activities in conjunction with farm use have been controversial in Deschutes County due to compatibility concerns (traffic, noise, disruptions to neighboring farms, etc.).

Amending County code and reclassifying it as an administrative determination would require Board direction.³

E. Prioritize agriculturally related land use applications (processing, agri-tourism, commercial activities in conjunction with farm use) ahead of other land use applications.

Under state law, counties have 30 days to deem a quasi-judicial land use application complete and then 150 days to reach a decision at the local level, up to and including the Board.⁴ Typically, the County processes land use applications in the order received. Deschutes County receives approximately 800 to 1,000 applications a year.

As might be expected, each applicant expects a timely decision. The time to process an application depends on the complexity of the land use, whether it is a matter of first impression or is a more routine application, whether site plan review is involved, if the use is permitted outright or conditionally, and/or whether there is any opposition.

Prioritizing one application type over another is extremely awkward and would set a problematic precedent. Staff is not aware of another Oregon county that favors one application type over another.

F. Verify why Crook and Jefferson counties have differing approaches to farm uses and lower land use fees

A few panelists noted it appeared Crook and Jefferson counties were more pro-agriculture, had lower fees, and processed land use applications faster than Deschutes County. Staff contacted the Planning Directors at Crook and Jefferson counties as well as the Central Oregon representative for the Department of Land Conservation and Development (DLCD).

All three counties must follow the same state laws and regulations. The three differ markedly in geographic size, number of parcels and average size, soils, and land prices. The proximity to Bend affects land prices as locations near the largest city east of the Cascades are highly sought.

³ DCC Chapter 18.124 Site Plan Review, is still required.

⁴ The 150-day clock does not apply to plan amendments and zone changes.

The desirability of proximity to Bend can be seen in the 2015-2019 median home price in 2019 dollars:

- Deschutes County \$364,600
- Crook County \$246,100
- Jefferson County \$224,600

A similar pattern appears for median household income 2015-2019 in 2019 dollars.⁵

- Deschutes County \$67,043
- Jefferson County \$53,277
- Crook County \$49,006

Essentially, those drawn to the Bend area and its amenities have significantly higher income and can bid up the price of land zoned Exclusive Farm Use (EFU), Multiple Use Agriculture (MUA-10), and Rural Residential (RR-10). For EFU lands, which tend to be larger parcels than MUA-10 and RR-10, the property owner has the option of applying for a non-farm dwelling (NFD). The NFD, however, must be situated on the lands least suitable for farming (Class 7 or 8 soils); a NFD does not necessarily preclude farming the remaining property. Oregon law requires that any property receiving special farm tax assessment be disqualified from such tax status upon receipt of preliminary approval for a nonfarm dwelling. In addition, the law requires that certain taxes associated with disqualification be paid before the nonfarm dwelling can be built. NFDs are discussed in more detail below.

Staff talked with Will Van Vactor, Crook County Community Development Department Director, about the differences between Crook and Deschutes counties. Mr. Van Vactor pointed out that Crook County has much lower permit volumes than Deschutes County. Crook County does not send out preliminary notices of land uses that are agriculture in nature or related to agriculture, which saves 21 days in the process; Crook County does send out notice of decision. Crook County does review that the proposed use is incidental and subordinate to the primary agricultural use, but does not have an income test. Deschutes County, through Hearings Officers and Board decisions, has set a financial ceiling for the commercial use for the farm's total income. The commercial use can be at most 40 percent of the farm's income.

Staff also reached out to Jefferson County, but did not receive a timely response.

Finally, staff talked with Jon Jinings, Central Oregon Community Service Specialist for the Department of Land Conservation and Development (DLCD). He reiterated that the same state rules and regulations apply to Crook, Jefferson, and Deschutes counties. From a State standpoint, one or two counties cannot be more pro-agriculture than another as the State's land use system does not make such distinctions. Please attached letter from DLCD.

⁵ Data taken from Oregon Blue Book, 2021-22, Housing Table for Crook, Deschutes, and Jefferson counties

G. Conduct outreach to realtors about what living on agricultural land can mean to those not accustomed to living near working farms and ranches

The Deschutes County Soil and Water Conservation District produced a Rural Living Handbook in 2010 describing what to expect when living in the rural countryside.⁶ The panel suggested more outreach to area realtors about farming and ranching and what that can mean to those living near a working farm or ranch. Staff regularly meets with Central Oregon Association of Realtors (COAR) and does outreach on land use topics. Staff can certainly include discussion points on living next to a working ranch and/or farm in terms of noise, odor, nocturnal activities, etc.

