

## **Items for follow-up and discussion at April 11<sup>th</sup> Working Group Meeting**

### **Process of legal notice for comments on Final Decree**

Ecology proposed a process intended to be efficient, effective, and inclusive and to provide adequate legal notice for comments on the proposed final decree in the form of a draft motion to amend Pretrial Order No. 8. The proposal was discussed and participants generally agreed to add 30 days to Paragraph D, extending the reply to any party's response to an objection to within 240 "days after the date of the mailing of the NOAPFD."

Ecology will also add the process for submission, publication and notice of filings to include:

- Prescribed filing cover sheet format – entity name, subbasin, summary of the nature of the filing
- Official summary of listings in the Monthly Notice Report

### **Process for ensuring accuracy of certificates**

At the April meeting, Ecology will be prepared to discuss the process for sales/changes that are undocumented and for ensuring post-CFO information is accurately reflected on certificates and see if such a process can be acceptable.

### **Paragraph 6 – Recording of Certificates**

Recording of certificates - Ecology has been consulting with work group participants<sup>1</sup>, county auditors and recording supervisors on an analysis of the process and necessity of recording adjudication certificates. Ecology will prepare draft final decree language, as necessary, on recording of certificates, parcel numbers, and ownership. Input has been obtained in meetings with county auditors in February and recording supervisors in March. A final meeting will be held on April 11<sup>th</sup> prior to the work group meeting. It will include title company representatives.

### **Final Decree Issuance prior to completion of appeals**

(US DOJ) and (WA Ecology) will research whether it is appropriate to issue a final decree before all appeals are concluded. A discussion paper will be available for the April meeting (DOJ).

### **Jurisdiction**

Jurisdiction after the entering of the Final Decree was discussed at length including:

- Applicability of the federal McCarran amendment (Administration McCarran compliant)
- Manner in which state laws govern jurisdiction
- Focus on administration, enforcement or both
- Minimizing the number of courts involved on a specific issue

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<sup>1</sup> Participants include Joe Mentor (property owners), Matt Wells (cities), Jeff Schuster (Yakama Nation) and Larry Martin (Irrigation districts)

A number of participants advocated in favor of retaining jurisdiction in Yakima County Superior Court. Ecology and Reclamation agreed to research and further discuss the jurisdictional issues prior to the continuation of discussion at the April meeting.

There were suggestions by some to frame the jurisdiction discussion around 3 alternative wordings of Paragraph 10:

1. The court shall not retain continuing jurisdiction of this action once the Final Decree is entered, except to any extent the court has inherent continuing jurisdiction under state law. (*current wording*)
2. The court shall retain continuing jurisdiction of this action once the Final Decree is entered to the extent the court has inherent continuing jurisdiction under state law.
3. The court shall retain continuing jurisdiction of this action once the Final Decree is entered to the extent the court has inherent continuing jurisdiction under state law and to specifically include:
  - .
  - .

#### **Paragraph 7**

Work group participants will research and provide any additional Pendente Lite orders that should be included.

#### **Paragraph 8**

Orders are listed in this paragraph because they are not CFO's and make reference to generic issues. The Court asked to see a list of such orders. They may/may not be included in the Final Order. Listing of the 8/24/2005 Memorandum Opinion concerning Roslyn is premature and a recommendation was made that it be removed.

Members of the working group will inform Ecology of any others they would like included.

#### **Paragraph 9**

This paragraph addresses administration and enforcement. There was discussion regarding the language as it might affect the YRD's contracts on the YN reservation. Jeff and Brian will review.