

Notes, Questions and Answers from La Pine Community Meeting of July 22, 2009 and Follow-up to Further Questions

Deschutes County, Department of Environmental Quality, Department of Land Conservation and Development and community representatives co-presented the community meeting at the La Pine High School from 6 to 9 p.m. on Wednesday, July 22, 2009. Community member Ed Criss facilitated the meeting and about 100 people attended the meeting.

The facilitator outlined two meeting objectives regarding the decision-making process for groundwater management in southern Deschutes County:

- Define the roles of local government, state agencies and local residents, and
- Decide what process the local residents want to follow.

The panelists introduced themselves and gave opening remarks. The facilitator and the panelists clarified several issues and terms that would be discussed at the meeting.

DEQ Director Dick Pedersen stated that DEQ will assume responsibility for the Deschutes County groundwater protection program and will be the lead contact for setting meetings and facilitating community discussion. He stated that no meeting date has been set, and DEQ will work with the community members to establish a meeting schedule and local resident advisory committee involvement.

The facilitator opened the question and answer period. Members of the audience were asked to identify themselves when presenting their questions or comments, and the facilitator added some questions from cards submitted prior to and during the meeting. The answers have been compiled below.

Some questions required further research. Those answers that were researched are indented, and appear like this.

Questions and Answers

1. **Laura Harvey, resident.** Why are the groundwater protection program and onsite program separate issues? This is confusing.

Tammy Baney, Deschutes County Commissioner: The two programs are fundamentally separate because of the unique nature of the region. Education is key to understanding the functions and separation between the two programs.

From DEQ: The two programs could be combined and a geographic rule developed by DEQ could be part of the groundwater protection efforts. It is possible to have DEQ administer both the groundwater protection program in south Deschutes County and the Onsite Wastewater Treatment System program, county-wide. DEQ currently operates the Onsite Wastewater Treatment System program in 14 counties. Ten of those are in eastern Oregon counties.

2. Dennis Griffin. DEQ and the county need to clarify some things between themselves and then move forward more cohesively. Why is the whole county being treated the same regardless of differences in water table around the region?

Joni Hammond, DEQ: The county and DEQ chose to hold a public meeting to start this conversation in an open and transparent manner and engage the community rather than closed meetings without the community.

Mike Kucinski, DEQ: Each site should be addressed individually.

From DEQ: DEQ is only looking at the specific areas of concern identified by the USGS report and not the entire county. The area of concern has generally been described as south Deschutes County - the platted portions of Deschutes County south and west of Sunriver; and the platted portions of northern Klamath County along the border between the two counties. A site evaluation must be conducted for each lot or parcel to determine compliance with the Onsite Wastewater Treatment System Rules. The depth to a shallow unconfined water table and many other site characteristics are observed during the site evaluation to make that determination.

3. Card. The county says a health hazard exists. How can land use regulations take precedence over health concerns by using Goal 11, a statewide planning rule?

From DLCD: The term "health hazard" can mean different things in different contexts. In Goal 11, "public health hazard" means "a condition whereby it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage." The determination of whether this condition exists is made by DEQ or the Oregon Health Division. Goal 11 doesn't take precedence over a health hazard, as sewer service to rural areas is allowed in order to mitigate or avoid a public health hazard.

From Deschutes County: This question requires a two-part response since it is inquiring about the declaration of a health hazard and Statewide Planning Goal 11 (Goal 11).

Part 1 - Health Hazard:

Since the 1980s, health hazard determinations have been led by the Oregon Department of Environmental Quality (DEQ) and most recently the US Geological Survey (USGS). The results of several published reports from the La Pine National

Decentralized Wastewater Demonstration Project, written by Dave Morgan and Steve Hinkle of the USGS, among others and Rodney Weick of DEQ reveals that nitrate levels in the ground-water aquifer underlying the central Oregon city of La Pine and the surrounding area are increasing due to contamination from residential septic systems.[1] This contamination has public health implications because ground water is the sole source of drinking water for area residents.

The DEQ issued two letters, one in July 19, 2007 by Joni Hammond and the other in January 4, 2008 by Dick Pedersen that addressed the USGS publications and Goal 11. Joni Hammond in a letter dated July 19, 2007 specifically provided comments on the USGS groundwater study:

“There is no doubt that individual onsite septic systems are having an impact on the groundwater in South Deschutes County. If development continues at its current rate using the same wastewater treatment system technologies that have been allowed in the past, we will see broad range impacts to the shallow groundwater over time. The Department agrees with the County that something must be done. Based on what we learned of the USGS groundwater study/model, we see it is a good predictive tool to help determine how to address this problem. The study/model is used to predict the overall average long term nitrate concentrations in the aquifer; however the problem is here today. Currently we have isolated plumes that have exceeded the federal drinking water standard of 10 mg/l for nitrate. The model predicts that these plumes will coalesce over time and the conditions will get worse if nothing is done.”

