

WTWG Meeting Minutes December 6, 2010 @ 1:00 PM

Attendees: Stuart Crane, Melissa Downes, Ingrid Ekstrom, Bill Ferry, Brian Frederick, Chuck Garner, Terra Hegy, Teresa Hauser, Carron Helberg, Anna Hoselton, Stan Isley, Jonathan Kohr, Paul LaRiviere, Walt Larrick, Tom Mackie, Tom McDonald, Joe Mentor, Ron Van Gundy, Kurt Walker, Anne Watanabe (on phone), Mitch Williams.

Walt opened the meeting and asked for any agenda changes. Brian Frederick requested to be moved up if possible. He was moved up to first in new proposals section.

MINUTES:

Walt continued by asking for approval of the Oct 4, 2010 and November 1, 2010 minutes, however Joe had not had time to review, and he said he will look at them by the next meeting. Stan submitted comments to Carron but suggested that others offer edits to her as well.

PREVIOUS PROPOSALS:

The group began with previous proposals from Suncadia, with Joe explaining that he feels these proposals are in a black hole and are not being processed in a timely manner. Joe discussed Suncadia's various proposals that have been awaiting a decision anywhere from 30 to 223 days, and his frustration trying to get these finished. Joe talked about the need to identify critical habitat for bull trout, steelhead and other priority species so that discussions about tributary-specific mitigation could focus on high priority watersheds.

Group 1 (2010-23) Tillman Creek: Joe continued with Tillman Creek which represents 15 connections. ~~Joe said he talked with Ken Hasbrouck from Kittitas Reclamation District (KRD) and he looked at the physical alignment and does not know how to proceed.~~ Joe talked about various options to provide flow mitigation to protect the critical habitat for steelhead, mitigation offers and other priority species habitat (PSH) in Tillman Creek. One alternative His first suggestion is to retire an irrigation diversion, but this is the most expensive option and is unnecessary to achieve the desired result of protecting low flows. A better alternative His second suggestion is to release mitigation water into the creek using the KRD canal. Joe said he talked with Ken Hasbrouck from Kittitas Reclamation District (KRD) about the possibility of providing flow mitigation from the KRD Canal and is waiting to hear from Ken about how and whether to proceed with discussions about this mitigation option. The flow impact would need to be discussed. The group talked about flip-flop, the issues above and below the ditch, timing of the water use, the flow path, and pond mitigation. Joe said he has letters of intent from 20 applicants and has 12 contracts in escrow. He believes there are more possible applicants in this area. Stan said the timing is important since KRD goes off Oct 15th. Paul said his concerns are the steelhead, noting that one culvert has a 4 foot drop, and asked if the critical species map shows Tillman Creek. Kurt and Paul talked about the critical life stages, which are in July, August, and September, and that steelhead

spawning occurs about April 20th to May 20th. Paul feels channel work needs to be done as Tillman Creek does not currently have a connection to the Yakima River.

Joe wants Ecology to make a timely decision as required under ~~or there could be a breach of contract (i.e.,~~ the Ecology/Suncadia trust water agreement). Paul and Joe discussed different ways to streamline the approval process for water budget neutral determinations ~~what he observed, talking about how this could be solved~~. Walt summarized how to get things into the box, with Bill adding that the KRD solution and WDFW comments are separate issues. Joe feels that there is a cloud over this group and feels these his applicants are unfairly being kept in limbo. ~~Stan said that threatening to file a suit against Ecology claiming breach of contract is not helpful and that creativity takes time.~~ Stan told Joe it may be unmitigatable as the proposal is currently written and then it would be a thumbs-down recommendation. Paul stated that Tillman Creek wouldn't need to be as creative as some other places. Paul said there are some really good options, which are realistic and economical solutions. Joe thought there needed to be ~~was~~ a process in place as he has applicants folks who are just waiting with no indication how low it will take Ecology to process their applications. Stan stated the group is trying to establish a new process and that takes time, and in some areas, it takes time to get these creative solutions in place, as there are questions we need to answer before moving forward. The group discussed the proponent's responsibility in this process. Walt interrupted this discussion by stating that he just heard about the Tillman Creek issue 30 days ago, and he apologized for not getting to this discussion in that time frame. He will get with KRD and others in the near future. Walt is struggling with the idea of steelhead being there if steelhead cannot get to the stream, but we need to look at that. Joe apologized for playing phone tag, and agreed it needs to be looked at. Joe said he needs help and Ecology needs help. Make the ones move that can and if they can't move in 90 days, give the applicant a direction and identify the issues to work on. Stan is committed to making this flow efficiently, and he said Ecology is committed to making this upper Kittitas County water exchange program succeed. Joe talked about the fish group & Ecology's process.

