

ICICLE STRATEGY
Icicle Work Group Meeting
Confluence Technology Center, Wenatchee
Thursday, November 14th, 2019

Meeting Summary

Attendees:

Lisa Pelly, TU; Sharon Lunz, ICWC; Christi Davis-Kernan, Reclamation; Dawn Wiedmeier, Reclamation, Dale Bambrick, NMFS; Greg McLaughlin, WWT; Chuck Brushwood, CTCR; David Child, Reclamation; Melissa Downes, Ecology-OCR; Mary Jo Sanborn, Chelan County; Joel Walinski, City of Leavenworth; Bob Bugert, Chelan County; Peter Dykstra, Plauche & Carr; Jim Brown, WDFW; Steve Parker, Yakama Nation; Tony Yantzer, IPID; Mike Kaputa, Chelan County; MarySutton Caruthers, Cascadia Conservation District; Jim Craig, USFWS; Bill Gale, USFWS; Jeff Rivera, USFS; Dan Haller, Aspect Consulting, Mat Maxey, USFWS; David Rice, Anchor QEA; Sarah Walker, UCSRB; Cory Kamphaus, Yakama Nation; Kitty Craig, The Wilderness Society; Tyler Roberts, Ecology-OCR; Dick Rieman, ICWC; Bruce Williams, ICWC; Carmen Andonaegui, WDFW; Jeff Dengel, WDFW; Tony Buhr, Wenatchee World; Suzanne Cable, USFS; Bryan Mulligan, USFS; Cynthia Carlstad, NHC.

Welcome, Introductions, Focus Question Discussion

The meeting was facilitated by Cynthia Carlstad and Peter Dykstra.
All meeting attendees spent the first 20 minutes discussing a focus question in small groups.

Decision Item: The IWG approved the September 12th, 2019 Meeting Summary

Summary of Responses to Focus Question:

Focus Question: The PEIS describes that some of the “Preferred Alternative” Icicle Strategy projects would likely be implemented to some degree even in the “No Action Alternative”. Assuming that is true, what is the value to your organization for supporting an integrated water management approach versus the “No Action” ad hoc or individual approach?

Responses are grouped by topic.

Project

- Some projects will move forward with or without the Icicle Work Group, however coordinating through this process makes them better/stronger
- Larger projects get accomplished easier within this group.
- Coordinating projects can achieve more.
- Projects would move quicker without the Icicle Strategy, this is a slower process. This group should discuss coordinating goals but less detail on coordinating projects.
- Many projects are linked and are complex so there is a value in working through this IWG forum.
- Huge value in the “package” – we can get more accomplished by linking projects.

- Integrated approach allows for a better, more coordinated approach to permitting, funding, etc. that helps get projects done.

Icicle Work Group

- A collective voice is much stronger and helps secure funding.
- We cannot leave any entity's needs unattended. Those needs won't go away. Addressing all of the needs will make the process and outcome more durable.
- The group voice helps with certainty of funding to get things done.
- A big benefit is how this process pulls individual organizations out of their narrow focus. By focusing on a larger goal, coordination is a good way to get more accomplished.
- This process decreases the potential for future conflict.
- Leveraging funding at state and federal levels is critical.
- Relationships developed here are important – important to learn to be sensitive of other group's interests.
- Participation in this group increases a sense of ownership of the projects and goals.

Goals/Outcome

- A durable outcome is necessary and more likely within this group.
- Without integrated strategy, instream flow improvements would not be near the scale. A coordinated effort is the only way to achieve those flows.
- This process gives the ability to meet long-term goals and helps durability of water supply.
- Value in going slow to go fast – outcome is stronger and more durable.
- Integrating goals allows for more opportunities and creativity.

Working in the Wilderness

Suzanne Cable with the Wenatchee Okanogan National Forest gave a presentation on what the rules are around management and working within the wilderness. The presentation is available by clicking [here](#). The purpose of this agenda item is to develop a common understanding of the wilderness management framework and to discuss some examples of work that have been done within the wilderness.

Presentation Summary:

- This presentation is from the Arthur Carhart National Wilderness Training Center. Another good resource for wilderness information is wilderness.net.
- Focus on the legal foundations of wilderness and what USFS duties are in managing wilderness areas. 1964 Wilderness Act guides most.
- Policy - Definition – highest level of protection, comes with responsibilities.
- Agency Responsibilities – preservation of wilderness character.
 - What does wilderness character mean? At the time of designation of the wilderness area, we either improve it or keep it from sliding down in wilderness character.

