

Yakima Adjudication Final Decree Work Group
Status Report to Court - 5/22/2007

As directed by the Court, the goal of the Work Group is to expedite the finality of the Yakima Basin adjudication and provide the Court, by June 14, 2007, with a proposal for the design of the Proposed Final Decree as a document that will assist Ecology, the Yakama Nation, the Bureau of Indian Affairs and Reclamation in regulating the use of water in the basin.

The Work Group met on May 9, 2007 to review Ecology's Revision #7 of the draft Proposed Final Decree. The result of that review will be incorporated into the draft Proposed Final Decree to be submitted to the Court by Ecology on June 14, 2007. Since the last report to the Court in February, the Work Group's discussions have been productive. General agreement has been reached on a number of issues including injunctive language and that any party should be able to seek enforcement of the injunctions in the Final Decree in Yakima County Superior Court. Ecology will also submit a Motion to Amend Pretrial No. 8 that will describe a detailed process to provide adequate notice and assure the accuracy of the schedule of rights (and corresponding certificates).

A Work Team subgroup met with county auditors, recording supervisors and title company representatives to work out the details of the process for recording of certificates. A proposal has been formulated that facilitates recording of information, includes legal descriptions without also identifying parcel numbers, and reflects ownership at time of the Conditional Final Order or subsequent reported changes in ownership. The proposal also accommodates "blanket recordings" for rights covering multiple properties like those held by cities and irrigation districts. Discussion also continued in May on the roles of Ecology, the Federal government, the Yakama Nation and the Court in jurisdiction, administration and enforcement once the Final Decree is in effect. The draft Proposed Final Decree will be informed by this discussion.

As stated in the February 22, 2007 report to the Court, it is the intent of the Work Group that Ecology present its design of the draft Proposed Final Decree to the Court after considering the discussions of the Work Group. The Work Group does not intend to include a list of unresolved matters. However, individual participants and other interested parties may offer support, suggestion, issues and objections to the Court independently.

Depending on the direction of the Court and the process proposed in the amendment to Pretrial No. 8 (above), the Work Group believes that issuance of the Final Decree, including Schedule of Rights, is at least sixteen months away. This should be clearly communicated to all involved in this adjudication.

The Work Group has met face-to-face 6 times (11/30/06, 12/14/06 and 2/7/07, 3/7/07, 4/11/07 and 5/9/07) and once by a conference call on 1/25/07. No future face-to-face meetings are scheduled. A conference call may be held in June to review the final draft. A total of 26 individuals representing water users and local, state, federal, and tribal governments have participated in these Work Group sessions.

Each of the versions of the draft proposed Final Decree along with the meeting notes and working documents of the Work Group are available on the Ecology web page at http://www.ecy.wa.gov/programs/wr/rights/yakima_finaldecree_wg.html

The meeting notes reflect the general issues discussed among the individual participants in the meetings, and are part of a collaborative process to identify and potentially resolve or narrow issues associated with the Final Decree. While all participants are encouraged to voice any concerns during the meetings, failure to comment, participate, or respond to any issue or statement by another participant or in the meeting notes shall not be taken to be either agreement or disagreement, and shall not be used against the participants in any subsequent litigation.

Submitted by Roundtable Associates (Robert Archey), Work Group facilitators