H. Reassess the number of non-farm dwellings approved by Deschutes County

In EFU zoning, dwellings can either be a primary dwelling, a NFD, or a replacement dwelling. ORS 215.243 sets the resource land dwelling policy. The dwelling types fall into two broad categories – 1) dwellings for farm owners; relatives helping in farming; and farm workers, including relatives assisting in farm operations and 2) dwellings not associated with an active farm use on the property.⁷ State law allows nonfarm dwellings on EFU lands for areas deemed unsuitable for farm use. Typical factors include rocky terrain, poor soils, or lack of water rights. Nonfarm dwellings go through a rigorous review.

Review of NFDs in Deschutes County include notice of application and potentially public hearings. Deschutes County has more smaller EFU zoned parcels than Crook and Jefferson counties and Deschutes County is geographically larger than both of them. Deschutes County has poorer soils and a shorter growing season. The combination of these factors means there are more potential locations for NFDs. Additionally, as shown above, there is a demand for homes on rural property near Bend. State statute details the legal process for applicants to apply and local governments to review and approve or deny a NFD. The following two tables compare the three counties approvals of NFDs.

Table 1, Nonfarm Dwellings Approved 2018-2019⁸

County	2018	2019	TOTAL
Deschutes	23	21	44
Crook	9	1	10
Jefferson	0	2	2

⁶ https://issuu.com/desertvalleygroup/docs/deschutes_rlh_2010

⁷ DLCD, "Oregon Farm and Forest Land Use Report, 2018-2019" page 12

⁸ Ibid, Table 4, Nonfarm dwelling approvals on Farmland, parcel size, and county, 2018-2019

Table 2, Nonfarm Dwellings Approved by Parcel Size, 2018-2019⁹

County	0-5 Acres	6-10 Acres	11-20 Acres	21 to 40 Acres	41 to 80 Acres	80+ Acres
Deschutes	17	4	15	5	2	3
Crook	0	2	2	2	4	0
Jefferson	0	0	0	1	0	1

III. NEXT STEPS

Staff will provide a summary to the Board of the Planning Commission's October 14 panel discussion and October 28 observations and recommendations. The Board meeting will likely occur in November.

Attachment: Letter from Jon Jinings, DLCD, dated October 20, 2021

⁹ Ibid



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Central Oregon Regional Solutions Center

1011 SW Emkay Drive, Suite 108

Bend, OR 97702

www.oregon.gov/LCD



October 20, 2021

Peter Russell
Senior Transportation Planner
Deschutes County Community Development
117 NW Lafayette Avenue
Bend, Oregon 97703

Dear Mr. Russell:

Let me begin by apologizing for missing the panel discussion on Rural Economic Development Opportunities held last Thursday evening. As we have discussed, I had an unavoidable conflict come up. It sounds like it was an interesting discussion and I regret not being available to attend.

Local planning programs in Oregon operate under a system of state statutes and administrative rules. This is particularly true of rural planning programs administered by counties. While there may be minor differences due to local implementation measures (ie., review protocols, land use fees, etc...) or local policy choices to be more restrictive than state law, the fundamental framework remains intact. Put another way, county planning programs essentially operate from the same playbook.

Oregon Revised Statutes are the principal source for uses that may be considered on lands planned and zoned for exclusive farm use. ORS 215.283(1), (2) and (3) identify many farm and nonfarm related activities that can produce economic benefits at the local level. These uses range from wineries and farm stands to agritourism. ORS Chapter 215 also includes provisions for uses like home occupations and guest ranches. Please see ORS 215.448 and ORS 215.461, respectively.

County decisions on lands planned and zoned for exclusive farm use are annually provided to the department. This information is published in our Farm and Forest Reports, which we are required to furnish every two years. The most recent report was issued in November 2020 and covered the 2018-2019 period. The information included in this report shows the total number of land use decisions made during that time, as well as, county by county figures. For example, Table 5. of the most current report shows that 51 "Commercial Activities in Conjunction with Farm Use" were approved in Oregon in 2018-2019. Deschutes and Jefferson counties each contributed a single approval in this category while Crook County had none. A link to the report is provided below. Previous copies are available upon request.

https://www.oregon.gov/lcd/Publications/2018-2019_Farm_Forest_Report.pdf

Peter Russell
October 20, 2021
Page 2 of 2

I hope this information is helpful. Please let us know if there is anything we can do to further assist Deschutes County in this regard. Feel free to contact me directly by phone at 541-325-6928 or by email at jon.jinings@dlcd.oregon.gov.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jon Jinings', with a stylized flourish at the end.

Jon Jinings, DLCD
Community Services Specialist

Cc: Scott Edelman, DLCD