- Three components to wilderness character are biophysical environment, personal experience, symbolic meaning.
- Five qualities to wilderness character: untrammeled (defined as “man does not influence control”), natural, undeveloped, outstanding opportunities, other features of value. Suzanne provided examples of impacts to each of these qualities; these include buildings, overuse/degradation from human visits, animal tracking devices and invasive plants and animals and many other potential impacts.
- Use of Wilderness Areas – Purpose of Wilderness Act is described as “within and supplemental to the purpose for which national forests and units of the national park and wildlife refuge systems are established and administered...” Sec 4(a). The Act also states that “except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation and historical use.” Sec 4(b). Suzanne noted that these uses do not supersede the mandate to preserve wilderness character.
- Special Provisions – aircraft, motorboats, fire, mining, water rights, etc. This modifies everything else.
- Inholdings – recognized as a special provision in Sec 5. “...such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land...” (Sec. 5(a)). “... permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.” Sec 5(b).
- Prohibited Uses – detailed in Sec 4(c) however there are exceptions: 4 exceptions: 1) “except as specifically provided for in the Act...”, 2) “...subject to existing private rights...”, 3) other provisions of law, and 4) “...except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act...” this leads to the Minimum Requirements Analysis (MRA).
 - MRA is an implicit requirement of the Wilderness Act to determine the minimum necessary when uses generally prohibited by the Wilderness Act are being considered. It must answer two questions stemming from the language of Section 4(c):
 - Is action necessary to the administration of the area as wilderness?
 - What is the minimum activity or means of achieving the objective? (tool, device, force, method, regulation)
 - An MRA is usually done by USFS or it can be done with proponent, working together.
 - When is MRA completed? Required whenever a generally prohibited use is being considered, and may be a useful way to evaluate other proposed activities such as restoration work, scientific monitoring and research, trail and recreational development work.
 - Where in the process is MRA? Management plans, MRA informs NEPA process
 - What is the Minimum Requirements Decision Guide (MRDG)? It is guidance for how to complete an MRA. It is not the only guidance tool but is the most commonly used one.
- Resource - Keeping it Wild 2 (KIW2) – is an interagency strategy to monitor trends in selected attributes of wilderness character. It includes definitions for wilderness character, and is the

authoritative resource for this and can be found at https://www.fs.fed.us/rm/pubs/rmrs_gtr340.pdf

Questions and Answers:

1. Is this NEPA or does it trigger NEPA? This step comes before NEPA and it narrows the action for NEPA. The most time is spent and the most complexity is on the step that defines the effects of each step of the process, each alternative. After decision on MRA – NEPA starts.
2. What gives KIW2 authority? Interagency council of four agencies that manage wilderness selected this document and agree how they will consistently use. It is not law. Criteria not considered in MRA include cost, how long it takes (unless it impacts wilderness character), how difficult, etc. But it must be feasible. If not feasible (cost too high so it would never happen), that needs to be documented. Analysis of trade-offs can get very complicated. Describe rationale so that decision is transparent. For USFS, the Regional Forester usually makes the decision but that person can delegate the decision to the Forest Supervisor.

Suzanne explained an example situation of a plane crash in wilderness: If a plane crashed on a private inholding within wilderness, the private property owner retains all rights. If the owner wanted to use a helicopter without touching USFS land, they could. If they wanted to cross USFS land with a 4-wheeler to retrieve the plane, that action needs the MRA process. If a helicopter lands or discharges on USFS land, then USFS is involved. The nexus for where private property rights are retained and where USFS rights are can be very tricky.

3. For an inholding where rights are stated in a document, then do you need to do an MRA? It depends on the actions, you would need to get into specifics. You would need to look at underlying real property rights, not other documents. That takes time to sort out. Another source are court cases to inform decisions.
4. How often is an MRA done? How many per year? Within the Wenatchee River Ranger District or on this Forest? Within one year, they have had four for the entire Forest. These are not frequent. Some are simple and may be completed in 1 day. Some are much more complex. The reason we don't do MRAs often is because the law is very clear. For example, chain saw use is clear.
5. For the number of projects in the Icicle Strategy proposed in wilderness, is it smart to do an MRA as a program? If actions are discrete and not related, they should be done separate. If actions are connected, it could be beneficial to look at them together to consider cumulative impacts. Also, some rights are different at different locations.
6. If there is an inholding and this process doesn't apply, can you still partner with USFS to complete a MRA for transparency? Yes, the USFS could support that.

