



CAPITOL LAKE/ DESCHUTES ESTUARY COMMUNITY MEETING

**Jefferson Building
Conference Room 1213
1500 Jefferson Street
Olympia, Washington 98504
June 29, 2016
5:30 p.m.**

Minutes

DES STAFF MEMBERS PRESENT:

Chris Liu, Dept. of Enterprise Services
Bob Covington, Dept. of Enterprise Services
Carrie Martin, Dept. of Enterprise Services

MEETING PRESENTER:

Tessa Gardner-Brown, Floyd|Snider

OTHERS PRESENT:

Helen Wheatley, Citizen
Jim Lengenfelder, Citizen
Tom Gow, Puget Sound Meeting Services
Steve Trapp, DERT
Bob Wubbena, CLIPA
Dennis Burke, Citizen
Greg Schundler, Citizen
Wendy Steffensen, LOTT Clean Water Alliance
Mary Ann Firman, Citizen
Skip McConkey, Citizen
Tom Stewart, Citizen

Bob Holman, CLIPA
Dave Peeler, DERT
Lydia Wagner, Department of Ecology
Bill McGregor, Port of Olympia
Bob Vadas, Jr., Citizen
Emily Rat, Citizen
Mark Dahlen, Citizen
Robert Jensen, DERT
Dayle Swift, Citizen
Kelly Annette Mills, Citizen

Open House, Review of Meeting Materials

Chris Liu, Director, Department of Enterprise Services (DES), convened the meeting at 5:40 p.m. and welcomed everyone to the open house to review materials.

Welcome and Introductions: Review of Meeting Ground Rules

Director Liu reviewed the meeting agenda on the second touch of best available science and overview of input received, a first touch review on the Draft Purpose and Need Statement with feedback from the Technical Committee and the Executive Work Group, and a first touch on identification of hybrid options and feedback from the Technical Committee and the Executive Work Group followed by an open house for written input and material review.

Asset Manager Carrie Martin reviewed the meeting ground rules.

Director Liu introduced Tessa Gardner-Brown with Floyd|Snider.

Ms. Gardner-Brown reported the meeting would accomplish two goals of reviewing input received on best available science materials reviewed by the Technical Committee, Executive Work Group, and the community in May and review of new materials on hybrid options for inclusion in the Proviso Report.

Second Touch on Best Available Science and Overview of Input Received.

Ms. Gardner-Brown referred to materials on best available science. Throughout the process, community members have had two opportunities to review each packet of materials. A second packet evolved from the initial discussion and identifies the methods to identify and review best available science. Feedback was received from the Technical Committee, Executive Work Group, and a number of citizens on the three options for reviewing and assessing best available science. The options are a state process, a federal process (USEPA), and an internationally recognized process. Most of the stakeholder input favored the State process/criteria as it's grounded in the Growth Management Act, which helps to guide all jurisdictions when reviewing best available science.

During the June Technical Committee meeting, members of the Technical Committee volunteered to review the technical document list and identify how the documents align with the selected State-criteria. Members plan to review the list of technical documents related to water quality and habitat for the Capitol Lake basin. The list was expanded to include a number of documents identified by the Technical Committee and the community. Technical Committee members will review these documents to determine whether the information constitutes best available science. Additionally, a number of comments suggested the importance of peer review. To ensure peer review is reflected in the review of the technical documents and to meet the requirements of state criteria, the team developed a briefing paper on what constitutes peer review, why and when it is used and who is the appropriate person for a peer review. In addition to the review of the technical document list, members of the Technical Committee will review whether the document has been peer reviewed. The Technical Committee is scheduled to review the documents during the next several months and bring their work to the Executive Work Group and the community in early fall. The Executive Work Group received a briefing on best available science and supported the steps for the review.

A number of other documents were submitted by the stakeholders and were related to Capitol Lake and the Capitol Lake basin. Some of the documents were outside the scope of water quality and habitat as specified by the legislative proviso. Because of the importance of the documents, the team continues to expand the technical document list, and thereby developing a project bibliography for those documents for future reference and as potential resources for future phases.

John Lengenfelder asked for information on the members of the Technical Committee and whether a list of members has been published. Ms. Martin noted that DES posts meeting notes from the Technical Committee meetings on the Capitol Lake web page. Committee members include representatives from City of Olympia, City of Tumwater, Thurston County, Port of Olympia, Squaxin Island Tribe, Department of Natural Resources, Department of Ecology, and the Department of Fish and Wildlife.

Dennis Burke commented that if he were to submit a proposal on a hybrid option, he would refer to many different technical articles published in a peer review publication similar to Department of Ecology's studies. He asked whether that is the type of information that would be reviewed in terms of substantiating peer review. Ms. Gardner-Brown replied that the question speaks to two issues. The first is the submittal of a hybrid option. The request to the public and stakeholders is to provide input on hybrids which maintain the historic reflecting pool but also include a component of a restored estuary. Proposals could be strengthened by inclusion of references to best available science; however, there is no

requirement to include best available science in any proposals submitted. The next step in a later analysis would include review of the science to support the proposal.

Dave Peeler, Deschutes Estuary Restoration Team (DERT), asked about the identity of the technical documents that are included on the secondary list (bibliography project list). Ms. Gardner-Brown replied that additional technical documents provided by the Technical Committee or the community have been included on the list since the list was first released in May. The project bibliography list would continue to be updated throughout the process and provided as part of the Proviso Report. Mr. Peeler referred to his comments at the last meeting and his recommendation to include a May 2012 report from PSNERP. Since the report is not included on the current list, he is unsure whether it was included on the bibliography project list. Ms. Gardner-Brown affirmed the document was included on the bibliography project list. She offered to follow up and review why the document wasn't included on the Technical Document List.

