Meeting Notes
Resolving Rural Water Conflicts
July 21, 2014

Dave Christensen, ECY discussed the meeting goals:

- Continue discussion on strategies/approaches based on existing statutory authority to balance instream needs and rural water supply.
- Will evaluate potential approaches in the context of the Lower Columbia River watershed plan – how could the plan recommendations be adopted into rule?

Jeff Breckel, Executive Director of Lower Columbia Fish Recovery Board discussed the WRIA 25/26 plan

- WRIA 25/26 Plan encompasses a large region with a lot of complexity. The vast majority of people live in the lower basin near I-5 corridor. Upstream of that is low density development, with some agriculture and rural domestic uses.
- 24 populations of listed salmonid species
- How to address planned future growth? The plan includes:
  - Use water from the Cowlitz River, or rely on aquifers connected to the river, which is regulated and exceeds recommended flows throughout the year. But, that’s a long distance from some of the places water is needed.
  - Create reservations for permit exempt users.
  - Enact conversation measures.
  - Develop regional water systems where possible.
- Key piece of agreement on plan—adaptive management approach, with an indicator of resident fish populations. Planning unit looked at how water management fits into a wider strategy.
- Overall synopsis: plenty of water in the mainstem Cowlitz River; establish regional water systems; make growth assumptions based on approved GMA planning documents; establish reserves for tributaries; and, include reopener language based on adaptive management.

Jim Pacheco, ECY- discussed how instream flows values were established for Lower Columbia

- Presented flow graphs for Abernathy Creek and Coweeman River. Used toe-width to determine habitat-based recommended instream flows (ISF). Exceedance curves based on regression.
- When toe-width habitat-based recommendation exceeds the 10% exceedance flow, the recommended ISF is the lower of the two, the 10% exceedance flow. This typically occurs in the summer/early fall.
**Dave Christensen, ECY** – Discussed map showing existing water rights in Lower Columbia

- Serious challenges to mitigate rural water use — existing rights are small.
- These challenges resulted in recommendations where impacts aren’t fully mitigated; impact estimated by rating curve with full reservation allocation results in 3/16” in depletion. Under current authority, we can’t consider this *de minimis* impact.

**Breakout Groups** – Question: can you identify a low risk strategy to adopt an instream flow rule for this watershed under existing authority?

- Set reservation first, then adopt the ISF.
- Use the watershed plan as demonstration of Public Interest.
- Use “riparian right” concept to establish ISF, and require all users reduce their use a small amount during time of low water availability.
- Disagree that setting reservation first, then adopting an ISF works in the long run.
- Need to connect land use planning for water availability.
- Truck in the water for new users. If there’s no water available, then new users get no water unless they haul it.
- Look at strategies to re-time the hydrograph, which would require storage and/or aquifer storage and recovery. Question on how to fund it? New users pay, but could also include allowing funding to be redirected to habitat improvement.
- There are areas that simply shouldn’t be developed. Bottom line: haul water or don’t build.
- Require maximum water use efficiency.
- Develop additional offsite storage in light of climate change in certain areas.
- Address wasteful water use and meter all water use.
- Adaptive management is the only way to avoid legal risk.

**Discussion of potential options that would require new statutory authority**

**Jennifer Holderman, ECY** – discuss matrix of western states’ permit exemption for groundwater uses

- The paper she worked from defined the single domestic exemption as exempt from permitting, and not subject to adjudication or monitoring.
- Twelve states have a domestic priority in statute or constitution.
- Not every state has ESA issues like Washington does.
- The states that seem to be having issues most similarly to Washington around permit-exempt users are Montana and New Mexico.
**Breakout Groups** - Discuss list of ideas developed from stakeholder input, and identify ways to mitigate concerns and improve these ideas

- Tier structure for mitigation requirements. Require in-kind mitigation first, and only if that doesn’t work then allow out-of-kind mitigation, with an in-lieu fee, then indoor use only if needed.
- Developing mitigation requires a plan and a lot of work around it.
- Pool the risk in low density rural areas makes sense.
- Generally like current mitigation authority and how new applicants can work it.
- Regional approach and its application state wide is not workable in light of *Swinomish* and finding a new paradigm.
- Mitigation makes sense in the valley (larger river alluvium) but maybe not in tributaries.
- Can’t run water up to all areas where building is occurring-- requires prioritization: fisheries or domestic use.
- Concerned about out-of-kind mitigation because there’s too much discretion to allow. There will be pressure from the development community to allow the least cost alternative and that is simply not adequate.
- OCPI is dead.
- What is de minimis?
- Look to reduce the exemption to allow for OCPI.
- Using a watershed plan as an expression of Public Interest is questionable because the various level of planning.
- Compensation would be required for senior users and instream impacts for domestic priority. Would also have to consider how to compensate for tribal interest.
- Broad mitigation is good and focus on single exempt uses.
- Would need info about each stream for out-of-kind mitigation to make sense.
- Need to reduce burden to the individual homeowner.
- Need more education on ISF policy because we want to appreciate what we are protecting, and under what conditions need be present to meet OCPI.
- See goals as written not following the law.
- If Washington considers changing to riparian system, then we need to talk with the irrigators.
- OCPI cannot be used just exclusively for economic development.
- Like the Clark County approach and supporting regional public water system development.