

## Methow Restoration Council

June 18, 2019

### Participants

Name	Organization/Affiliation
Allen Lebovitz	DNR
Brian Fisher	MSRF
Chris Johnson	MSRF
Hannah Coe	Okanogan CD
Hans Smith	Yakama Nation
Jessica Goldberg	MSRF
John Crandall	MSRF
Katy Pfannenstein	USFWS
Kristen Kirkby	CCFEG
Lee Bernheisel	OWL
Lynda Hoffman	WDFW
Maddie Eckmann	Yakama Nation
Matt Young	Colville Tribes
Pete Teigen	UCSRB
Tara Gregg	MSRF

### Water Rights and Methow Adjudication Proposal

*Presenter: Lee Bernheisel Okanogan Wilderness League.*

The Okanogan Wilderness League (OWL) was started in the 1980s to create a wilderness in the Sawtooths and Pasayten to protect headwaters for anadromous fish. The wilderness bill was passed in 1984. OWL also worked with the Methow Citizen Council to preserve instream flows in response to the Early Winters ski resort proposal. OWL was also involved efforts to encourage MVID to increase irrigation efficiencies and protect fish habit.

The Riparian Doctrine has its roots in Common Law (England) and the Public Trust Doctrine, which aimed to preserve water courses for the public. The public has the right to use these waterways. The Appropriation Doctrine (first in time, first in right) came from the initial western territories and Washington adopted this rule prior to becoming a state. After becoming a state Washington adopted the Riparian Doctrine. First in time, first in right" supersedes Riparian Doctrine.

Historically, someone who claimed a water right would post their claim on the town message board for neighbors to see. From 1891 to 1917 surface water claims in the Methow were piling up. The State's surface water code codified what the State had in water and the State would review water claims and approve them as a water right. In 1945 the State established a groundwater code. Prior to this groundwater was claimed, but was not established as a water right. The 14 subbasins of the Methow basin were reviewed by the State and given a general water right under the surface water code. The 1954 Water Resources Act gave protections to instream flows and protects the public's right instream flow. This is what allocates instream flow quantities.

90% of the water used in the Methow basin are claims, not rights. Making an adjustment to a water claim invokes a review of the claim by the State and the State issues a determination. In 1967 the Relinquishment Act (Wasteful Water Act) was established. Washington State was being pressured by California in 1970 to divert the Columbia to California. Washington State encouraged users to file water rights for as much as possible to protect the Columbia

The Hurst decision was a court decision in Whatcom Country. The court made a finding that any groundwater that had any effect on surface water has to fall under surface water rules. This agrees with the 1976 Methow Basin Plan, which states that ground water in continuity with surface water shall be treated as surface water.

A 1990 review of exempt domestic wells showed that 14 cfs had been utilized in excess. The exemption on domestic wells provides homeowners with 5000 gallons per day. Findings showed that the average use of a domestic well was ~350 gallons per day. This number seemed low when accounting for outdoor use during the summer.

A copy of letter from OWL to Ecology requesting adjudication of the Methow basin attached.

Ecology's response to the letter indicated that that the Yakima adjudication must be completed prior to looking at subsequent adjudications. A committee will be set up to review requests for general adjudications and prioritize them. The list of prioritized adjudication request will be submitted in a report to legislature in September 2020.

### **UCSRB Updates and 2020 SRFB Schedule Changes**

*Presenter: Pete Teigen, Upper Columbia Salmon Recovery Board*

RCO looked at how the state operates their grant schedule. One of the recommendations was to shorten the schedule and take out one of the state reviews to increase efficiencies. Pete has taken the state's grant schedule and incorporated the regional process into the schedule. There is some flexibility within our regional process, but the State has some hard deadlines that the regional process has to fit. In general, the new schedule has the process starting and ending earlier. This allows the State can make funding determinations in September.

Overview of Proposed 2020 SRFB Schedule:

January – Start of process

February – Project Abstracts Due – Attempting to reduce the number of project proposals.

Chris (MSRF) – base funding from BOR FOA has been greatly reduced. It would be good if projects were reviewed at this initial point so that sponsors don't spend money on moving projects through the process that won't be funded anyways. Getting fewer project is not likely, but if we can use this step to reduce the number of projects that move to the next step that would increase efficiency.

Jessica (MSRF) – If Greer can add a question to the Jot form to ask "is there anything else about this project that explains why this project should be funded?" this would allow funders to explain extenuating circumstances that may not fit into the standard drop down options. Using a character limit would limit overly long responses.