Ms. Hammond in the July 19, 2007 letter also recognized that there are several alternatives to address nitrate loading:

“There are many potential alternatives to addressing the problem and the study/model is a good tool that can be used to compare outcomes of the different planning scenarios and help choose the most appropriate options. Nitrates are a soluble compound and are but one of many soluble pollutants associated with domestic household wastewater flows. With the upper soil layer in South Deschutes County, consisting over very porous and rapidly draining soil types, the shallow unconfined groundwater aquifer which most use as a drinking water supply is vulnerable to these contaminants. Therefore, we believe that the solutions to this problem should encompass as many possible options and provide long term groundwater protection.”

Part 2 - Land Use Regulation / Precedence over Public Health:

Land use regulations only take precedence over public health when a rural community or neighborhood desires a centralized sewer system to remedy a pollution problem.

The creation of new or the expansion of existing sewer systems outside an urban growth boundary or unincorporated community (rural areas) is governed by administrative rules

(OAR 660-011-0060, Sewer Service to Rural Lands) implementing Statewide Land Use Planning Goal 11 adopted by the Land Conservation and Development Commission (LCDC). The rule defines any wastewater treatment system that serves more than one lot or parcel as a sewer system.

Dick Pedersen in a January 4, 2008 letter initiated a request in accordance with Oregon Administrative Rule 660, Division 11, Section 0060, where a DEQ determination of a Public Health hazard negates the need for an exception to Goal 11.

“We believe these [groundwater pollution concerns in the South Deschutes County area] are first and foremost a public health issue rather than a land use planning issue. Based on the summary and conclusions of the recently released USGS report 2007-5237 entitled ‘Evaluation of approaches for managing nitrate loading from on-site wastewater systems near La Pine, Oregon’ and along with DLCD’s definition of a “public health hazard,” DEQ requests that Deschutes County, in coordination with DLCD, establish in South Deschutes County the areas in and around the tax lots delineated on Deschutes County maps titled ‘Sources of Sewage Contributing to Health Hazard’ dated December 19, 2007, as areas that may be eligible for sewer systems. Eligibility is primarily based on a determination by DEQ that there is no practicable alternative to a sewer system in order to abate the public health hazard [emphasis added].”

When a rural community or neighborhood initiates a sewer proposal under Goal 11 that is supported by DEQ, Deschutes County is committed to expediting amendments to the Comprehensive Plan to recognize the sewer boundary.

4. Ted Scholer, La Pine resident. Is there a scientifically-proven problem with nitrates in the area? The county never disproved their hypothesis that there was an issue, so what if there is no nitrate issue outside of the certain geographic region?

Mike Kucinski, DEQ: The study and model shows hot spots of nitrate contamination. The volcanic rock in the area is very porous, so the contaminated groundwater can leach to other areas. If nitrate reduction steps are not taken, in these areas and the surrounding region there could be widespread contamination.

***From DEQ:** DEQ is only looking at the specific area of concern identified by the USGS report. The area of concern has generally been described as south Deschutes County - the platted portions of Deschutes County south and west of Sunriver; and the platted portions of northern Klamath County along the border between the two counties. If DEQ determines that portions of that area do not contribute to the area-wide problem, then DEQ would take appropriate steps regarding those findings.*

5. (Name unclear). Study results confirmed that population growth could cause a problem. The growth rate slowed considerably since the study, until growth limits are determined is there no way to determine how to solve it?

Tammy Baney, Deschutes County Commissioner: The county is updating the plan to determine current growth rates and engage in conversation with the community. The model was done by a neutral third-party, the USGS, and the model was based on historical growth rates for the region.

From DEQ: A slowdown in growth rates will give us more time to implement a comprehensive sustainable solution to the area-wide groundwater pollution concerns.

6. **Card.** Will DEQ assist in getting a Goal 11 exception to prevent contamination?
Joni Hammond, DEQ: DEQ is working on this with DLCD. That is not a guarantee it will happen, but work is being done to research a possible exception.

7. **Jim Pastor, resident.** Thank you for being here, this is the most important local issue. It is key that agencies communicate and take leadership. I had a lab in Bend test my well – 0.03 nitrates in the well, and nothing else. I have excellent water quality and don't want to lose well water, would rather deal with the wastewater issue first before abandoning wells. If we need to reduce nitrate pollutants we need a system that will reduce all pollutants – sewers or cluster systems based on what the local area dictates.

8. **Card.** Where does “south county” start?

From DEQ: “South county” is generally described as the platted portions of Deschutes County south and west of Sunriver; and the platted portions of northern Klamath County along the border between the two counties.