Bob Holman, CLIPA, said the group initially submitted comments with no concerns about any specific review method other than the information provided by many local community members lacks the necessary resources to complete elaborate designs or peer reviews and then may not be evaluated during the review. Information reflecting that the Technical Committee would complete the screening is concerning. However, as initial information indicated, screening would occur later and would be completed by Floyd Snider, which would be acceptable as the firm is a third-party and could fairly evaluate the information. A large number of the documents were generated by the ECY or the Squaxin Island Tribe. Those agencies are represented on the Technical Committee tasked with completing the screening. Essentially, it equates to the analogy of sending the fox to guard the chicken house. The process needs an independent group to evaluate what is screened. The process is going in the wrong direction by accepting the generous offer by some Technical Committee members to complete the screening. With respect to peer review, there are many methods of peer review. Last week, ECY representatives presented a detailed list of peer reviews it completed for its models for the TMDL Study. However, the peer reviews of the model as reflected on the Technical Document List is not just on the model but are conclusions drawn about the model, which hasn't been peer reviewed. For instance, if the model predicts a certain number of conditions in the middle of Budd Inlet or in East Bay and measurements are completed, he would maintain that all peer reviews don't really mean a whole lot if, at the end of the day, it can't pass the test. That is what CLIPA is finding when reviewing some peer reviewed documents that look at the internal parts of the model, which is fine, but they draw conclusions that aren't replicated in the real environment. It's important to be careful when conveying that only those documents that have been peer reviewed will be allowed because sometimes peer reviewed documents are not good. Others who have presented information that hasn't necessarily completed a peer review may be good information. He questioned whether the process is the end-all for the criteria for including or excluding documents.

Ms. Gardner-Brown noted that the WAC criteria is balanced because it's not solely weighted on whether a document has been peer reviewed. Five criteria are used in the screening to ensure there is a rounded review of the document. Peer review is one of the criteria. There are different levels of peer review and different types of peer review. Peer review is part of the process, but it's only one of five review criteria and not the primary criterion.

A request was received for additional information to help define and explain peer review and how it's used. Additional information that has been supplemented to the main packet helps to explain peer review, as well as additional explanation provided in the references that were included in the peer review briefing. The best resource is information from the Environmental Protection Agency (EPA) outlining

the different levels of peer review and the different types of peer review. Ms. Gardner-Brown said she believes that explanation answers the question about not making a determination based solely on peer review. In terms of the comment about caution for eliminating or fully reviewing studies, opinions, or documents that might not be science-based but reflect input that is knowledge-based from the community that could influence the process, she also agreed and cited the list of documents CLIPA provided that were reflected on the project bibliography. Although the documents might not reflect science, they are important and should be part of the record. A detailed email was sent to CLIPA about all the documents that were included within the project bibliography. Although the documents might not fit on the list of science that should be reviewed, the documents are included as part of the project record.

Mr. Peeler responded that his concerns spoke to science-based documents rather than documents on economics or other issues. Some of the documents were included on the list but others were not listed and perhaps more dialogue is warranted on those to ensure the process has all the documents that CLIPA considers as science-based documents.

Ms. Gardner-Brown welcomed additional comments. The community has the opportunity to provide comments on science until Thursday, June 30. The process has been responsive to all document requests that have been received.

Bob Holman said that during the last meeting on best available science and the three methodologies, his comment at that time was reflective that the combination of the three methodologies would likely be used because of the broad nature of this study. As Mr. Peeler indicated, it's a process of sorting through important resources. It's really a documentation because when CLIPA submits the reports and the documents are selected for placement in different categories, it helps CLIPA understand and it acknowledges that the reports were not eliminated but were listed in a different category. A critical part of the process in terms of the science and design, are the differences of opinion between different people which is why Ruckelshaus recommended an independent third-party review. In many cases, Floyd Snider might serve as the third party, but not necessarily during this process. The process shouldn't include either the proponents or the opponents of any concept but a true consultant-type of approach and only for those larger critical issues. CLIPA wants a solid program that the community as a whole can embrace. The list provided at the beginning of the meeting is two weeks old. Many of the documents were not included leaving the question of when the updated list is to be publicized to help everyone understand the status.

Ms. Gardner-Brown advised that an updated list would be released in early fall. Additionally, the other request appears to be that after the review of documents and best available science, a third party review is recommended by an independent peer reviewer exclusive of any of the stakeholders.

Bob Wubbena, CLIPA, questioned whether best available science is good enough. There has much dialogue about the model and equations and how the model is used. Everyone lives with models each day through weather forecasts. The most famous forecast was Hurricane Sandy that hit New York. The Europeans spent billions of dollars on a model and warned New York about the storm. The United States ignored the caution and insisted it had a better model. The hurricane hit and caused much damage. The problem is that many models are not sufficient to render a decision. The decision surrounding the lake could equate to \$300 million or close to a billion dollars accounting for overruns in solving the problem. The question to ask is whether the models are good enough. The second question is the state-of-the-art model used by ECY. He spent the last two weeks reading all of ECY's reports and appendices. He knows that the reports were reviewed as well as the codes, as many of the codes were changed. However, there must be some way to provide input into those equations. For instance, light

extension, which isn't commonly used. There are many things not commonly used for water quality. His first ten years after school included working on a regional water quality models to include QUAL1 that was used in two studies for the entire East Coast of the United States. Washington State never participated in those studies and is a latecomer to the process. The issue is determining the proper choice for Capitol Lake. It's important to ascertain how well the model predicted what happened yesterday. Those are important factors that speak to credibility and best science, but appear not to be plugged in.