Chris (MSRF) – As well as an option explain a project’s tie to watershed planning.

March – RTT presentations – Presentations would occur before completed applications are due so that the RTT can provide comments and feedback to sponsors, and sponsors can incorporate comments into their final application.

Kristen (CCFEG) – It is important that there is adequate time following each presentation to allow for productive feedback from the RTT

April – Completed Applications Due – “Complete” will need to more clearly defined.

April/May – Project Tours. The RTT has acknowledged the usefulness of using drone and aerial imagery to show a project. For example, Chelan County’s Nason Ridge Acquisition Project covers a large area and the RTT couldn’t gain a good understanding of the property during a short site visit. During their presentation Chelan County used drone imager to show the RTT the entire project and riparian zone that they were proposing for acquisition. In this case, the drone imagery was a much more productive way of showing the property.

May – SRFB Review Panel Comments

May - Final Applications Due – Applications will be submitted after tours for regional scoring and ranking (10 days). This timing keeps the process outside the typical construction period and gives sponsors more time to address issues that may come up.

June 5 – State comments to sponsors

June 10 – RTT Technical scoring

July – CAC presentations and rankings

August – Regional List Submitted to RCO

SRFB meets July 10<sup>th</sup> to discuss the proposed schedule. They will also be talking about large capital investment. There will be a tour the following day, July 11<sup>th</sup>.

## **Roundtable**

*Chris Johnson (MSRF)* – The Twisp Floodplain Project going through the SEPA process. Currently, projects have to be fully developed prior to going through SEPA. MSRF is looking at alternative options, which would trigger SEPA earlier in the development process and reduce the risk of projects being “killed” by public comment after all the investment in design and planning has been completed.

*Jessica Goldberg (MSRF)* – The Implementation Team met in June. The IT discussed that the WAT level is a good place for information sharing, as it reaches the broadest audience. Jessica suggested that IT meetings should be deliverable focused. The response was positive to this suggestion. IT topics should be determined in advance of the quarterly IT meeting so that WATs

have the opportunity to discuss at provide input. In the interest of efficiency, if there are no action items for the IT to discuss then there is no reason to have a meeting to have a meeting.

*Allen Lebovitz (DNR)* – We are starting a new funding cycle and have received a good budget allocation. We will be working with Yakama at Golden Doe and are looking for additional project options on state aquatic lands. State aquatic land in the Methow includes Methow River up to Lost River. Not currently asserting the Chewuch and Twisp.

*Hans Smith (Yakama Nation)* – Currently regional focused and will let Maddie give the local update.

*Hannah Coe (Okanogan CD)* – We are scheduling interviews to hire someone to do drought relative outreach to irrigators. This outreach is focused on the Okanogan Valley, but doesn't exclude the Methow.

Chris (MSRF) – Are there any assistance options to municipalities facing drought issues?

Response: contact Craig Nelson.

*Pete (UCSRB)* – Are there more irrigation efficiencies coming up?

Chris (MSRF) – There are small projects, but based on the feedback we have received these don't move the needle enough to generate interest. If UCSRB is interested in these projects it would be good to know.

*Maddie Eckmann (Yakama Nation)* – The Golden Doe Project is currently going through the SRFB process. Yakama participated in site tours with US Forest Service up Twisp River on proposed projects at Horseshoe, War Creek, and Little Bridge Creek. The projects at War Creek and Little Bridge include helicopter placements of wood. Jared Johnson is the project manager for these

*Matt Young (Colville Tribes)*– Colville is wrapping up work with TU on BDA and cattle exclusion fencing up Black Canyon. Working to develop a restoration plan for Texas Creek. Conducting some site selection monitoring and working on options for post project monitoring funding. Hoping for 2-3 years of the monitoring pre and post. Matt has taken over Paul Wagner's position.

Allen (DNR) – The EDT showed steelhead habitat in the Methow was surprisingly high.

Response: Recommended asking John Arturburn. The results of the EDT are only as good as the data inputs. The EDT includes a report indicating data quality.

*Kristen Kirkby (CCFEG)* – CCFEG has procured drought funding from the State to monitor for fish stranding in the upper Twisp and upper Methow. Hannah is here as crew lead for the barrier assessment crew. Hancock will start construction in July.

*Pete Teigen (UCSRB)* – the Okanogan Outreach Lead Entity grants will be coming; stay tuned.

**Next MRC meeting July 16<sup>th</sup>.**