9. **Sunny St. Claire.** Have any members of the panel seen the peer review reports for the alchemized model? We are taking the USGS's word that the model and ensuing report is correct. Residents want to see the peer reviews, and a community survey on their needs and wants for sewer. DEQ sent a letter to the county in January 2007, did that letter declare an emergency health hazard?

Bob Bagget, DEQ: The letter classified the issue as a probable, not emergency or imminent, health hazard.

From DEQ: No one on the panel reported having seen peer review reports for the USGS model and report. Answers relating to such reviews should be directed to the USGS.

The decision on conducting a survey of community needs and wants for a sewer would be best determined by the future local resident advisory committee.

The letter classified the issue as being a probable health hazard and not an emergency or imminent, health hazard. A definition in DLCD rules was referenced in the letter to clarify that an emergency or imminent health hazard was not being declared by DEQ.

10. **Card.** Can or will DEQ release Deschutes County as their agent for on-site wastewater systems? Is there a contract or memorandum of understanding that prevents this action?

Joni Hammond, DEQ: DEQ could do this, not aware of anything that would prevent it. DEQ will discuss this issue with the community members to determine what they want.

From DEQ: Nothing in the contract or memorandum prevents this action - there is a provision allowing for termination by either party upon a 30-day written notice. However, DEQ has no plans to do that at this time.

11. **Pat (Murphy?).** What exactly will the county turn over if DEQ agrees to accept it (the Onsite Program)? What will the commission do if the communities want the county totally out of the process?

Tammy Baney, Deschutes County Commissioner: The county will turn over the components that informed the groundwater protection program. The commissions would need to assess the needs and desires of all communities in the county.

From DEQ: If the county decides to return the Onsite Program to DEQ, DEQ would accept it.

12. **Harold (last name unclear), Deschutes.** What type of communications would you send to the public on this issue?

Joni Hammond, DEQ: DEQ would do email, radio and newspaper ads and any way that works best for the community. DEQ plans to do a webpage for this issue and facilitate the questions and answers tonight as appropriate and possible.

13. **Card.** If there are specific problem areas in south county, why can't they be corrected without a blanket rule for everyone?

Tammy Baney, Deschutes County Commissioner: The county does inspect if they are informed of a failing system, but the Code Enforcement office needs to be directly informed.

From DEQ: Groundwater is the primary source of drinking water in the region. Most residences tap into a shallow groundwater aquifer within 50 feet of the ground surface. This aquifer has no natural barrier to the ground surface and is very vulnerable from contaminants from above. Once contaminants reach the aquifer, they can accumulate and travel within the aquifer. With a few exceptions, individual septic systems are the only method used for disposal of residential wastewater. Where septic systems are present, groundwater contamination is occurring. In order to protect drinking water, the community will need to take steps to prevent ongoing contamination.

14. **Lee (Wilkins?).** Need clarification: the program was specific to certain areas under the local rule for the Onsite Program, can it be determined separate as a way to solve the problem?

Tammy Baney, Deschutes County Commissioner: That could be an option, and will be part of the discussions going forward.

15. **Card.** Why hasn't the area water master been invited or required to attend meetings where water issues are to be decided?

Tammy Baney, Deschutes County Commissioner: He has been invited, and can provide additional and specific information directly to the questioner and anyone else interested in this question.

16. **Molly Baker-Ray, resident.** Would destination resorts be required to comply with the same regulations as homeowners? \$35 million in federal money was pledged by Deschutes County to help homeowners offset system costs, if the programs are turned over to DEQ would the money stay in the region or would it go away?

Mike Kucinski, DEQ – As a large site, destination resorts would be evaluated site-by-site by a hydrogeologist.

From DEQ: DEQ already permits larger systems such as destination resorts. They are permitted by DEQ under special individual permits that require specific system oversight and wastewater treatment measurements. These permits are called, "Water Pollution Control Facilities" or WPCF permits.

Tammy Baney, Deschutes County Commissioner: The federal money is modeled from the sale of a land parcel, and that parcel is very unlikely to reach \$35 million in the current economy. All proceeds from that sale will still go to wildfire, wildlife and groundwater programs.

17. **Card.** Every time a property is sold a well test is performed. Where are the well test records, and will they be used?

Mike Kucinski, DEQ: Will find out and provide that information as a link on the planned DEQ webpage for this issue.

From DEQ: see DEQ fact sheet for well test data:

<http://www.deq.state.or.us/wq/pubs/factsheets/consumerinfo/wellownerspnwdata.pdf>

For help with searching for data, you can contact Won Kim at (503) 229-6086, toll free in Oregon at (800) 452-4011 ext. 6086 or by e-mail at kim.won@deq.state.or.us.