Examples of Working in Wilderness

Snow Lake Valve Replacement (David Child, Reclamation)

The need for the project was that valve exceeded its service life, failure could interrupt service to LNFH and IPID. Valve is located within an inholding. Replacement was also driven by the need to provide full water rights. An environmental assessment was prepared with a Finding of No Significant Impact.

Approach – helicopters staged equipment at LNFH, then brought to valve site. The new valve has a 50 year service life. Trailhead notices were posted of construction for hikers and were coordinated with USFS, USFWS, and BOR. USFWS staff were located at the trailhead to answer questions. An administrative camping permit was obtained for the contractor. Mobilization started on 9/30. Weather was difficult, cold with snow. Demobilization was done 10/9 and included removal of old material and old valve by helicopter.

Snow Lake is a USFWS inholding surrounded by the Alpine Lakes Wilderness Area (ALWA) managed by the U.S. Forest Service (USFS). USFWS has control over land use and the operations and maintenance of the LNFH water delivery system, including upper and lower Snow Lake, Nada Lake, and the valve outlet works. The EA was a similar process to the USFS MRA, however this situation was different because of ownership. As clarified after the meeting, Reclamation and USFWS completed a MRA out of respect for the wilderness values of lands neighboring the project site. The USFS concurred with the co-lead agencies' determination that the USFS does not have jurisdiction over the valve replacement project, because it occurred on USFWS-owned land. USFWS lands were never designated as wilderness. USFWS still worked closely with USFS to coordinate work. Decision of using helicopter was made with USFS since the trail is not suitable for pack animals.

Square Lake (Tony Jantzer, IPID)

IPID works on one of the lakes within the Wilderness almost every year. An inspection with WA Ecology Dam Safety was done in 2018 and found some damage at Square Lake that needed to be fixed or it could result in dam failure. This was not considered an emergency because of the distance Square Lake is from any residences. IPID worked to coordinate with USFS – notify them of the work needed. The original plan was to transition from Eightmile Lake to Square Lake in 2018 to complete the work. IPID was informed by USFS the day before work was planned that they could not go because IPID did not have a MRA completed. That is the first time USFS had informed IPID of the need for a MRA. IPID worked with USFS over the next year. They thought a stinger was needed for cement work. USFS then informed IPID that a MRA was not needed for equipment use but it was for helicopter access. Work was completed in 2019, however there had been additional damage so more work is needed to finish filling the core with more cement.

In 1996 the Eightmile Lake outlet pipe replacement – Tony was not at IPID then but some notes indicate some sort of MRA was completed.

Question/Answer: What is status of ownership at the lakes since that drives the decision of whether a MRA is needed? Ownership is different at different sites. IPID previously owned some property then transferred to USFS and kept an easement. Square and Colchuck had special use permits pre-wilderness that transferred to ditch bill easements.

Working Lunch

Operating Procedures Update

This agenda item focused on two potential models for IWG decision-making. The facilitators would like input from the IWG on what decision making model the group wants to use going forward. They requested direction based on two potential options that are both generally consistent with the current operating procedures. Based on this input, the facilitators plan to re-draft the operating procedures and fix current inconsistencies within them.

A handout was reviewed that presented a range of sentiments compatible with consensus approval and no approval of decision items (shown below).

APPROVAL – Range of IWG member sentiments compatible with consensus approval of decision item

Highest Endorsement: “I like it; it is the best decision to me.”
Endorsement: “Basically, I like it.”
Agreement with Reservations: “I can live with it.”
Abstain: “I have no opinion that prevents this from going forward.”
Stand Aside: “I don’t like it, but don’t want to prevent the group from agreeing.”
Significant Reservations, but Willing to Go with Majority: “I want my reservations noted in writing, but I’ll support the decision.”

NO APPROVAL – Range of IWG member sentiments compatible with no approval of decision item

Formal Disagreement, but will Not Block “I don’t support as IWG decision but won’t block other members taking action on their own.”
Block: “I don’t support this proposal and will likely work against other members taking action on their own.”

The handout also presented two decision models: full consensus and consensus with majority vote fallback. Quorum requirements are not represented in current operating procedures and

should be discussed. The IWG should also consider types of decisions and authority for those such as day-to-day administrative decisions, project-level decisions, and major decisions. IWG members were asked to discuss the decision-making frameworks with several other members and be ready to report back their thoughts on the pros and cons of each model. The goal is to give enough direction to the facilitators to do a re-write of the operating procedures.