The group returned back to Group 1 (2010-23), and Joe wanted to defer this until the meeting with Reclamation and KRD takes place and then move forward. Joe asked for flow impact and time period information and asked if the Yakama Nation (YN) would like to be involved in this meeting and Stuart said yes, the YN would participate. Joe mentioned he has a six-month time frame in his contracts and at the time he felt it was ~~still~~ a safe time frame for Ecology to make a decision. But the Tillman Creek proposals have been pending for almost nine months with no action taken. Joe does not think this is reasonable. He would like to use the suitability map as guidance for determining his timeframe for these proposals and to communicate this timeframe to the applicant. Jonathan said this needs to be looked at during high flow to see if there is connectivity. Stan summarized what Joe was saying and Walt said he will head up the meeting to look at Tillman Creek area and will keep Joe in the loop.

Group 2 (2010-52, 2010-68, 2010-69, & 2011-02): Joe said Ecology has approved five proposals in the past and 10 more are now pending. These are deep wells and there

seems to be some confusion about the depth of the wells. Paul said that Joe and he will work out the specifics of group 2, which will also include the same kind of analysis for **2011-03**. Melissa said she sent stuff to the fish group for their review. She said that she and her staff are not the experts and wait for comments from her fish folks before making a decision. Paul talked about the low flows and what they don't know on Morgan Creek; however he is ok with all nine proposals on Morgan Creek. Stuart asked if it got to the fish people at the YN and Melissa? Paul? confirmed that yes it did. Paul stated that 500 sq ft of irrigated area per residence is so much better, and easier for WDFW to support, than 3,000 sq ft or more, and asked if there were going to be meters on each well (Melissa replied yes), and Stuart said it needs a final check from the YN. Melissa will commit Mark Schuppe to contact the YN for their comments. This is a conditional thumbs-up recommendation.

Joe said he has been pushing to get a sign-off list and talked about the box, does it fit or not. Joe pointed out that Suncadia already was limiting outdoor water use to more than 5,000 sq ft outdoor irrigation use per home. He talked about further reducing the outdoor water use allowed in high-priority watersheds, and he will not contract for more than 5,000 sq ft outdoor irrigation use per home. Joe agrees with Tom Ring's past discussions on hydrology and understands that deeper wells don't necessarily eliminate stream flow impacts. Nevertheless, Joe believes that in certain circumstances drilling wells deeper and further away from surface water bodies will tend to reduce impacts during low flow periods and believes it would be appropriate in those circumstances to require an applicant to drill ~~how deep and shallow wells work and if it requires digging~~ a deeper well, ~~he is ok with that.~~ Stan talked about a qualitative rather than a quantitative approach to modifying the box. Joe, Bill, and Stan talked about how this process could be better and what characteristics would allow it to move more quickly. We should group similar ones together and get them processed. Joe feels it is not working and asked Paul about his process. Paul explained that from WDFW's perspective, they like xeriscaping; no outdoor use. So anything over 500 sq ft he feels would need mitigation brought to the table. Paul explained how he uses the suitability map and looks at level of impacts, mitigation impacts, and at a higher ratio than one to one for mitigation.

2011-09 Rust: Joe would like to discuss one of the new proposals 2011-09 which is also on Morgan Creek with these previous proposals. Stan said it was a thumbs-up recommendation for him and Stuart said it was ok with the YN. The group gave this proposal a thumbs-up recommendation.

Group 3 (2010-57, 2010-67, & 2011-04): Joe continued with this next previous proposal which is in the vicinity of Lodge Creek, west of Lake Kachess. Paul said that the square footage is at a reduced level for the outdoor use, which is at 500 sq ft and without hose bibs. Paul said his preference is xeriscaping and was ready to give a thumbs-up recommendation. Stuart is not able to comment for the YN on this one. Joe said he will not offer more than 500 sq ft in the Lodge Creek area in the future. Melissa said she will have Mark Schuppe check with the YN on this one also. Melissa also offered to update the PHS map to include the thumbs-up decisions between meetings.

