



Water Banking/Exchange Workshop, Olympia, WA
Bob Barwin – November 21, 2008



WATER RIGHT/MITIGATION BANKING IN THE YAKIMA BASIN



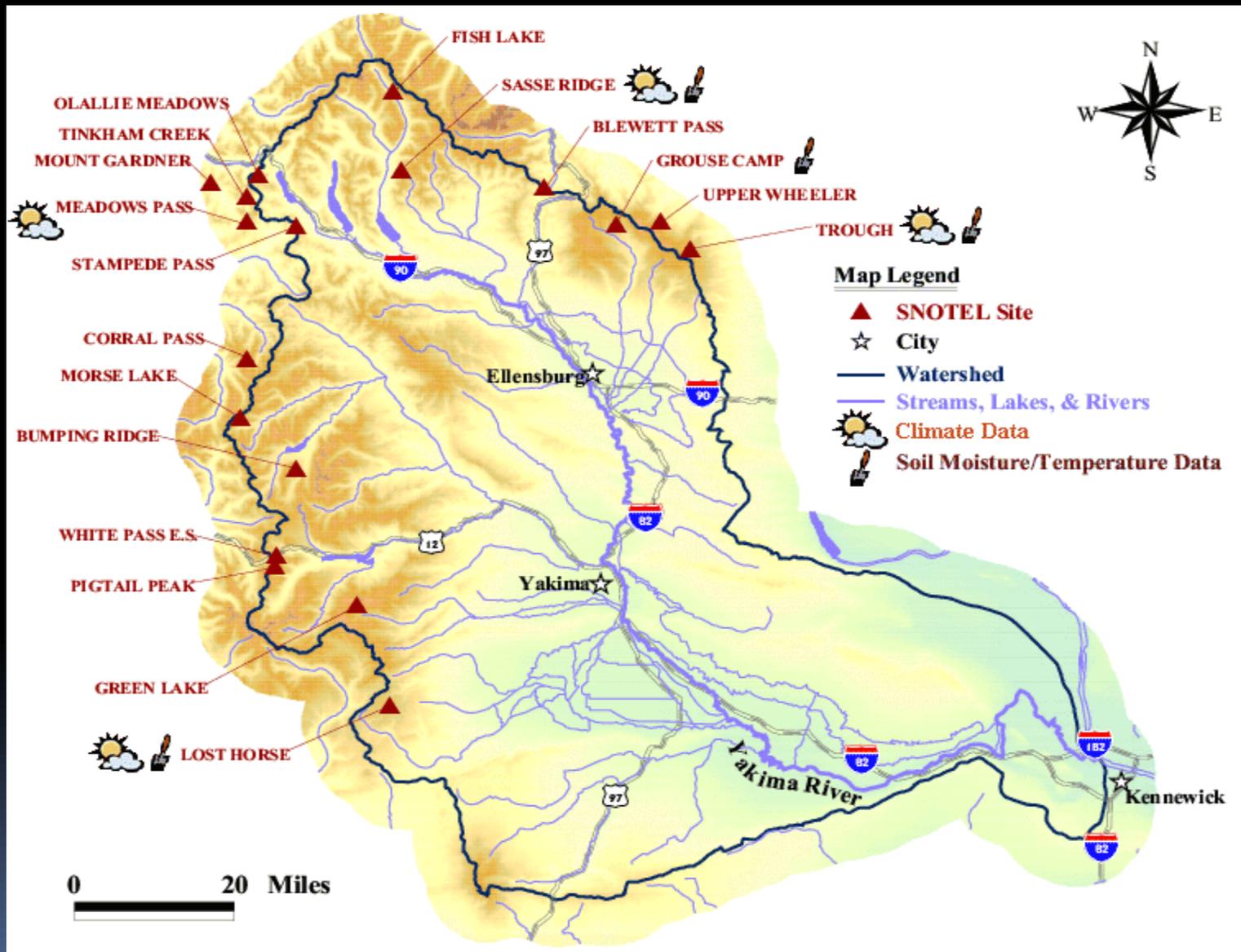
Why a mitigation bank or exchange?