An important point for consensus with majority vote fallback is to define the transition between consensus and majority vote. When does that happen, and who decides? A risk is that this model may decrease incentive to participate fully.

Round robin on input from IWG:

- Full consensus is better. Takes more input and work upfront to understand where everyone is, answer questions. Go slow to go fast. Requiring engagement and involvement is higher in consensus than majority.
- Majority could expedite the process but could alienate members. Consensus could get hung up. Key is framework to include the dissenting. Good/Bad about consensus is that everyone has a veto. Decision process needs to be bounded, clear process – on what basis can you withhold consensus so a party cannot unreasonably withhold. Some members who have authorities under law may struggle with consensus.
- How does consensus keep a group from joining or being a member just to stop the process/block? Discuss member responsibilities at next meeting and definition of what it means to be a member.
- Full consensus favors. Where a member has authority or responsibility for a project, this only affects whether there is IWG support for the project.
- Spirit of collaborative better represented in consensus, but maybe some projects could never make it. Majority has a way to move a project forward while documenting dissenting opinion. Full consensus may force new creative solutions. Risk could force some actions out of IWG or limit IWG endorsement.
- More comfortable with consensus model, more experience with it. Simple rules are better to ensure everyone understands them. Could there be a way to include dissenting opinions in the full consensus model?
- What you get is the seal of approval. Favor consensus model with caveat that everyone is committed that if someone has concern they can convey that. There is a way to communicate, flag issues.
- Dissenting opinion leads the news and undercuts process.
- Definitions of approval and no approval are very good.
- Consensus forces participants to come up with solutions
- Work through consensus focused on process as a whole

What are group's thoughts about need for dispute process?

- o Have felt there was not another option.
- o We want to get to consensus. Needed clarity on how process goes.
- o Need to create a space to discuss disagreement in order to move toward consensus. Would be better to have these discussions with full IWG rather than off-line.
- o How does dispute play into a situation if entity implements a project on their own.
- Off ramp that any member could leave IWG

- This process says you can veto support for a project, but not the project itself.
- Clarify off ramps or the range of approval language. It's a tool for how you work through the process.

Decision Item: Facilitators have permission to re-work operating procedures based on full consensus.

**Member responsibilities will be discussed next month but that will be critical in how this works.

Update on Dispute Resolution

Sharon – The Icicle Creek Watershed Council has decided to table the dispute resolution process to await updates to operating procedures. Then, work through concerns within entire IWG. Encouraged by conversations thus far and moving forward. ICWC supports goals and moving through consensus to work through concerns.

Other IWG members have not known what has been discussed in dispute, so it's important to bring all past issues to full IWG for discussion.

The dispute process showed the need to educate participants especially when new member representatives step in. The base concerns did not go away with more info, but issues became more focused.

It is important as we reconsider the role of dispute process that it needs to be a separate process clearly identified to avoid repeat of the situation that led to the ICWC's dispute.

Phase 1 and 2 Work Plan and Budget Items

The IWG reviewed a handout showing potential budget allocations for part of the 2019-2021 OCR funds. This is a continuation from the last steering committee meeting. The handout is the same information from the steering committee meeting but is compiled into one document. The purpose of deciding on these budget allocations today is to allow Chelan County to move forward with contracting with OCR to keep work moving forward. Cynthia acknowledged that we have not updated decision making process but have a need to make some decisions now to keep work going and keep things moving. The group gave permission to continue.

- General comments:
 - Dale stated a preference for taking the symbols out of the table.
 - Lisa stated a preference against making decisions without knowing what else might need funding later.
 - Lisa asked about the technical support on-call services item – are these costs that could be shown as cost by project? If yes, then we should do that so that we understand the actual costs of each project. Mary Jo explained that known technical work associated with each project is budgeted to the project. The technical services item is used to fund “as-needed” work that arises and much of this transfers across multiple projects– one example is current work on the COIC and LNFH agreement.

- Mary Jo clarified that each item is an “up to” amount.
- USFS and Chelan Conservation District abstained from all decisions on budget.