2010-40 Whitaker: This proposal is in the upper Fowler Creek area and represents one unit with 500 sq ft of irrigation. It is within the steelhead critical habitat and will be grouped with Group 1 and the KRD discussion. Joe talked about exceeding the 1% of the low flow, as this may trigger the need for supplemental ESA consultation.

Joe stated that Tillman Creek is the bulk of the ones in bright orange area on the suitability map and talked about the others that are in this category.

2010-56 Hart: Joe stated Greens Canyon Creek area got a thumbs-up recommendation pending a fish review. Paul said this proposal was not on the agenda when he met with the YN, so he wanted more information. Ingrid, Joe & Paul talked about the information in this area. Paul & Kurt talked about the flows and Paul feels that the indoor use is ok at 500 sq ft, and would prefer xeriscaping, but he would give this proposal a thumbs-up recommendation, however need to check with the YN. If above 500 sq ft, he would need some mitigation. Joe, Kurt, and Paul talked about the presence and absence of fish.

2010-59 Geller: Paul said he is ok at these levels and is ok with this proposal. Paul asked about how they report their water usage and Kurt said it is in line with the RCW's. This proposal needs comments from the YN, but is a tentative thumbs-up recommendation.

2011-03 Ambrose: Joe did not know anything about Spring Creek, and could not find any flow information and asked Kurt if he has seen flow at the sight and Kurt said when he was driving by, he could not see it. Paul also was looking for any flows and could not see any flow either. Paul gave it a thumbs-up recommendation on these six proposals. Jonathan & Joe discussed Staenberg, and Melissa commented it is a 215 foot deep well. The group determined this needs to go to the YN, making it a tentative thumbs-up recommendation.

Walt noted to the group as they have been discussing these proposals, there has been progress by the respective groups to look at these proposals in a timely manner. Walt feels the process is in place now and working forward. Paul added that photograph documentation for these proposals is very helpful, speeds up the process so that ground truthing is all that is needed. Stan talked about the 500 sq ft level, the finite amount of water mitigation water currently available in the basin, and the process in general.

The group continued with the next agenda item of new proposals.

NEW PROPOSALS:

2011-16 Frederick: Brian Frederick began by explaining this land has been previously irrigated and wanted to put this water right into the trust water program. He has a draft Order Pendente Lite and will put it in trust for 20 years. Brian explained that he had a discussion with Scott Turner about the stock water rights, and the water right was tied to the Teanaway River, but was transferred to the Yakima River. Stan said he is concerned about the class 16 and when it cuts off. Stan said that Scott will calculate the

consumptive use but Stan will watch in the field. Melissa talked about the stock water portion and will look to see if they exercised the stock water right. The group talked about how water goes in and comes out of the trust water program, especially rights for the Teanaway watershed. The group said it looks to be a simple proposal pending getting the issues worked out. Brian was looking for a preliminary review and will bring this back to the group when the details have been worked out.

2011-10 Gardner: Joe explained this proposal is for one residential unit with 500 sq ft of irrigation along the Cle Elum River, four miles above the lake. Joe said this one is in the ESA crosshairs and requires mitigation and this proposal will go with the Tillman Creek (Suncadia Group 1) and Fowler Creek (2010-40) group of proposals.

2011-11 Hood: Joe explained this proposal near Domerie Creek and would need consultation because the City of Roslyn transfers did, and felt it would be the same as the City of Roslyn. Melissa and Bill said it needs to use the Reclamation Ecology Exchange Contract and does not need consultation. Joe said it is not on the ESA maps but it is on the PHS map. Paul said it has steelhead present, but he had put Domerie Creek aside and the applicant would need an onsite mitigation to get his approval. Joe said it should be the same as City of Roslyn, Jonathan said he walked it and it had connectivity but did not see any steelhead, but they could be there. This proposal remains pending.