Ms. Gardner-Brown answered that the process is to compile technical documents that may be best available science related to Capitol Lake and then continue that review process, which might include incorporating a third-party review and determining best available science in an environmental impact statement process. That is the crux of an impact statement - to analyze what the baseline is and what the potential impacts would be from the alternatives identified. This process is meeting the goals of the proviso.

Greg Schundler said he was the co-author of two outdoor recreation reports for the State of Washington commissioned by the Governor and the Legislature. He also has a masters in GIS and an undergraduate degree from Princeton University. One of the important things at the onset is the role of social science. He understands that the proviso limits the scope of the best available science review, as well as understanding that the document is also trying to hone in on water quality and invasive species. However, carried on the back of what was just conveyed is a bit of an assumption in terms of whatever the science says would be implemented as a management strategy. Practically speaking, everyone knows that cost considerations have been a major issue in terms of who will pay for the outcome. It's important for social sciences to be considered in terms of what are the data trends for various funding sources and what sorts of outcomes do they support. That is of importance for this actually happening according to the proviso. The language in the proviso states, "restoring and enhance community use of the resource." If that is not quantified or understood, it's not possible to consider the design considerations in terms of transportation and access as the lake was created for non-scientific reasons. Capitol Lake was created for aesthetic reasons. Social sciences should be considered as best available science. Although it might be imperfect similar to any other deductive database science, it's possible to do the best job and those should be validated by the best possible sources.

Ms. Gardner-Brown replied that economics should be a part of the effort, and was incorporated as a primary consideration based on stakeholder input. DES recognized that importance and commissioned the Funding and Governance Committee, which is outlined in the process for Phase 1 implementation. The committee is charged with identifying potential funding sources and funding models and to review governance models for the resource spanning jurisdictional boundaries. The committee is working on those efforts for the next several months and the intent is to provide a summary of recommendations or a status update for inclusion within the Proviso Report, as well as continuing those efforts during Phase 2. Additionally, in terms of whether social sciences would be included as part of the analysis, in an environmental impact statement, when quantifying the level of recreational use on the lake, the environmental impact statement process would account for activity occurring on the lake, such as uses and peak usage hours to analyze potential benefits or impacts caused by each of the alternatives. That will be an important part of the process. That effort is limited in scope based on the direction of the proviso. The team believes that community use of the resource is of huge importance. The Purpose and Need Statement reflects that importance and carries that theme forward.

First Touch on Draft Purpose and Need Statement, Feedback from the Technical Committee and Executive Work Group

Ms. Gardner-Brown referred to the example Purpose and Need Statements. The intent of the examples is to show different levels and structures of a purpose and need statement. A purpose and need statement is reviewed by the resource agencies that would ultimately fund or permit the project to ensure the preferred alternative or the selected alternative is consistent. It also sets up the base of the project in an environmental review and assists in pursuing the goals and what should occur to fulfill the long-term management option.

Ms. Gardner-Brown read the Draft Purpose and Need Statement. The draft was prepared based on the April goals that were identified during previous stakeholder meetings.

Ms. Gardner-Brown reported that water quality issues have created access restrictions to the lake. Returning access to historic levels would entail improving water quality as a key issue to resolve. The draft Purpose and Need statement recognizes the current issues are community use and the importance the community places on Capitol Lake, as well as the importance of meeting ecological goals that are required by state and federal law. The Technical Committee and the Executive Work Group were asked for feedback on the draft. Both groups offered suggestions. The primary feedback from the Executive Work Group recommended including a statement on sediment management with a heavier weighting, as well as to reflect the economics of the project. The Technical Committee wanted to ensure that the watershed approach is reflected in the statement and that the focus is on water quality and fish and wildlife habitat.

Ms. Gardner-Brown invited comments. The goal is to receive input and combine the input with feedback from the Technical Committee and the Executive Work Group.

Mr. Holman remarked that he was glad the sediment issue was mentioned. Tumwater Mayor Pete Kmet addressed sediment during the Executive Work Group meeting and CLIPA agrees sediment should be moved forward at least equivalent to any of the other issues facing Capitol Lake. He questioned language in the statement about water quality and the degraded conditions in Capitol Lake.

Ms. Gardner-Brown asked whether that speaks to one of the group's contentious issues surrounding third party review. Mr. Holman said in this case, no; however, he is hopeful that Lydia Wagner (ECY) would support his comments. CLIPA representatives have met with ECY as the TMDL progressed. ECY separated Capitol Lake and lower Budd Inlet from the upper watershed and is now looking at dissolved oxygen problems in Budd Inlet and no longer is examining bacteria and dissolved oxygen in Capitol Lake, which are the two water quality issues that have been referenced. Dissolved oxygen and bacteria are literally no longer a problem because in terms of bacteria, the issue has been corrected through 15 years of work by the community that should be recognized. He feels the lake is swimmable today in terms of bacteria counts and it has been for the last 15 years. In terms of dissolved oxygen, the lake now contains the highest level of dissolved oxygen anywhere in the Deschutes watershed. The whole idea that efforts need to reverse the degradation in Capitol Lake is not an issue to the extent that it was because it has been resolved. Although Budd Inlet still has some issues that ECY is currently working on, CLIPA has some questions and believes a third party should be included to help resolve those issues. Within Capitol Lake, CLIPA believes that water quality is just fine. That needs to be reflected in the statement to avoid continuing the false premise that Capitol Lake is degraded.

Lydia Wagner, ECY, clarified that Capitol Lake is included on the 303(d) list for phosphorous and bacteria. While it's accurate that ECY is not addressing those issues in the current TMDL process, ECY continues to address dissolved oxygen in Capitol Lake and how it relates to dissolved oxygen problems

in Budd Inlet. While Capitol Lake is not listed on the 303(d) list for dissolved oxygen, it doesn't mean it doesn't impact Budd Inlet.