Well test data may be used as a way to identify areas that are more affected by nitrate contamination. Future local resident advisory committee involvement may rely on this data to help determine the most appropriate solution(s) and provide validation of the USGS model.

For information about how nitrates get into groundwater, and data about nitrate levels found during real estate transactions, [click here](#).

18. Diane Shuffleburger, resident. Thanks for being here. Regardless of what is done, DEQ must start at square one to regain trust of the residents of south county.

19. Steve Wert , soil scientist and resident. This is a sticky issue and requires a lot of good minds to solve. I want DEQ to take the entire program, including the Onsite Program. DEQ always involves citizens and does a good job. I encourage an exception to Goal 11, cluster systems are the most effective and will be the best management for long-term solutions in the area.

20. Gil (Starr?), La Pine. People have little faith in the county, and it's thanks to the citizens that we're where we are today. DEQ should handle the entire program. For DEQ, is the groundwater problem in south Deschutes County as dire and significant as the county has made it out to be?

Dick Pedersen, DEQ: That will be part of the science-based discussion DEQ will have with the community meetings in the future.

21. Judy Forsyth, citizen of south county. Thanks to all for being here, this has been a long and difficult road. Is there any reason the Onsite Program going to DEQ could not be a ballot item?

Dick Pedersen, DEQ: Not sure of the legal process, but DEQ can operate the program at any time. DEQ is usually called to take over a program when a local authority relinquishes control.

22. Card. Is the county willing to repeal the "backdoor rule" until discussions with DEQ are done?

Tammy Baney, Deschutes County Commissioner: This issue is in litigation and the county is unable to discuss at this time.

23. Jerry Criss. Thanks to all, and I hope that what comes from the panel is reality and it takes advantage of the current lull in development to craft a plan to sustain the county and central Oregon. Does the definition of a "probable health hazard" trigger any action that is immediately required? Would onsite systems be part of a geographic rule, if implemented?

Mike Kucinski, DEQ: The definition triggered the ability to work on Goal 11. The Onsite Program would stay in place, but some site assessment criteria could change.

From DEQ: Yes, onsite systems would be part of a geographic rule if implemented. The onsite rules include a section about onsite systems that require special siting and construction standards within a defined geographic area. The specific standards are designed to protect public health and the environment, and may vary depending on what is needed to accomplish that goal. Currently there are six such geographic rules.

24. **Card.** There have been people who have had a failed system and have not been told about any financial assistance to help them. Why?

Tammy Baney, Deschutes County Commissioner: This was a communication issue. Funds are available but the future of the assistance program is unclear.

25. **Glen Sark.** The La Pine sewer district can accept 30,000 gallons. What are the limits on the boundaries for this district? Onsite systems are too expensive, and La Pine needs a change in the district boundaries to make the system cost-effective.

Dick Pedersen, DEQ: This is a possible solution, and something for the community and agencies to discuss as part of the process to a path forward.

From DLCDC: Sewer district boundaries are not regulated by land use planning laws. It's our understanding that district boundaries are established by a local vote.

Goal 11 may apply to the areas in which the district may provide sewer service, particularly outside of the La Pine urban growth boundary. La Pine and Deschutes County are in the process of developing a comprehensive plan for the urban area. Until such regulations are adopted, the county's Urban Unincorporated Community boundary sets the limit on the extension of sewer, subject to potential alternatives in Goal 11. Maintaining a cost-effective sewer system, along with all public facilities and services, are relevant factors to be considering in the development of the city's comprehensive plan.

From Deschutes County: The creation of new or the expansion of existing sewer systems outside an urban growth boundary or unincorporated community (rural areas) is governed by administrative rules (OAR 660-011-0060, Sewer Service to Rural Lands) implementing Statewide Land Use Planning Goal 11 adopted by the Land Conservation and Development Commission (LCDC). The rule defines any wastewater treatment system that serves more than one lot or parcel as a sewer system.

Two processes for creating or expanding sewers in rural areas could apply to the south Deschutes County region:

1. OAR 660-011-0060(4) through (7), when DEQ determines that a public health hazard exists and that there is no practicable alternative to sewer (the problem cannot be solved using onsite systems), and
2. OAR 660-011-0060(9) and OAR 660, division 4, when an exception to Goal 11 is adopted and there is an imminent health hazard for which there is no practicable alternative to sewer.

Technical information must be compiled and submitted to DEQ to support the specific determination for a parcel, lot or a group of lots of parcels that there is “no practicable alternative to a sewer system” (OAR 660 011-0060(1)(c)) in order to abate the public health hazard pursuant to OAR 660 011 0060(4)(a)(D). If this determination can be made by the DEQ, the information compiled and submitted will be used to support the comprehensive plan and zoning code amendments needed to complete the remaining conditions required under OAR 660 011 0060(4)(b).