2011-12 Mudge/Francesca: Joe explained that this one is in Currier Canyon Creek, which is east of Greens Canyon Creek, and the flow goes into the Cle Elum storm water system. Paul, Stan and Stuart were good with this one. However, Ingrid asked a question about the map and how it was labeled. She stated it should be Steiners Canyon Creek instead of Currier Canyon Creek. Paul said he will get up in the area to confirm and get back to the group at the next meeting, so this is pending until then. Melissa added that more areas could become green on the suitability map.

2011-13 Parisi/Wilson: Joe stated this is on Spex Arth Creek, between Fowler Creek and Tillman Creek, with no listed species (ESA or PHS). Paul commented that there is too much lawn on this one, to keep it within 500 sq ft of outdoor use, or he felt they would need to double the mitigation. He said the mitigation would need to be in Spex Arth Creek, in a high priority basin, or in an adjacent basin. Joe asked are there fish present or not, and Paul is assuming there are fish. Bill asked Paul is the analysis based on whether the 1% is triggered or not, and the size of the lawn would change that. Walt asked if there is a policy for 500 sq ft with WDFW. Bill said the first question we should ask is is the map right with the fish issues, then go to the next step. This proposal is pending until the fish question is answered.

Joe shifted the discussion by making a suggestion. He discussed six decision levels. Joe wants a 21 day review period by the fish group and discussed how the group would review these proposals in relation to the map and updating the map. Paul said the 21 days could be any length of time but this is a good way of communicating with the applicant. Joe said he talked with Bob Barwin and Bob suggested a pre-application consultation with all the parties. The group thought that would be a good idea.

2011-14 Pine View Estates: The group moved on to Pine View Estates with Tom McDonald explaining these proposals. This is between Greens Canyon Creek and Steiners Creek, with it being primarily in Steiners Creek, adding there are 4 separate landowners. Paul still wanted to go and look at this before the next meeting. Tom wants to know if there are any other concerns. This is under the Exchange Contract and if mitigation is needed, then they would store in a pond. Bill explained how the Exchange Contract is implemented. Stuart said he could not speak for the YN on this proposal, but it will be sent to them. Kurt added that the well location is important. Tom said it will come back next month. This proposal remains pending.

2011-15 Meadow Springs and Stewart Vista: Tom met with Ecology, this proposal is using the Exchange Contract and it is using Henshaw's and Pasco's water rights currently authorized in the trust water program under a private storage mitigation approval. It will be moved from the current private storage reservoir trust water program approval to the Exchange Contract. It is a transfer and it is in the Spex Arth Creek drainage. Kurt stated that the Newton Younger Ditch water right can be used in the spring but could not be relied upon, and wondered if the Henshaw water right is derived from the Newton water right transferred from the Teanaway River to the Younger Ditch. Tom is hoping for a thumbs-up recommendation. Stan said the only impact is the negative localized creek flow reduction in the winter time. Stan has no problem with this, and Ecology is on board. Joe asked if the Newton water right is a part of this proposal and Tom said this is not using that water right. Joe stated that everyone understands that Newton water right cannot be used after July 20th. Joe asked if there are any other users on Spex Arth Creek, Kurt thought there were no big users. Paul said there was lots of flow and Kurt explained how this affects the Yakima River. Joe doesn't understand what the difference is between this one and his proposal 2011-13. Melissa said the water rights already came before this group and were previously transferred into the state water trust program. Bill explained how the Exchange Contract would be used or not, since they already have a permit. Bill is looking at state statutes and that it would not make an additional impact, but using the Exchange Contract could cause other provisions to kick in, like an ESA consultation. Bill did not know, but would check into it, as it could come up again. The recommendation is pending due to several issues. Stuart said the YN is not ready to approve. Paul is ok with this on the fish issues and Jonathan said there is no loss on the creek. Bill said this is a contract issue. The group commented that if the Pasco water right is fully mitigated, then it should be a thumbs-up recommendation. Kurt said that it does not require consultation under section 18 of the RCW's. The Pasco water right is on the same creek and Henshaw's is on the Yakima River near Cle Elum. Bill wants to make sure it is not double dipping. Melissa said it would not be counted twice, and the group does not think so either. It is a tentative thumbs-up recommendation, once it includes the YN comments and is fully mitigated.

The next meeting will be on Monday, January 10, 2011 at 1:00 PM at the Yakima Field Office conference room, with the deadline for proposals to be the COB Monday, January 3, 2011.

Walt adjourned the meeting at 5:15 pm.