Ms. Gardner-Brown commented on the continued opposing views of water quality issues in Capitol Lake. ECY is the legal steward of water resources in the state and has published documents that are included on the best available science list. Moving forward, development of a purpose and need statement that stipulates that any option would need to result in improvements to water quality would be a statement of preferable goals. Retaining the language, which is reflective of what the state resource manager had indicated is important, doesn't preclude an option from being selected, but rather it puts forward that the community, the Technical Committee, and the Executive Work Group have all indicated that water quality is important.

Mr. Holman affirmed his understanding of the comments but noted that the two primary points in the purpose and need statement deal with water quality in Capitol Lake and invasive species. As Ms. Wagner indicated, water quality in Capitol Lake is not an issue. Granted, there are things about Capitol Lake that may influence water quality downstream and those issues need to be resolved. However, water quality in Capitol Lake is not an issue. Likewise, invasive species are really not an issue as evidenced by the Department of Natural Resources (DNR), which operates a canoe launch site in Grays Harbor County in the presence of New Zealand Mud Snails. Throughout the western United States and the Great Lakes, New Zealand Mud Snails are managed and not quarantined. Capitol Lake is the only place in the country where mud snails are quarantined. To include those two issues at the beginning of the statement and then indicate they could drop off the table if they were found to not be an issue is a disservice. Sediment needs to be front and center. Information from previous graphs conveyed the main drivers and the two that were selected from the 12 are not that significant. Other issues included on the list should be moved forward, such as recreational, sediment, and other issues of importance to others, such as fish habitat. He questioned why the statement focuses only on two issues that are not that important.

Ms. Gardner-Brown said it appears the feedback recommends the Purpose and Need Statement should include sediment management as the primary focus. Mr. Holman replied that sediment should be high on the list. While not the only issue, it's an important one and it's not addressed in the draft statement.

Mr. Schundler said that this is one issue where he agrees with CLIPA. He thanked the group for informing him about the New Zealand Mud Snail. The GIS layer from USGS is indicative that mud snails are located throughout the country. There are three water body closures with two in California and Capitol Lake. This notion that the management decision equilibrium is based on the New Zealand Mud Snail is not based on best practices or anything in the charter of DES for serving the public and taxpayers. It was possible to have had a boat rental business on the lake last week. That should be pursued, but it's another issue. As this process takes time, there are many in the low-income sector who are suffering from the lack of tourism downtown. Businesses are closing all the time and the community really can't deal with it. In terms of the bubble (circles) on an earlier graph, quality of life should be the largest bubble, it is why the lake was created – to improve the quality of life. But things have changed since 1951 both in what people look for and what people find to be quality of life because their values and perspectives changed. People have weighed in on the issue in the Olympia public survey and that's best available science. It's all about quality of life and the question is what option creates the best quality of life? Secondly, what attracts the most funding to provide a good quality of life? It's important to know what funders are looking for and tailoring the solution to that. From what he's seen, it's a high ecological system function with an estuary, but he agrees with shifting the priorities. Additionally, the conclusion for the current management equilibrium is not accurate.

Ms. Gardner-Brown asked Mr. Schundler to follow up with her to ensure she has the right information. It appears Mr. Schundler agrees invasive species should not be reflected as an issue to resolve and that quality of life and economics need to be high on the list of goals.

Mr. Schundler said the statement indicates the need to improve water quality, which would restore and enhance the community's use of the resources. It speaks to the need to manage the boats more than invasive species because boats never leaving the lake are essentially a viable management strategy for the invasive species according to over 10 fish and wildlife experts at the state level across the country and the federal USGS. He has the data to support his comments as he has the GIS layers. Maintaining the closure of the lake is a very unique and isolated management option. Additionally, the placards surrounding Capitol Lake have not changed since 2011 and still list the Department of General Administration. It's not being managed well and that is more of a problem than water quality. The management entity is failing to manage the water body well. He cited the attendance to the community meetings and whether it's an effective process.

Mr. Peeler offered a different opinion about water quality in the lake than Mr. Holman's comments because he lives near a lake, which is much cleaner than Capitol Lake. People swim in his community's lake as there are no algae mats or high temperatures in the lake unlike all the conditions that occur in Capitol Lake. At the last Executive Work Group meeting and as mentioned earlier in the meeting, the focus should be the Capitol Lake basin including the south, middle, and north basins. Capitol Lake exists as part of an ecosystem that includes the Deschutes watershed, Budd Inlet, and South Puget Sound. That linkage needs to be included in the Purpose and Need Statement, which is part of the concern because if the lake is considered as a separate entity, which the architects did when they designed the lake, there is no consideration in how it exists as part of an ecosystem. He noted that he has specific comments on recommended language for the statement, as well as ideas on ecological functions and enhancing community use of the resources. Additionally, the middle paragraphs speak to human uses since 1951 but lacks uses predating the lake by fishing groups, tribes, and others. Many of those uses are required by state law. Mr. Peeler offered to provide his written comments at the conclusion of the meeting.

Bob Vadas said he provided information on a Capitol Lagoon idea, which requires additional work. The basis for indicating there is no water quality degradation in Capitol Lake is based on considering the body as a lake when in reality it houses many exotic species, lacks flow and tidal action, and the salinity has changed. Anytime there is the presence of exotic species, it's not difficult to point to water quality degradation. The entire idea of a hybrid approach is to create an option that is better than the current situation and would be more conducive to native species.