- All surface water is currently withdrawn by USBR under RCW 90.40 for YRBWEP
 - Hundreds of pending applications for surface and ground water.
 - ESA listings and “time immemorial” instream flow rights
 - More rights to water than the Yakima River system can supply about 3 years in 10
 - A moratorium on new ground water permits based on a 1999 Ecology-USBR-YN settlement
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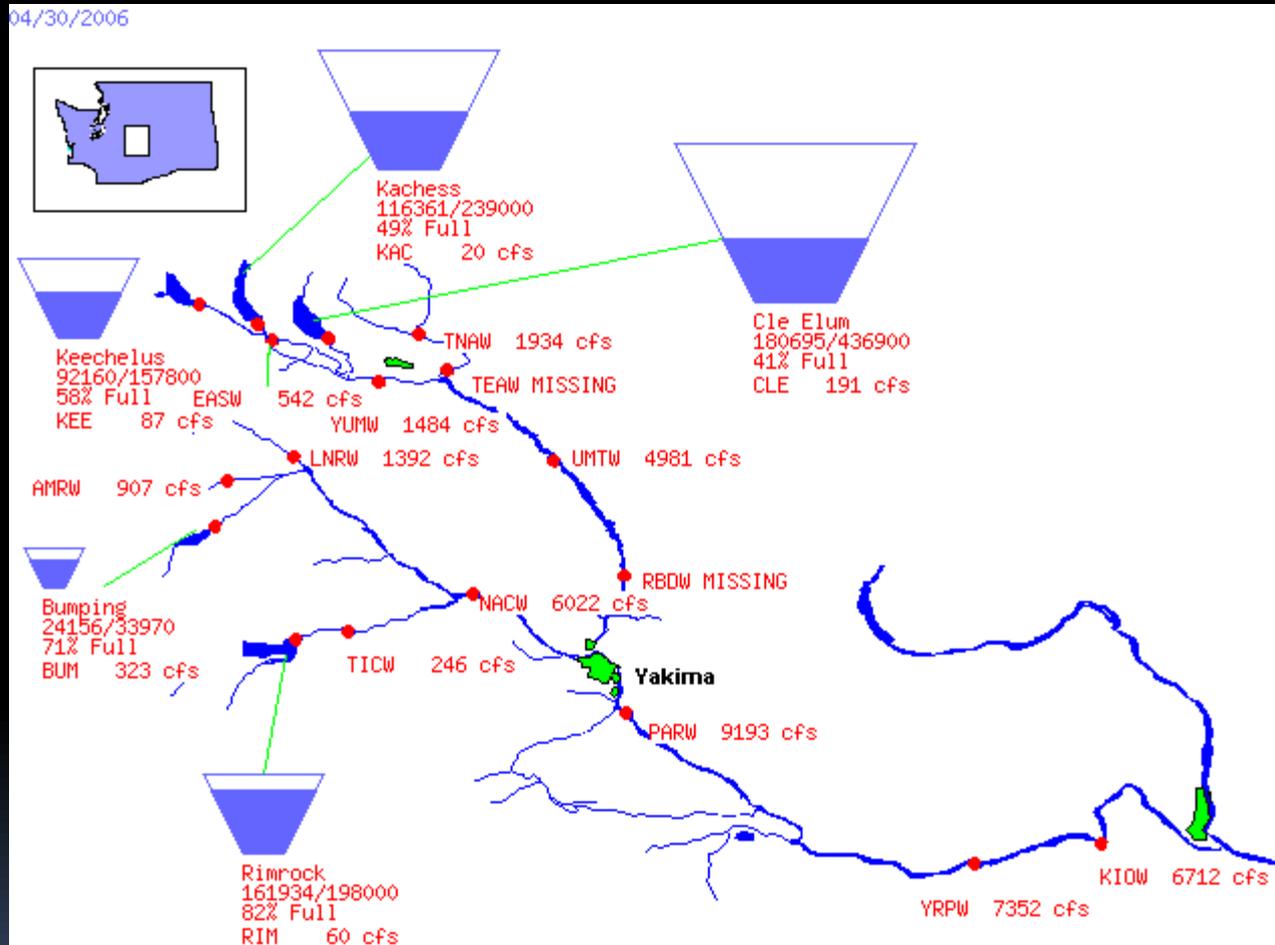