Decisions to date: DEQ will operate the Deschutes County groundwater protection program.

Next steps: DEQ will collect and compile all questions from the meeting and follow up with answers where possible. DEQ will collect the sign-in sheet and send an email to establish new meeting dates and paths forward with the groundwater management discussions in Deschutes County.

Additional questions and comments, submitted in writing at the meeting

Questions answered at the meeting:

1. Can DEQ pursue a solution without both the groundwater protection program and the On-site Program being handed off by Deschutes County?

Dick Pedersen answered at meeting: Yes, DEQ can do one or the other or both and does not need both to work on either.

2. Is there any reason the people could not take the On-site Program to a vote if we reach an impasse?

DEQ is obligated to take the program if Deschutes County relinquishes it. That decision is with the county.

Written questions that needed more research:

1. Alleged nitrate levels were projected to triple in the next 40 years if ATT (*nitrogen reducing systems*) systems were not installed. Doesn't that projected time frame allow for an independent investigation the south county community has requested?

From DEQ: This will likely be an item for discussion during future local resident advisory committee involvement. That committee may want to look at the potential for an independent investigation, consider how much will it cost, and decide who or how to pay for it.

2. As we move forward, will DEQ revisit the “RED LOT” issue? Does DEQ feel these property owners have the right to develop their land or be fairly compensated at market value?

From DEQ: A “red lot” is the term Deschutes County has used to refer to lots in south Deschutes County that have a water table closer than 24 inches below the ground surface. DEQ knows that the red lot issue needs more discussion and work.

3. The county plays an important role in the establishment of creating special districts and allowing sewers. As we move forward:

a. Is Deschutes County going to continue to work with citizens when it come to the financial aspect of helping offset costs of individual on-site systems and installation of sewers?

From Deschutes County: The County has stated on numerous occasions that they are in fact committed to assisting as many south county property owners as they can. Although the means of that assistance may change as DEQ leads the process to determine what the next steps should be to protect the La Pine area aquifer, the County has already spent funds to assess the feasibility of extending sewer service from the Sunriver sewer system. The County is also implementing, in cooperation with NeighborImpact, a cost deferred loan program to be able to assist property owners with septic upgrades who would not otherwise qualify for existing assistance programs. The County also lobbied actively during the last legislative session for a bill that would have established a tax credit for installation of nitrogen reducing systems. Proceeds from the sale of land as well as development assessments in the Neighborhood Planning Area (within the City of La Pine) are earmarked for groundwater protection financial assistance programs.

b. Is the county going to assist citizens in the process of establishing sewers?

From Deschutes County: The County is committed to assisting in whatever the identified solution to groundwater protection turns out to be. If the solution involves extending or establishing sewer systems, then the County will do what it can to help. The County has already expanded considerable staff time in mapping the process for extending or establishing sewers, which can be viewed on the Community Development-Groundwater Protection website. In addition, the County is currently funding a feasibility

study examining the logistics and cost of extending the Sunriver sewer system to the area between Sunriver and State Rec Road. Finally, during the last legislative session, the County supported a bill that would have made it easier for properties outside of urban growth boundaries but adjacent to sewer lines to connect to the system.

Unfortunately the bill did not pass.

Is the alleged health hazard existing or future? Is this a health issue or a land issue? How can we address alleged “hot spots” or prevention until we know where we stand? What is it going to take for there to be consensus that there is contamination?

From DEQ: *DEQ has stated this is a probable or impending health concern. DEQ is addressing this concern primarily as a health issue, but we recognize that there is going to be a land-use component to a comprehensive sustainable solution to the issue.*

4. Is there a current emergency in south Deschutes County? Does the hazard exist at this time, or is it some years in the future? Do we have time to get organized, to join in a united effort to develop a workable plan and set up administrative structures for the good of the entire basin?

From DEQ: *DEQ has stated this is a probable or impending health concern. We have also said that doing nothing is not an option. We will work with the citizens and other involved agencies in coming up with workable solutions to the issue.*

5. The sale of the New Neighborhood property was to help development occur and potentially bring in \$35 million. Is this New Neighborhood property going to remain “beneficial” through the county’s PRC/TDC program? Is it Deschutes County’s intention to continue with this program or take the property and do something else with it?

From Deschutes County: *Proceeds from land sales, as well as development assessments, within the Neighborhood Planning Area (New Neighborhood) are placed in a groundwater protection fund, from which grants and loans can be made. The US government sold the land to the County with the understanding that proceeds would be used for limited purposes, including groundwater protection.*

6. John Thomas, La Pine City Planner: Would DEQ be willing to provide a location survey for satellite systems to include at least the Day Road geographical area so as to eventually gain and estimate of cost? This would be based on an expansion of the La Pine special sewer district site (750 acres) now in process in the Senate. These satellite systems may feed into the main treatment plant.