Mr. Burke said his comment pertains to bacteria because there is no proposal by ECY or others to address the issue. It's also important to consider solving the invasive species that exist either in freshwater or saltwater. The information lacks any kind of option to solve that problem which speaks to why the draft was presented. The information speaks to the New Zealand Mud Snail that thrives on dead algae. The USGS samples of the floor reflect a layer of algae on the top of the sediment. The question speaks to whether removing the algae layer would have any impact on the snails. Other than that, unless there is an option that was going to address the issue, he questioned whether it should be included on the list. The third missing issue is economics. Telling people in downtown Olympia that something planned for the lake will change the attractiveness index or make the lake look more like a small harbor will lead to objections as it speaks to the economic impacts. Additionally, the Port's activities should be

considered. Somewhere all this information should be plugged in. Whatever occurs will impact everyone creating an uprising in the community.

Bill McGregor, Port of Olympia Commissioner, reported that in 2009, the Port Commission passed a resolution that spoke to CLAMP's pending decision and concerns about the lack of analysis on sediment management. That was the focal point of the Port's input because sediment management is an important part of everything that happens on the Budd Inlet side of the dam. In conjunction with that, it is now known that cleanup needs to occur in Budd Inlet. With sediment traveling down Budd Inlet it covers existing sediment creating a situation where all the sediment must be disposed at an authorized site because it doesn't meet the requirements for open water disposal. Sediment is a very big concern to the Port, as well as those businesses on the Budd Inlet side of the dam.

Mr. Peeler added that there are nine invasive species in the Capitol Lake basin and not just the New Zealand Mud Snail. There are plants that are invasive and other animal species that are invasive as well. Most are present because it was turned into a freshwater environment when it should be an estuarine saline environment. He mentioned some material that he was recently given by an audience member that speaks to reducing sediment load to save millions. It's a two-page document developed by In Stream Conservation Restoring Endangered Fish and Watershed. Bob Dennis was the name of the person who provided the information. The information cites other hydrologists and experts for reducing sediment loads in watersheds similar to this watershed. He's unsure if the individual submitted the information to DES.

Ms. Martin verified DES received a copy and posted the information on the website.

Mr. Peeler said he's not endorsing the information as he doesn't know about the particulars of the information.

Ms. Gardner-Brown said it appears from the comments, the process needs to reconsider the relative value of the goals and that if additional goals are incorporated, sediment management would be included and it needs to be a higher priority, which is consistent with the feedback received from the Executive Work Group. Additionally, economics is an important and key component of any long-term management options. The next step is determining the best way to represent community uses at the appropriate level. The consultant team will continue to work on language to fairly represent water quality. The feedback will be reflected in the notes and the team will convey the feedback to its best ability in the drafts moving forward. She encouraged participants to submit any other feedback as the comment period closes at the end of day on June 30.

First Touch on Identification of Hybrid Options, Feedback from the Technical Committee and the Executive Work Group

Ms. Gardner-Brown reported on the directive to identify hybrid options for the long-term management of Capitol Lake. The proviso focuses on hybrid option management. A loose interpretation is maintaining a reflecting pool, which has been an integral part of downtown and the community, as well as restoring an estuary within the basin to a certain degree. The community was asked to provide any options or ideas for meeting the directive from the legislative proviso. Three primary options were previously identified. The effort will continue to accept any additional ideas for hybrid options. The community is encouraged to share ideas that could be part of a successful hybrid approach. Monitoring of input received to date has been ongoing with much support for some of the options that will be reviewed.

Tom Stewart asked whether a comparative analysis was completed of the ecological services provided by an estuary alternative versus a hybrid model.

Ms. Gardner-Brown said that as part of the Deschutes Estuary Feasibility Study under the Capitol Lake Adaptive Management Plan (CLAMP) process, DES and the team of stakeholders looked at the feasibility of an estuary option. A subcomponent of that work explored whether a hybrid is feasible. The study identified the alternative as “D” and looked at an alternative of an estuary. The study didn’t necessarily compare one to the other but it considered the feasibility of having that component of retaining a reflecting pool. That option is the Dual Basin option. The study had a main focus of whether an estuary was feasible but also considered whether a hybrid option was feasible. However, they were not compared.

Mr. Stewart referred to the Capitol Lake Alternatives Analysis. It’s important to be mindful of the total cost for implementing a dual basin alternative which was assessed to be 70% higher than implementing an estuary alternative. It’s important to consider the source of funding. He personally doesn’t see the point of filling in another freshwater basin and doesn’t want to develop infrastructure that would only perpetuate problems.

Ms. Gardner-Brown summarized Mr. Stewart’s comments for the benefit of some participants who could not hear the remarks. The question was whether a comparative study was completed between an estuary and a hybrid. The response spoke to the completion of a study of the feasibility of those options but that there was no comparison between the two options. Mr. Stewart’s comment spoke to the need for DES to be mindful of the potential additional cost of implementing a hybrid option, which in the 2009 report indicated it could be upwards of 70% more expensive than restoration of an estuary. The effort should not be focusing state resources on a hybrid when it may be perpetuating an existing problem. Mr. Stewart added that the 70% may only reflect the minimum cost associated with a hybrid option.

Mr. Burke said he reviewed all the costs on the options. All sediment to be removed from the lake was added to the sediment that would be removed from Puget Sound, which is toxic sediment incurring huge costs for disposal of sediment while in fact, Capitol Lake and the Deschutes River delivers topsoil to Capitol Lake that is very valuable and full of nitrogen and phosphorous. Mixing saltwater with the sediment would result in a different story. Don’t mix other pollutants with it. That’s what CLAMP did by combining all sediment and calculating the cost. The costs are not very realistic.

