

November 17, 2006



Derek I Sandison, Regional Director  
Central Regional Office  
Washington State Department of Ecology  
15 West Yakima Avenue, Suite 200  
Yakima, WA 98902

Dear Mr. Sandison:

Attached for your consideration are comments on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program. These comments focus on Chapter 6.0, "Policy Discussions" and specifically on the storage and water conservation items.

My interest stems from having been involved in the Bureau of Reclamation-Washington State Department of Ecology Yakima River Basin Water Enhancement Project activities of the 1980's and 1990's culminating with Title XII of the Act of October 31, 1994. This interest has continued since my retirement with some involvement in Yakima River basin water resource activities.

Thank you for the opportunity to provide input on some of the policy issues of the Columbia River Water Management Program.

Sincerely,

A handwritten signature in cursive script that reads "Larry".

Larry Vinsonhaler  
2567 Lynx Way  
Boise, Idaho 83705

## Chapter 6.0 Policy Discussion

### 6.2 Selecting Storage Projects

The question being addressed is “how aggressively Ecology will pursue storage projects?” The most proactive role put forth in the Draft Programmatic Environmental Impact Statement (DPEIS) for the Washington Department of Ecology (Ecology), in addition to reviewing and screening storage projects proposed by applicants, is to propose storage options independent of those proposed by applicants. The illustration presented in the DPEIS is to use watershed plans to identify and pursue smaller storage projects (emphasis added), purchase stored water in Idaho and/or Canada, consider buying or negotiating changes in operations of federal facilities, consider studies for ASR or passive ground water recharge, and promote small scale projects that benefit small landowners

If the foregoing illustrations define the most proactive role, then Ecology is truly not aggressively addressing the State’s present and future water needs. It raises the question of the extent of Ecology’s current role in the Columbia River off-stream storage assessment. It is suggested Ecology’s role should be broadened to aggressively identify water resource needs, water supply deficiencies, and to pursue water storage projects in conjunction with federal and other interests through the investigation and development of storage projects

#### Sections 6.2.1, 6.2.2, 6.2.3, and 6.2.7

Sections 6.2.1, 6.2.2, 6.2.3, and 6.2.7 are so interrelated they must be considered conjunctively. These sections and their interrelationships follow:

- A question addressed in Section 6.2.1 is “what are net water savings?” Are they only the consumptive use portion of conserved water or are they something broader in scope?
- Section 6.2.2 raises the following questions: (1) to what purposes will net water savings achieved from conservation projects funded from the Columbia River Water Supply Development Account (Account) be assigned, will it be to out-of-stream purposes only, to instream purposes only, or a combination of these purposes; and (2) how will proposed conservation projects be screened and ranked for funding from the Account?
- Section 6.2.3 addresses the definition of water acquisitions and water transfers. This is because the Columbia River Management Act (Act) restricts the area of use of acquired and transferred water obtained with funds from the Account to the Water Resource Inventory Area (WRIA) of origin.
- Section 6.2.7 deals with the aerial extent of the “no negative impact” on Columbia River July-August stream flows and Snake River April-August flows associated

with water withdrawals under Voluntary Regional Agreements (VRA) The question is how and where to measure whether a withdrawal results in a net reduction in stream flow in the Columbia and Snake Rivers during the foregoing respective months.

### **6.2.1 Calculating Net Water Savings from Conservation**

Net water savings has been defined in the Trust Water Rights Program; the methodology for calculating it has not. This calculation is extremely critical to the extent conservation measures will assist in meeting out-of stream and instream water needs.

The Columbia River Water Supply Inventory and Long-Term Water Supply and Demand Forecast Report identifies a potential water savings of 955,000 acre-feet from plans of conservation districts (on-farm measures of about 530,000 acre-feet) and from irrigation districts (main conveyance and distribution system measures of about 425,000 acre-feet) If one were to assume that conservation projects resulting in conserved irrigation water of 955,000 acre-feet is the primary source of meeting present and future irrigation demands, it is an erroneous assumption.<sup>1</sup>

The irrigation district water saving estimate is essentially system losses from the point(s) of diversion to the farm deliveries, the major portion of which return to the river system as surface and sub-surface return flows. As such, the effect of reducing main conveyance and distribution system losses diversions is (1) in an unregulated river system to increase stream flow from the point(s) of diversion to the point(s) where return flow from the conserving entity reenters the river system, and (2) in a regulated river system to also permit the possible retention of the stored water portion of the diversion which would have otherwise been released. An example of the latter is the Yakima and Naches River systems regulated by 5 reservoirs with about 1 million acre-feet of storage capacity. There is merit in considering conservation projects in conjunction with storage space to regulate conserved water.

It appears entity conservation projects dealing with main conveyance and distribution system measures may not result in net water savings beyond specific stream reaches of the tributary if any diminishment of the existing flow regime downstream of the point(s) of return flow from the "action" is a constraint. This is because the conserved water results from a nonconsumptive use rather than from a consumptive use. If this were the case, then even a portion of the saved water on regulated tributaries which could be retained in storage facilities may have to be released to maintain existing stream flow. The potential constraint of no diminishment of the downstream flow regime must be addressed.