From DEQ: *DEQ is interested in the extension of sewer in the Day Road geographical area and any other suitable area in South Deschutes County as part of the solution. Deschutes County, DLCD and the community will play major roles in an effort like this. DEQ would assist in this effort to the degree that we can.*

7. Will there be any exemptions to the solution given to low groundwater areas such as the north end of Blue Eagle Road (just south of Vandever Road)?

From DEQ: This has not yet been discussed but may be an item for discussion during future local resident advisory committee involvement.

8. Pam Cosmo, La Pine resident. Have the ATT systems been evaluated now that they have been used for a while? My understanding is that they fail, especially if used intermittently. Is it fair to mandate them when their use is so unstable and expensive to maintain? Bend should stop polluting the area with infusion wells, if you really care about water quality. Dedicate the \$35 million to be used to help mitigate the costs of groundwater treatment for citizens – not to go into staff salaries or general funds.

From DEQ: The nitrogen-reducing ATT systems and their performance were evaluated during the La Pine National Demonstration Project. The evaluation showed that many of the systems tested are capable of providing excellent treatment. However, they must be properly operated and maintained in order to continue to provide that level of treatment.

Many ATT systems have been installed across Oregon since 2005 and many more similar systems in other states. Siting, permitting, construction, operation and maintenance are all essential factors in the life of any type of septic system. Siting, permitting and construction are all completed before the system is placed into use. Operation and maintenance are ongoing once the system is placed into use. Owners of ATT systems must have a service contract with a certified maintenance provider and report yearly to the County on system performance.

Systems with seasonal or intermittent use may not perform as well as systems with year-round use due to the variations in the biological treatment process. However, some extra measures can be taken by the system owner and maintenance provider to account for these variations.

It will be necessary to require ATT systems in some areas rather than sewers due to the costs associated with each. In some areas it will be more cost effective to install sewers for multiple lots and in other areas it will be necessary to install individual ATT systems on each individual lot, because of the conditions at that specific area.

DEQ recognizes that there are some existing sewage disposal wells in and around the city of Bend that need to be decommissioned and connected to sewer. We will continue to work with the city to address this issue.

9. Can we proceed without a stress-laden process? How will DEQ's process help reduce or less this stress we have felt as a result of the lengthy Local Rule ordeal? The

strain, anxiety, burden, pressure, tension, trauma and worry have been a significant weight on our shoulders. There has been enough strain to harm the health of our folks.

From DEQ: We are committed to allowing a space to reassess the situation and moving forward with full involvement in a collaborative manner to solve this problem.

10. Does DEQ have a backup plan if too many nitrates are removed from the environment causing vegetation or fish to die out?

From DEQ: We do not see this as a possible outcome or immediate concern. There is no need for a backup plan at this time.

11. Little attention has been given to Klamath County in this prolonged process. How involved will Klamath County be in future proceedings?

From DEQ: DEQ will be approaching the Klamath County Board of Commissioners and the commission staff to participate in this issue.

12. With the hand-off of the groundwater protection program, will the associated existing memorandum of understanding (MOU) with DEQ and DLCDC be null and void as far as this program is concerned as we move forward?

From DEQ: It is not clear what MOU is being referenced in this question. It is possible that existing MOUs will need to be revisited.

13. As we move forward, can the county and/or DEQ legally charge repair permit fees for retrofits or upgrades if there is no malfunction of the existing system?

From DEQ: Yes. If the requirement is based on an application submitted to Deschutes County.

14. Will DEQ honor the site-by-site inspection requirement instead of a blanket approach?

From DEQ: Both approaches will be necessary. The area-wide approach will be necessary to determine overall geographic standards that must be met. The site-by-site approach will be necessary to determine if each individual site meets the overall standards established in the area-wide approach.

15. Deschutes County has alleged that nitrate levels above 1mg/liter equates to contamination. DEQ's fact sheet states that levels up to 3mg/liter is considered natural levels. Which standard will be followed as we go forward?

From DEQ: DEQ has a permanent standard of 10 mg/L for the maximum measurable level of nitrate in groundwater. This is also the same maximum level EPA uses for drinking water regulations. When levels increase from background levels, that indicates contamination of the groundwater from waste discharges. A maximum measurable level of 7 mg/L on an area-wide basis is used to trigger designation of a groundwater management area. Groundwater, once polluted, is difficult and sometimes impossible to clean up. Therefore, DEQ uses an anti-degradation policy to emphasize the prevention of groundwater pollution, and to control waste discharges to groundwater so that the highest possible water quality is maintained. The purpose of the groundwater protection program is to take a proactive approach in solving this problem before it becomes too difficult or impossible to clean up.