Ms. Gardner-Brown reviewed the three hybrid options. She reviewed an initial document originally released and withdrawn because it was ineffective. She invited comments on the hybrid options and any additional ideas that could be added to any of the options.

The Dual Basin option is from the Deschutes Estuary Feasibility Study. Under the option, the 5th Avenue Bridge and dam is expanded by 500 feet to allow tidal influx into and out of the lake. Tidal action would restore the estuary on the western side of the basin. The key to the option is a sheet pile containment wall installed at the centerline of the existing reflecting pool separating the estuary from the reflecting pool. Before the basin is opened by 500 feet, dredging would occur in Capitol Lake with the sediment removed. The containment wall would also include a pedestrian walkway to continue the walking path around the lake.

The second option is the Dual Estuary/Lake Idea (DELI) and is similar to the Dual Basin option while incorporating a slightly larger reflecting pool. The biggest difference between the options is the reflecting pool would be constructed as a rock containment wall rather than sheet pile wall and it would

be a freshwater lake fed by groundwater instead of a saltwater-fed lake as proposed in the Dual Basin option. The option would address the opening of the tidal gate similarly and a pedestrian walkway would be constructed on the centerline containment with public use encouraged.

The final option is the Percival Creek Rechanneling and Salmon Habitat Rehabilitation Plan. The option is different than the first two options but does include a reflecting pool. The option improves habitat and rechannels an existing creek to increase salmon habitat in the Capitol Lake basin. The option removes existing fish barriers for fish migration and bypasses the existing dam to allow tidal flow. The primary approach for sediment management would include routine maintenance dredging of the middle and north basins. Capitol Lake would be open to public swimming and boating. The hybrid option retains the south, middle, and north basins and enhances salmon habitat by rechanneling an existing stream and allowing the stream to be unobstructed to Budd Inlet.

The community provided input on a Capitol Lagoon option. The lake would be lowered in the winter to allow saltwater influx to the lake. Additionally, another idea was submitted similar to the DELI option.

Mr. Vadas commented that the basic difference of the Capitol Lagoon option from the other hybrid approaches is that the option is not a spatial hybrid but rather it's based on the idea of having any estuary in winter and a brackish lake in the summer. The idea is to retain the lake when the bats use the lake. Brackish water is conducive to different species and the types of foods bats feed on. It's also based on the idea that across the Pacific Coast of the U.S. there are many streams closed up during the summer because of insufficient flow from saltwater and freshwater sources creating conditions that are more manageable. The option is different than previous saltwater flushing performed in the summer. The option is seasonally appropriate for saltwater flushing.

Director Liu inquired as to whether the option was submitted to DES. Mr. Vadas said he submitted the option as a newsletter article that was provided to Ms. Martin. He plans to expand on the option. Ms. Gardner-Brown added that the option is included in the meeting materials.

Mr. Burke reported on his submittal of a hybrid option approximately one week ago but believes it was misfiled. His option considers the Capitol Lake problem as a nutrient problem as nutrients travel down Deschutes River. Capitol Lake is similar to a 260-acre farm with an abundance of nutrients with sunlight and water producing tremendous crops. Unfortunately, crops are sucked into Budd Inlet leading to bacteria problems. Based on all the problems of fluctuating pHs and low dissolved oxygen in Capitol Lake and in Budd Inlet, it evolves around nutrients, which are attached to the sediment. Even ECY recognized that phosphorous, which is a limiting constituent, is closely associated with the solids. This proposal is basically two elements of removing sediment continuously from Capitol Lake that is coming down the Deschutes River. With permanent installation, it's possible to continuously pull out fine sediment that includes phosphorus. It would entail discharging to various kinds of devices to dewater the sediment to produce topsoil that could be sold. The second element is soluble nutrients. The proposal is nutrient harvesting by installing harvesting equipment on the lake adjacent to the railroad bridge. Models have been developed of the process. The process entails growing bacteria to consume the nutrients. Bacteria have an advantage over organisms living in the lake. Bacteria would grow on disks that are harvested continuously with the nutrients. The harvested nutrients are removed by vacuum collection, concentrated, and anaerobically digested to produce renewable energy or biofuel. The nitrogen and phosphorous are recovered as inorganic nutrients that could be sold to organic farmers who need the product because of the inability to get the necessary nitrogen they need. The cost is known as it would entail constructing a way of harvesting nutrients from the lake. The option is not a wild dream. The idea is to harvest organisms that are cultured and removing nutrients for some other productive purposes.

Ms. Gardner-Brown acknowledged that Mr. Burke recently submitted an update on the option. The consultant team interpreted the approach as a potential component of any of the options. She asked whether that would be an appropriate characterization of the proposal. Mr. Burke advised that the proposal is a stand-alone option or it could be part of the other options. The proposal represents the ability to economically remove soluble nutrients, which are the crux of the problem and to harvest those nutrients. The proposal speaks to competitive organisms. It also may involve dredging Capitol Lake. He added that the CLAMP proposal on dredging was way out of line.

Ms. Gardner-Brown asked whether the removal of soluble nutrients is a component of a managed lake option. Mr. Burke affirmed it is a component of a management lake option. The lake has a sediment problem and a soluble nutrient problem which leads to dissolved oxygen.