It appears net water savings are appropriately defined by the Trust Water Program. However, the method of determining net water savings must include more than

---

<sup>1</sup> The reasons that the 955,000 acre-feet does not all equate to net water savings is aptly explained in the Executive Summary of Ecology's Report on pages ES-10 and 11.

quantifying the conserved water. Other factors such as the characteristics of the water supply (unregulated and regulated), water rights downstream of the point(s) of diversion and return flows, the policy regarding diminishment of existing stream flow, and the location of the conserving participant (unregulated or regulated tributary or the Columbia River) also needs to be assessed. Neither alternative appears to express the factors which may be needed to determine net water savings. However, it is noted, the Executive Summary on page ES-11 recognizes the need for flexibility in matching individual conservation projects and water right applications

### **6.2.2 Funding Criteria for Conservation Projects**

This section deals with two issues (1) assignment of net water savings funded from the Account, and (2) criteria for screening and ranking conservation projects. These two issues are discussed below

#### Assignment of Net Water Savings

It is assumed conservation projects could be implemented on Columbia River tributaries or on the main-stem river. With respect to tributaries, it appears consideration needs to be given to whether it is an unregulated or regulated tributary and the policy regarding the diminishment of stream flow downstream of the point(s) of return flows of the conservation project participant.

In figure 6-2 of the DPEIS, alternative 4C-1 indicates the hypothetical point where net water savings would occur and the point where net water savings would be measured for a tributary project. It is possible, the only net water savings resulting from tributary projects which would extend downstream of the mouth of the tributary may, depending on how net water savings are computed, be just the consumptive use portion associated with on-farm conservation projects. If so, the magnitude of net water savings from conservation projects would be significantly diminished. It may then be desirable to assign all of the net water savings to mitigation of Columbia River permits authorizing out-of-stream beneficial use. There would of course be instream flow benefits in the tributary

It seems there may be the need for further assessment of net water savings prior to making a determination of how these savings are to be assigned. As referenced in the foregoing comments on Chapter 6.2.1, the DPEIS indicates the need for flexibility in matching individual conservation projects with water right applications. Such flexibility may also be desirable in assigning net water savings within some specified parameters

#### Criteria for Screening and Ranking Conservation Projects

In regards to the criteria for screening and ranking conservation projects it is suggested Ecology's Columbia River Policy Advisory Group may want to review appropriate sections of the document prepared by the Yakima River Basin Conservation Advisory

Group entitled *The Basin Conservation Plan for the Yakima River Basin Water Conservation Program* and the *Appendix to the Basin Conservation Plan*.

### **6.2.3 Defining Acquisition and Transfer**

The concern expressed is that the Act prohibits Ecology from expending money from the Account on conservation projects that will result in water acquisitions or transfers from one WIRA to another. The term "water acquisition and transfer" is not defined by the Act. However, it is defined to include net water savings realized from conservation projects then use of such net water savings is restricted solely to the WIRA of origin.

In the Yakima River basin water acquisitions and water transfers are considered separate transactions from water realized from conservation projects. In this instance there is federal legislation authorizing the Yakima River Basin Conservation Program and funding and implementation of conservation projects is contingent on "diversion reduction agreements" with the participating entity specifying the use of the conserved water, in this case two-thirds to instream flow and one-third retained by the irrigation entity. Further, conserved water is being used within the Yakima River basin.

It seems desirable to define water acquisitions and transfers as those related to direct purchase and/or gift separately from conservation projects in which case under the Act the water could only be used in the WIRA of origin. By so doing, this would result in the option of net water savings from conservation projects being used in other WIRA's. However, it is suggested this entire matter be referred to the State legislature with the suggestion that the restriction on the area of use of water acquisitions and transfers in solely the WIRA of origin be amended.

### **6.2.7 Defining "No Negative Impact" to Instream Flows of the Columbia and Snake Rivers**

This issue concerns the question of the measurement point to determine if a proposed water withdrawal has an impact on the policy of "no negative impact to stream flow" in the Columbia River in July and August and the Snake River in April through August as the result of a Voluntary Regional Agreement (VRA). How and where to measure the "no negative impact" has not been defined. It is indicated however, that net water savings from a tributary conservation project would be measured at the mouth of the tributary.

Figures 6-2A and 6-2B of the DPEIS illustrates the four alternatives presented in section 6.2.7. It seems appropriate to align the area of consideration for determining impact with the management units for instream flow in WAC 173-563-040 (1) as illustrated in Alternative 4C-2 of Figure 6-2A.

The 6.2.7 discussion is confined to the legislative policy of "no negative impact" to instream flows in specified months as a result of a VRA. But Ecology raises further

questions of legislative authority as to the non-specified months on page 4-49 of the DPEIS as follows:

The administrative rule for the Columbia River establishes instream flows for all months of the year, not just July and August. By providing that if a new water right does not have a negative impact on the Columbia River flows during the months of July and August, impacts to instream flows have been mitigated, the legislature decided that water is available during the other ten months of the year. Further, by directing Ecology to only consider impairment of instream flows during the referenced summer months, the legislature has effectively made an overriding consideration of the public interest determination that the adopted instream flows outside of July and August will not be protected.

This appears to be inconsistent with RCW 90.90.030(8), which prohibits any interpretation or administration of the section regarding VRAs “that impairs or diminishes a valid water right or a habitat conservation plan for purposes of compliance with the federal endangered species act”

The Ecology views quoted above are an interpretation of legislative intent on a fundamental and critical foundation policy of the Act. It appears the “no negative impact” policy should be clarified by the Legislature for all months of the year in relation to new water right applications as may be filed with Ecology within or outside of a VRA process.

While the question of how to measure the “no negative impact” policy is not addressed, it seems clear there is to be no net reduction in flow in the specified months. However, what is the baseline against which this is to be measured? Is this to be based on some historical flow period of monthly averages such as used in the Federal Columbia River Power System Biological Opinion, or some other base?