Yakima Basin Assets

- 5 major reservoirs -- upper watershed
 - More than 500,000 irrigated acres
 - More than 250,000 residents
 - Adjudication of all surface water rights
 - A \$6M USGS study/model to help develop mitigation strategies for ground water development - due in 2008-9
 - Experiences gained from 2001, 2004, and 2005 water-short years
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Yakima Teacup Diagram



Rights in the Yakima River Basin

- Senior (pre-1905) water rights = ~1.1 MAF
- May 10, 1905 water right = ~ 1.05 MAF
- Post-1905 water rights = ~ 0.1 MAF

- Therefore, when total water supply (TWSA) is forecast below 2.2-2.3 MAF, curtailment of juniors and pro-rationing of May 10, 1905 rights commences.

“The Box”

- The Conservation Advisory Group/Water Transfer Work Group (WTWG) transfer Criteria:
 1. Equivalent reductions in consumptive use
 2. Water that would have been used if not for transfer
 3. Transfer must adhere to specific delivery schedule
 4. Must be no adverse change in instream flow
 5. Yakima Irrigation Project Operational Impacts
- During 2001 and 2005 droughts' if a transfer was within the box, acceptance of transfers by WTWG was quickly gained

Rule 1: TWSA Neutral

- **Amount:** Consumptive use for the new purpose(s), or new place cannot be greater than for the original location or purposes. The fate of return flows are considered.
- **Time:** The “schedule” of use must reasonably conform to that of the original use
- **Location:** Water diversions moved from above Parker to below Parker must be accounted for in the Parker flow. The reverse cannot be done w/o negatively affecting TWSA.

Rules 3 & 5: Some transfers may affect project operations

- Some upstream transfers
 - Fewer reservoirs available to supply water at new point?
 - Affect a spawning or incubation target flow
- Branch-to-branch transfers
 - Yakima to Naches, or the reverse
- Changes to season of use or delivery schedule