Robert Jensen said he resides in Lacey and served as the Assistant Attorney General for the Department of Ecology during the formative years of the Shoreline Management Act. He defended the Shoreline Management Act in court over a period of 10 years. He appeared in numerous appellate courts, and the State Supreme Court in defense of that Act. That Act has been sustained by the court in all cases he was involved in. In 1992, he was appointed by Governor Gardner to serve on the Pollution Control and Shorelines Hearings Board. Those boards hear environmental disputes in the state. With that background, he is presenting his issue. He believes there is only one solution based on law. The Shoreline Management Act was passed in 1971 as a statewide initiative – not a local ordinance or a regional county ordinance. It was a statewide initiative not passed by the Legislature. It went through the Legislature as two alternatives. The people voted on the Shoreline Management Act as it exists today. The Capitol Lake Dam was constructed in 1951, 20 years prior to the Shoreline Management Act. This is the problem. In June 2015, he wrote a letter to *The Olympian* calling for removal of the Capitol Lake Dam on the basis of the policies of the Shoreline Management Act. It was published on June 28. A copy of the letter is attached to his statement as Appendix A. He cited a conclusion within the letter. River estuaries are among the most productive natural habitats in the world. Restoration of the Deschutes Estuary including the confluence of Percival Creek and the Deschutes River is more consistent with the environmental policies of the Shoreline Management Act than continual dredging of the Deschutes River in order to maintain an artificial lake. The policies of the Shoreline Management Act are broad and are deliberately construed to give full effect of the objectives and purposes for which the Act was enacted. These guiding policies are set forth in RCW 90.58.020. The first section of the statute states, “The Legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there are grave concerns throughout the state relating to their utilization, protection, restoration, and preservation.” It’s interesting to know that utilization was included as it was for a reason, as the public has the right to use the waters of the state, which is the basis of the Shoreline Management Act. Also note that protection, restoration, and preservation are the most important and they are not being followed today in trying to restore Capitol Lake, unfortunately. He swam in Capitol Lake at one time, but would never do it again not because it’s polluted, but because he no longer lives near the lake and wouldn’t probably go into the lake because he believes a bad decision was made originally, not intentionally, but unwittingly by people who were not subject to these policies that are now in effect and are state law. They are mandated, and unfortunately he sees no mention of the Shoreline Management Act in the Draft Purpose and Need Statement. That is a serious omission. If that had been included and if that was the mindset of people making those decisions, it might be easier to come to a decision because this case will not go forward unless the estuary is restored. The policies of the Act apply to all development on the shorelines of the state. The definition states, “A use consisting of a construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel, or minerals, bulkhead, driving a piling, placing of obstructions, or any project of permanent or temporary

nature which interferes with the normal public use of the surfaces of the waters overlying lands subject to this chapter in any stated water level.” Most of those development terms apply to this project if Capitol Lake is restored. The dam is the obstruction and removal of it is the opposite and it would allow the materials that have been dredged in the past from the Deschutes River spoils and sediment to flush naturally into Puget Sound, which is what the people wanted when they passed the Shoreline Management Act. It’s not the citizens of Olympia who made that decision, it was the public in the State of Washington. When speaking about a community, it’s important to ask who is being served. He read the presentation on needs and all that and he read about the regional community. He questioned who the regional community is because it sounds like it’s the City of Olympia and people who use Capitol Lake. It doesn’t sound to him like it means the people in the county or in the state who would come to visit and utilize this valuable natural resource. Yet, everyone sits at the meeting going through plans trying to retrofit the lake to satisfy policies which don’t fit. He is reminded of the situation of the culverts and the dams. Recently, a decision was released from the 9th Court of Appeals affirming that the law in the state dictates the removal of culverts in streams that inhibit the passage of salmon to its natural habitat. That’s a costly proposition. Now, because of the court decision, action must occur. He questioned what would happen in this circumstance as the Deschutes River has already been dammed. The analogy is the removal of the dam as to whatever extent the salmon use the estuary, they are being deprived of it and the same logic applies as it applies to the culverts. He cited the Snake River dams as another analogy as they are in the process of losing utilities and the courts have ruled on the failed attempts to retrofit those dams to accommodate salmon, which are becoming extinct. The dams were built in 1970 and today its 2016. He questioned how long will it go on in Capitol Lake where we will continue fighting going upstream without a paddle and instead let go and let the waters flow. He doubts that Capitol Lake and the dam, if proposed today, would ever pass muster under the Shoreline Management Act. Conversely, he doesn’t think restoration of Capitol Lake would pass master if it was coming under the Shoreline Management Act as it’s impossible and can’t be done and it would cost a lot of money and eventually would be back to the same point again if we keep going down this trail. He feels that at some point in the process, he had to speak up because of his background. He invited questions.

Ms. Gardner-Brown acknowledged receiving a copy of the information, which has been entered into the record.

Skip McConkey reminded Mr. Jensen that there were no salmon in the Deschutes River. He was there and helped net the first one that was carried behind his farm on the Deschutes. He grew up along the Deschutes about one mile from the falls on 125 acres his grandmother purchased. When the Native Americans wanted their rights to fishing, there were no salmon in the river. The Fire Chief and the Chief of the Olympia Police Department belonged to the salmon club and put smolts in the river. He has done that on the Hood Canal and watched them return. He was down in the water with a net and caught big salmon at night. He used to dive for the Department of Fisheries when they drained the lake and washed out all the scrap bait. He’s knows a bit about the history and the WDFW put the fish ladder on Percival Creek. He also had the plans when he demolished the Mottman house and many other homes during the clearing of land for a canal. It would only be 35 miles from Black Lake to go through rather than over 300 miles to go around. A canal could have been constructed with water gates. He had the plans with a group of Olympians who worked on it but it didn’t go through. Additionally, they also had plans for a vacuum line or a suction line from Summit Lake. He knows about the area as his grandfather bought land near Capitol Lake and knows about the salmon run – there were none.