Cynthia walked through each item in the Phase 2 November 14th decision column asking IWG if it is approved:

- Admin – approved
- City Screen – Jeff is asking other funding committee to increase their contribution. This item would cover the gap if they do not. Approved.
- COIC – Dale abstains as WWT Board member. Approved.
- City Metering – More information had been requested about the conservation benefits of this project at the Steering Committee. Joel provided the requested information and discussion occurred:
 - First step to do more conservation is to have meters read year-round/automated. The City will go out to bid January/February, meters will be installed by October 2020.
 - Two ways water is currently lost: 1) old meters have 10-15% error that is usually in favor of consumer (so people are using more water than they are paying for). With more accuracy, expect conservation measures will keep people under base level. 2) leaks in the distribution system are not found. Public Works studies find 20% savings with AMI implementation. The water savings projected by the City is based on 10%. Dan further explained that the water savings will help the City use its existing water right more efficiently and also serve more customers within their existing water right. This meets domestic guiding principle.
 - Sharon stated that a conservation rate structure will have more savings, and asked what the timing is for that. Joel answered that after they have year-round data from the AMI to get better use data, understand misreading, etc., they will make a plan for a new rate structure. Likely, 2020-2021 data collection, 2021-2022 evaluate rate structure based on rate study. Dan added that the City needs data to complete a rate study to inform new rate structure.
 - Where will the new meters be installed? City meters will be within City, within UGA and about 200 outside UGA. All meters will be updated including commercial users.
 - Sharon stated that she sees potential for so much more benefit from other projects and would like to see a link to use of these funds to do new rate structure.

Approved.

- Eightmile Project EIS – Ecology shall be SEPA Lead for reservoir projects of this size. The project is ready for environmental review with 30% design ready. Dam Safety says “do nothing” is not an option. OCR does not have a certain timeline for contracting but they’re working on it. Not sure what NEPA looks like, but this funding should cover NEPA coordination. Contracting will go through state procurement process. Approved.

- IPID Pump Exchange – SRFB grant is approved and requires match. Project could have up to 30-40 cfs benefit to Icicle, plus remove diversion on Peshastin Creek. Reclamation is committed to doing a Value Planning Process on this project in December – outcome is a report. January or February would be a good time to bring report back to IWG. Hydro would be on IPID property on Snow Creek. *Approved.*
- Automation Design is to get to 60%. Draft 30% design is completed now, working with Tony to finalize. Final 30% design will be presented to IWG. Next step will be to take final 30% design to USFS to start MRA consultation – this should result in 60% design. Requested budget covers timeline for consultation with USFS. After MRA/USFS coordination, they will bring design and MRA back to share with IWG. USFS set aside capacity for IWG projects for this current fiscal year. Facilitation will work to prioritize that work with USFS.

Steve commented that this is a high-quality project and asked if we are working on getting construction funding committed? Mary Jo responded that they have applied for Reclamation's waterSMART for implementation and are looking for other funding sources. *Approved.*

- Decision Support Tool – produced Action Plan that we will bring to ISF subcommittee to review and bring recommendations to IWG. What data do we need? Etc. what software do we use? Pilot manual releases were done for three years. MOA work includes USFWS and IPID on how decisions will be made how much to release, when, etc. Some legal framework on how this will work. Ecology's trust water program will be used for instream flow. *Approved.*
- Habitat Projects – *Approved.*
- Tribal Fishery -Action plan/status update on this work. Develop specific projects. Finish consultation with tribes, keep working with them to get recommendations and develop initial projects. *Approved.*
- Instream Flow Rule Amendment – give attention to this topic. Not well defined. This allows people to focus on this and scope it. Rule language is ambiguous on when instream flow improvements are enough. It would help Ecology if IWG came to agreement on what that is. *Approved.*
- Conservation and Efficiencies – *Approved.*
- Outreach – Have discussed getting more specific outreach focused consultant. Don't have outreach committee to develop strategy. Peter would help coordinate to get it started then we can tap into this \$20,000 to start working on it. Should it be moved to Phase 3? Would need experts to help develop strategy. *Approved.*

Outreach - Email Peter if you are interested in participating on Outreach Committee

Updates

1. Screens – Jeff. Working with USFS on work timeline. Construct bridge in 2020, missed window to do it prior to permit season, looking at other strategies. Will know more in a month or two.
2. Boulder Field - Lisa – Delay with Snow Lake Bridge prevented Boulder Field project from meeting fall bid deadline.
3. LNFH – Christie. Circular Tanks 30% design will be completed soon.

Meeting Schedule –

- December 12th will not work because of conflicts. Scheduling will be done via email.
- January 9th next IWG meeting (this has changed. January 9th will be Steering Committee, February 13th is next IWG meeting.)
- Steering Committee and IWG will be on the 2nd Thursdays alternating months. Steering Committee will meet in the afternoons. IWG will continue to meet for a full day.

ADJOURN