16. Is Deschutes County going to utilize the leftover funds from the EPA grant to offset the costs of changing out individual on-site systems and the installation of sewers? Is the county going to seek additional funds to help in these efforts as well?

From Deschutes County: Conditions within the grant agreement between EPA and the County require that leftover grant funds be used for low interest loans associated with groundwater protection compliance. The funds have been placed in a dedicated County Fund for that purpose. The County has and will continue to seek additional funding for financial assistance. Although the County was unsuccessful in applying for federal stimulus funding, it has successfully obtained DEQ Clean Water revolving loan funds. As new funding opportunities arise in the future, the County will continue these efforts.

17. Are financial impacts taken into account when determining “practicable alternatives”? This is an obstacle that could derail the whole process.

From DEQ: The determination that there is no practical alternative to a sewer system looks at costs of available technologies and logistical factors. However, the property owner’s finances are not taken into consideration.

18. What does the DEQ see as the biggest hurdle in this area (alleged nitrate contamination)?

From DEQ: Finding a comprehensive, sustainable and economically feasible solution for the entire area of concern is a challenge that we will approach with the community.

19. Is Deschutes County considering turning over the entire countywide Onsite Program to DEQ? Anything less than this would lead to inconsistencies in the program.

From Deschutes County: Although the County is turning over the lead role to DEQ in determining the next steps associated with south county groundwater protection, it is not

proposing at this time to turn over on-site septic permitting authority to DEQ. The primary reason involves overall development permitting efficiency and coordination, particularly with respect to building and land use permitting. It is the County's belief that whatever the next steps are in groundwater protection, that they can be coordinating with septic permitting and that inconsistencies can be avoided. The County will still be the contract agent of DEQ in administering the program, and must continue to abide by existing State of Oregon on-site rules and statutes.

20. Will Deschutes County, in fact, support DEQ if it pursues a solution to alleged nitrate contamination?

***From Deschutes County:** The County has stated publicly numerous times that it will.*

21. DEQ has found elevated levels in nitrates in several other communities across the state. DEQ has worked with the local communities and, so far, the three programs are “voluntary”. Could we expect similar treatment here in south county? Will DEQ mandate investments in equipment or force the communities to take cleanup actions?

***From DEQ:** Each of the other areas of concern had a greater agricultural and industrial component to the issues. With the exception to fertilizer use and pet waste, the major residential component to nitrate pollution is individual onsite wastewater systems. There is little that can be achieved voluntarily with septic systems, so the use of system upgrades or other methods of sewage disposal becomes necessary.*

22. Would there be funding available if DEQ eventually goes to a geographical rule?

***From DEQ:** It is possible. Funding programs are generally administered by local government or a locally established entity.*

23. We feel the procedure and course of action, method, strategy, approach, formula, practice is more important to arriving at an avenue for solution than the scientific evidence in the case. Does DEQ agree?

***From DEQ:** We think both are very important. It is the scientific evidence that shows us the need for a solution. Citizen understanding of the science and involvement in the solution development is critical to a successful outcome.*

24. Because of all the money that has been spent on the groundwater protection project over the past dozen or so years, might our area be in a good position for upcoming stimulus money to “finish” some of the verifiable groundwater protection projects for the area?

From DEQ: The stimulus funding has received a lot of interest and those funds have been awarded. For more information on DEQ's stimulus funding, please visit this web site:

<http://www.deq.state.or.us/recovery/stimulusFunding.htm>

25. Who will be in charge of the money to help folks who have to retrofit – the county or DEQ? Why haven't folks been told there is currently money available? Will that money be turned over to DEQ?

From DEQ: Funding programs are generally administered by local government or a locally established entity. DEQ does not have funding available for individuals at this time.

From Deschutes County: The County will continue to administer financial assistance funds. DEQ has not requested that the funds be transferred or that they take on the role of administering financial assistance. The County has discussed the availability of financial assistance at most if not all public forums, a section of Community Development's website is devoted to financial assistance, and information is available in each CDD office for those who are interested. There have also been several media reports on the County's efforts in establishing a financial assistance program.

26. As we move forward towards a solution, will scientific reports be made available for public review in a timely fashion, as requested? Deschutes County said results of scientific reports have been presented at numerous public meetings since 2003, but would not release the results to the public, as requested in 2007-2009.

From DEQ: DEQ wants an open and transparent public involvement process and, if possible, will make all data available to the public.

27. To date, how many ATT systems have been approved in Oregon by DEQ? How many of those systems are suitable for south Deschutes County?