Mr. Holman said this is the first time he had heard about the Shoreline Management Act. He asked when the Act was approved. Mr. Jensen replied that it was approved in 1971. Mr. Holman said if the Act was approved in 1971 and the dam was constructed in 1951, the proposal suggests going back in time and

resurrecting previous conditions. However, the issue is not about restoring Capitol Lake as Capitol Lake already exists. It might be about restoring an estuary but not restoring Capitol Lake because it already exists. If it's appropriate to go back from 1972 to 1951 to correct past sins, he questioned going back further and tearing out LOTT because it is sitting on sediment that was dredged and placed in that area. He questioned whether the new City Hall should be torn down because it's in an area that was previously a part of Budd Inlet. It is built on fill. He questioned how far back the process should go to correct these past problems. Do we want to go back to 1850?

Mr. Jensen said that the suggestion in terms of today is that we are attempting to go back and reapprove Capitol Lake dam by cleaning up the lake and making it swimmable again and making it cleaner. It's all an attempt to replace or maintain an artificial lake where it is a natural estuary. The Shoreline Management Act prefers the natural estuary and the natural shoreline as opposed to an artificial lake. So any permit that is obtained, for instance if someone is going to apply for a permit to dredge that area, it probably wouldn't be issued. Why? Because to obtain the permit, it's necessary to receive approval under the Shoreline Management Act, Coastal Zone Management Act, and the Tribe has to approve it. It's not going to happen until we get to the point and say okay there is no use fighting it and wasting money and continuing this continual study to try and preserve an artificial resource where the people spoke in 1971 and said they want natural resources.

Helen Wheatley commented that the Clean Water Act was passed and the lake violates the Act. As ECY has shown, by far the best way to comply with the Clean Water Act is to remove the dam. ECY has illustrated that and therefore because the Clean Water Act was passed it's necessary to take actions to achieve compliance with the Act. She addressed the issue of the lake being an issue of concern to the entire state and not just locally. The Washington State Democrats at its convention passed a resolution calling for removal of the dam as part of its environmental platform. That was a pretty clear expression of the importance of the issue to the democrats in the State in the Washington.

Mr. Schundler said one more thing that has happened between the creation of Capitol Lake and today is the so-called fish wars or the Native American Tribal civil rights movement, which happened on the steps of Capitol Lake. Marlon Brandon was there. Olympia is the capital city for the state and the question is what values we have as a state going forward and what does the lake represent. It is a mirror to what? That building, if it was built today, would cost \$1 billion, which is three times the estimated cost of the Elwha River restoration. He questioned the values of the previous, current and future generations. This issue is what the capital city should represent with a decision. He questioned whether the process is looking backwards or looking forward, as well as understanding the historical context of the extraction economy of driving native people from their land, wholesale logging, and extracting every resource in sight to buy marble to build a building and then appropriate funds to build a mirror. It literally is a symbol of the unhealthiness of the entire society – the materialization, the vanity, the control of nature whether it's the Mississippi, Louisiana Delta, or the Hudson River. All over this country there is an era where we thought we could engineer the future. His generation is unable to pay for it because the price of steel, concrete, and every global commodity that is projected to go up in the future. We can't deal with that and we need to think about what will be the lowest cost in the long-run in terms of the Port of Olympia and all those things.

Dayle Smith said she lives near the capital and views the issue as a neighborhood issue and as a state issue because she is very aware that Olympia is the capital city. She supports having both the estuary and a swimming place downtown. It's already well structured to accommodate that, as water is present. It would entail examining the cost and identifying the entity responsible for maintaining the structure. She said the hybrid option is a great idea as the estuary has to be restored. Now is the time to do it.

For the benefit of the audience, Ms. Gardner-Brown described the comments offered by Ms. Smith.

Mr. Burke said that we live in an era of sustainability. Sustainability is the critical issue. Phosphorous is one the few minerals that is limited in the world. Going down the Deschutes River, there are massive quantities of phosphorous used for growing algae, which kills Budd Inlet or creates dissolved oxygen. That phosphorous keeps going down Puget Sound creating algae blooms along the entire West Coast. If anything, the efforts should be reclaiming that phosphorous. Someday, somebody will be here trying to derive the phosphorus from the sediments because there is a limited supply and costs are increasing. He questioned why the area should let phosphorous travel down and not remove it from the waste streams as well as upstream.

Another unidentified participant said the ocean needs phosphorous. Mr. Burke said the ocean needs phosphorus perhaps on the continental shelf, but in terms of existing phosphorous, there is too much phosphorus, which is why there are algae blooms.

Ms. Smith asked what phosphorus is. Mr. Burke said phosphorus is a chemical element and an essential element for food. The existence of mammals cannot exist without phosphorus because it's an essential element.

Ms. Wheatley said there is no real historical basis for the dual basin option. There have been pictures displayed of the Olmsted Brothers so-called plan for a dual basin, which was actually a way to run a road as it was not about building a pond. That is an important aspect to understand. The historical record doesn't speak to creating a reflecting pool. There was some discussion about creating a lake, but never a reflecting pool. Reflecting pools in the original plan for the capital were similar to the reflecting pool in Washington, D.C. This idea of a dual basin is an entirely new idea. It is not in any way historical.

Ms. Gardner-Brown agreed as the dual basin is a product of the CLAMP process in 2009.

Mr. McConkey commented on the benefits of learning about phosphorus because when the brewery began production of beer again he was first in line to receive brewery molt to feed his cows. After the feedings, he showed them all the phosphorus that ran out of the back of the barn and into the Deschutes River, which is where all farmers deposited their phosphorous.

Open House for Written Input and Material Review

Ms. Gardner-Brown thanked participants for attending. The next meeting on July 27 will include a review of revised materials for the hybrid options

Adjournment

With there being no further business, Ms. Gardner-Brown adjourned the meeting at 7:30 p.m.