

These facilitator's 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 issues associated with the Final Decree. While all participants are encouraged to voice any concerns during the meetings, failure to comment or respond to any issue or statement by another participant or in these facilitator's notes shall not be taken to be either agreement or disagreement, and shall not be used against the participants in any subsequent litigation.

Acquavella Working Group Facilitator's Notes – (6/7/07)

1:00 PM – 3:15 PM – Conference Call

Discussion Agenda

- Approval of May's meeting notes
- Last working group review of Ecology's 8th draft proposed Final Decree
- Other business
- Next steps

All documents referenced in these notes can be viewed and downloaded from the WA Department of Ecology website at

<http://www.ecy.wa.gov/programs/wr/rights/adjhome.html#decreeworkgroup>

A. General

There were no changes to the May 9, 2007 Facilitator's Notes.

C. Review of Ecology's 8th draft proposed Final Decree

Ecology prepared an 8th draft proposed Final Decree for discussion. The 8th draft includes changes to specific paragraphs based on the discussion at the May 2007 meeting. This is the last review of the draft proposed Final Decree prior to submission to meet the Court specified date of June 14, 2007. Ecology plans to have the document ready for submission on Tuesday, June 12

Introduction

No changes in draft #8

Paragraph 1

The language suggested was "as may accrue to the United States pursuant to RCW Chapter 90.40." Reclamation will confirm that they have a current withdrawal.

Post-meeting Note: Bill Ferry confirmed that on 3/10/2003 the withdrawal was extended to 1/18/2008 (see file attached to these notes).

Paragraph 2

No changes in draft #8

Paragraph 3

After a lengthy discussion, sections 3b, 3c and 3d remained basically unchanged. 3e will be revised by Ecology to incorporate Reclamation's management responsibilities, e.g. ... Nothing herein shall impair the right to convey water pursuant to RCW 90.03.030 or RCW 90.40 or to manage the waters of the area described in paragraph 1 of this Decree consistently with the orders of the Court. YN will discuss their concerns directly with Ecology.

Sections 4 and 5

No changes in draft #8

Paragraph 6 and 7

OK

Paragraph 8

OK – In the 1st sentence add ... with all of the opinions and orders ...

Paragraph 9

Considerable discussion was devoted to the process for administering and enforcing the YN's right for instream flows for fish. While the working group generally agreed that the current wording of Paragraph 9 was OK to meet the filing deadline, more "out-of-court" discussion of the specifics of the process was needed prior to the issuance of the Final Decree. In their oral report to the Court on June 14th, Ecology will emphasize the importance of reaching some agreement on the administration and enforcement processes. YN had additional issues with 9B. Larry Martin may suggest additional language concerning administration of Sunnyside's rights.

Paragraph 10

No changes in draft #8

Participants

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Next Event

Thursday, June 14, 2007 – Yakima Superior Court

Notes prepared 6/7/2007 by R. Archey, Roundtable Associates