From DEQ: To date DEQ has seven manufacturers with ATT systems approved for use in Oregon. The county has identified some of those systems as meeting certain levels of nitrate removal.

From Deschutes County: Of the seven ATT systems the DEQ has listed, only three have submitted third party data that shows they reduce nitrogen. Only two of the three are available in Central Oregon. There are two other nitrogen reducing technologies approved for use in Oregon that are not ATT systems, the Recirculating Gravel Filter (RGF) and the Nitrex add-on treatment unit. The RGF is not a proprietary technology and can be permitted for residential use; however, none have been installed. The Nitrex unit is not readily available in Oregon at this time.

28. Will DEQ or Deschutes County or the USGS continue to monitor the groundwater for nitrates to determine if the USGS model was accurate in predicting nitrate levels and movement?

From DEQ: The future local resident advisory committee would make the decision to determine the process for accepting models alone or adding additional monitoring.

29. How much more public input is required to let the county know that south county citizens want the DEQ to take over?

From Deschutes County: The County acknowledges that DEQ should assume the lead role in south county groundwater protection. The County will assist in whatever way is appropriate.

30. Wendy Rightmire, Ponderosa Pines, La Pine. It sounded like DEQ was hemming and hawing about taking over the whole “ball of wax” from the county. Is DEQ wanting to take on all the responsibility since it does involve more than just the county?

From DEQ: We are not sure what is meant by the whole ball of wax. DEQ has accepted control of the groundwater protection program in south Deschutes County and we are willing and ready to administer the county-wide Onsite Wastewater Treatment System program. The citizens in Deschutes County would need to be the drivers behind a change in who administers the onsite program in the county. The Deschutes County Commissioners would ultimately decide whether or not to return the onsite program to DEQ.

31. If DEQ assumes responsibility for both the high groundwater and onsite issues will DEQ issue a building and construction moratorium?

From DEQ: No, DEQ is not considering this type of action at this time. The whole purpose of the groundwater protection program in south Deschutes County is to avert such an action.

32. What authority does DEQ have beyond making rules regarding wastewater systems?

From DEQ: DEQ has statutory authority over many environmental regulations for water, land and air. DEQ provides the minimum standards, however a local jurisdiction may provide more stringent requirements under their own authority.

33. If the Legislature has granted any government body the power and means to protect any and all water quality, who are they and what enforcement power were they granted?

From DEQ: The protection of Oregon's water quality is shared by many state agencies. The list includes the Department of Environmental Quality, Department of Agriculture, Department of Human Services, Department of State Lands, Department of Forestry, Department of Fish and Wildlife, Department of Water Resources, Department of Land Conservation and Development.

The Oregon Department of Environmental Quality has a paramount role in this effort and our enforcement authority can be found on our Office of Compliance and Enforcement web site: <http://www.oregon.gov/DEQ/OCE/index.shtml>

34. What authority does the Water Resources Board have in protecting water usage and protecting water from contamination?

From WRD website: By law, all surface and ground water in Oregon belongs to the public. The Water Resources Department is the state agency charged with administration of the laws governing surface and ground water resources. The Department's core functions are to protect existing water rights, facilitate voluntary streamflow restoration, increase the understanding of the demands on the state's water resources, provide accurate and accessible water resource data, and facilitate water supply solutions.

The Director of the Water Resources Department is charged with carrying out the water management policies and rules set by the Water Resources Commission and with overseeing the enforcement of Oregon's water laws.

35. Is the USGS-modeled science going to be used in the coming process, or other test – real testing – going to be used?

From DEQ: It may be a combination of both, but yes the USGS model will be one of the tools used by all going forward.

36. Will you be looking into known problem areas, will you be correcting them – not just in Deschutes County but Klamath County as well?

From DEQ: We will be looking across county boundaries in determining the best solutions.

37. Will you be using a more accurate model to make your determination?

From DEQ: We believe that the existing model is good and that we do not need to use a different model. However, we are willing to use the model under different scenarios to help us determine the best solutions.

38. What would DEQ like to see? The people in our area have little to no trust in the county.

From DEQ: We would like to see all parties involved working towards a comprehensive, sustainable and economically feasible solution as the area-wide groundwater aquifer is used throughout the area as a drinking water source. We want direct citizen involvement in this process.

39. Why is the county resisting handing off the onsite issue to DEQ?

From Deschutes County: The County is not resisting in any way.

Comments submitted by card:

Jerry Anderson, La Pine resident: Since there seems to be a nitrate problem in some areas, there are three basic solutions.

1. Cluster systems starting with bad areas first.
2. One big central sewer system. Fix the problem once and for all.
3. New septic systems are unacceptable and short-lived. Fix it right the first time

State laws need to be changed to allow sewer systems in rural areas.