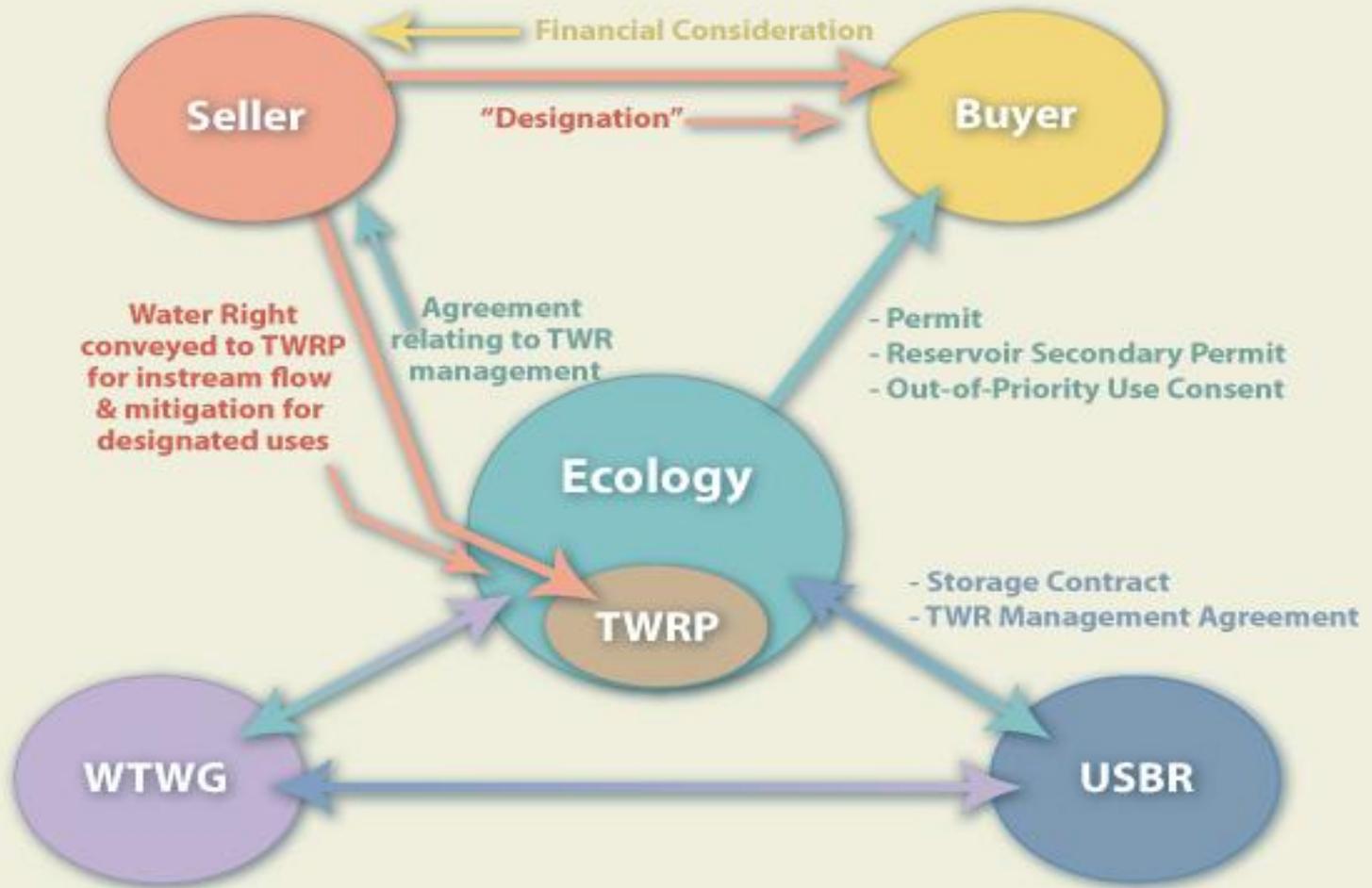
The path to success

- Awareness that climate change will make water users' lives more challenging in the future – limited water supply will not disappear. In 50 years the 2001 and 2005 droughts will represent the norm!
 - Cooperation among YN, USBR, Ecology
 - Cooperation and participation in WTWG by agencies and affected water users
 - Statutory authority for water banking in the Yakima basin (2004 report to legislature)
 - Awareness by senior, pro-ratable, and junior users, and a growing number of developers, that sustainability will be achieved through both cooperation and litigation
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How does the mitigation bank work?

- Mitigation credit would be created by acquiring and placing water into the trust water right program for instream flow purposes.
- The trust water right could be designated by the owner for mitigation of an out of priority use when the right is placed into the trust water program.
- A new permit would be issued to the designated party to authorize the diversion/withdrawal that would result in a consumptive use not greater than the trust water right held for mitigation.
- The permit issued to the designated party would not be separable from the mitigation credit (the assigned trust water right).
- The mitigation bank must be managed to achieve substantial environmental benefit – allows expedited processing.

Conceptual Model - Yakima Mitigation Bank



TWRP = Trust Water Right Program
WTWG = Water Transfer Work Group
USBR = U.S. Bureau of Reclamation

Permanent post-1905 Mitigation Package

- Consumptive use offset is required to allow out-of-priority use
- Additional mitigation may be needed to offset interference with project operations
 - Capture of water that would be stored?
 - Reduce flow where USBR must meet a target?
 - Reschedule deliveries from irrigation season to year around?

Reclamation-Ecology MOU and Contract

- Establishes a framework for exchanging trust water rights for storage and delivery contracts
- Improves the mitigation package by addressing effects on Yakima Project operations
 - Intercept water above a reservoir?
 - Interfere with a flow target?
 - Reduce USBR delivery flexibility?
 - Reschedule delivery of a pre-1905 senior water right?

Master exchange contract between USBR & Ecology

- Ecology responsible for contract requirements
 - Water user management, compliance
 - Collect annual O&M payments, send to USBR
- Repayment of capital cost for trust water right
- Ecology issues a new permit to the water user
 - O&M payment mechanism
 - Assignment fee (capital repayment) for trust water right
 - Measuring and reporting requirements

