

**ICICLE STRATEGY**  
**Icicle Work Group Meeting**  
*Conference Call (WebEx)*  
*Thursday, July 9, 2020, 12:30 – 2:45pm*

**Meeting Summary**

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**Members/Alternates Present:** David Child, USBR; Jim Craig, USFWS; Lisa Pelly, TU; Bill Gale, USFWS; Tony Jantzer, IPID; Christi Davis-Kearnan, USBR; Chuck Brushwood, CCT; Dale Bambrick, NMFS; Erick Walker, USFS; Jeff Dengel, WDFW; Jeff Rivera, USFS; Melissa Downes, Ecology-OCR; Mike Kaputa, CCNRD; Tom Tebb, Ecology-OCR; Tim Walsh, COIC; Carmen Andonaegui, WDFW; Ana Cortez, City of Leavenworth; Cory Kamphaus, YN

**Guests Present:** David Van Cleve, Sierra Club; Kitty Craig, TWS;

**Staff/Consultants Present:** Cynthia Carlstad, NHC; Mary Jo Sanborn, CCNRD; Dan Haller, Aspect Consulting; Peter Dykstra, Plauche and Carr; Mat Maxey, USFWS; Ingrid Eckstrom, Ecology-OCR; Aaron Penvose, TU

**Icicle Strategy Project Updates**

The goal for today's meeting is information sharing on the Snow Lakes Trail Bridge/IPID and City of Leavenworth Fish Screen /Boulder Field project suite and the Eightmile Lake Storage Restoration project. This focused meeting was prompted by recent discussions among those project teams which the facilitation team believes the IWG should hear directly from project leads and have the opportunity to ask questions and discuss as a work group. We are not problem solving or looking for an IWG supported decision at this meeting.

**Snow Lakes Trail Bridge / IPID Fish Screen / Boulder Field / City of Leavenworth Fish Screen project suite**

Aaron Penvose gave a status update on the Boulder Field and City Screen construction. The City water line was replaced at the Snow Lakes trail parking lot in May. Contractors are currently waiting for lower stream flow, then will begin the Boulder Field and City Screen construction, likely mid to late July.

Peter gave an update on the Snow Lake Trail Bridge and IPID Screen. The bridge modifications will accommodate construction and maintenance of the IPID fish screen on the opposite side of Icicle Creek. The original plan was to have the IPID screen in place prior to Boulder Field construction to reduce the risk of fish becoming entrained in IPID's diversion. IPID Screen construction was planned for Spring 2020, however additional time was needed to work through questions on ownership and maintenance of the bridge.

IPID agreed to allow the Boulder Field /City Screen projects to be constructed this summer (those projects are also in part on IPID-owned land) while IPID and the USFS worked to resolve questions on the bridge. At this point in time there is still no resolution to those questions. The

USFS has offered a Special Use Permit (SUP) tied to the easement, as the best pathway. They are currently preparing a draft SUP which IPID will consider. If the SUP route is taken, everything needs to be in place by early August for there to be any chance of bridge construction this Fall (this is necessary for the screen construction in Spring 2021). If this timeline does not work, IPID may look at other construction alternatives or the possibility of blocking fish passage at the Boulder Field project until an updated IPID fish screen is in place.

Peter acknowledged Tony (IPID) and Erick (USFS) for all of their hard work on this issue in working within their entities to find a solution.

Tony summarized IPID's perspective. The IPID Board meets next Tuesday (7/14) and will need to decide next steps. Tony noted that the IPID is in a situation that it had always stated it never wanted to be in. From the beginning, IPID has been clear that it would not allow the Boulder Field project without its screen being in place first. The Board is very frustrated to be in this situation. IPID had been working with the USFS and thought it had agreement on an MOU early spring, so they allowed the Boulder Field to begin. They are discussing the use of a SUP as long as there is no change to their existing documents. IPID feels they will be in jeopardy without the screen replaced. Options they are discussing include:

1. Get the SUP in time for bridge construction this Fall (2020)
2. Modify the Boulder Field so that it will stop fish passage until the screen can be replaced and then open it up for passage.
3. Delay Boulder Field construction
4. Construct a 2<sup>nd</sup> bridge that would not need the USFS permit
5. Move the screen site so the bridge is not needed
6. Move forward with bridge construction without a SUP. It would be up to the USFS if they take legal action. IPID believes they have the right to improve the bridge.

Tony also noted that the IPID is considering leaving the Icicle Work Group.

Erick summarized the USFS perspective. He appreciates IPID's willingness to consider a SUP and work through that process. USFS staff are working to get a Draft SUP in time for the IPID Board to review at their Tuesday meeting. They are hoping to make the Fall timeline. USFS District staff are working on NEPA now.

#### Questions/Comments from IWG Members

- Dale commented that he did not think IPID would be gaining additional ESA exposure in this situation because there are already ESA listed fish above the Boulder Field. He does not think the risk is increased and can't imagine any entity taking action when IPID is trying to fix the problem. Everyone wants to see this get done. Tony does not agree. He is not worried about agencies but is worried that environmental groups will take legal action against IPID.
- Aaron commented on the options listed by Tony. TU has been talking with Tony to discuss the details and TU believes all of the options are viable, however they all have implications. Some will delay the timeline, increase costs, etc. The potential for blocking fish access in the

Boulder Field is being considered by the project engineer. They do not know how viable that option is but it will certainly cost more and may not be hydraulically viable.

- Question: is having a hold harmless MOU for IPID with the fish agencies an option? Dale noted that this would take a long time. Jim agreed this is an intensive process.
- Mike noted that the IPID Board has two important questions they are considering, 1) how to proceed with this project and, 2) should IPID continue to be a member of the Icicle Work Group. Mike asked Tony to ask the Board to hold off on the IWG membership decision until IWG members have a chance to discuss the issues and situation with IPID. Tony confirmed that the IPID Board is already considering leaving the IWG.
- Tony stated that two things are different with their legal exposure in this current situation: 1) construction of the Boulder Field project will introduce a lot of new fish and bring greater awareness and 2) IPID feels like a target already due to other projects. They feel their exposure is higher as a result of all of this work and involvement in the IWG.
- Carmen suggested that she could explore whether WDFW could make a statement that the State will not take action against IPID and would that help?
- Tony re-stated that he is not concerned about agencies since we are all working together, however he is worried about other groups that would take legal action. IPID's only protection would be an incidental take permit.
- A question was asked: What are the bridge needs if we are able to move forward? Do we have enough funding? What is the sequencing of these projects?

Cynthia responded that we don't have revised cost estimates yet for the bridge.

- Kitty asked about implications if IPID left the Icicle Work Group.

Cynthia responded that this discussion is premature for this meeting today.

- Tom asked if a letter from the Co-Conveners indicating that the Co-Conveners will work with IPID through any lawsuits if that may come. Would this help the IPID Board?
- Dale suggested a new idea: He noted that between Structure 2 (at LNFH) and the Boulder Field there is no Steelhead spawning. One contingency could be to block fish passage at Structure 2 until the IPID screen is in place. That would be physically easier to do than modifying the boulder field.

Tony felt this is a great idea and appreciates the idea. It's worth exploring.

Jim C noted that they would need consultation with USFWS Ecological Services over operation of Structure 2. Agencies want Structure 2 open by June 24<sup>th</sup>.

Dale has no reservations arguing this option could work. There is no spawning in this reach. Above this reach is unscreened so we can argue there is no harm that is not already accounted for in the Biological Opinion.

Bill noted that any change in operation of Structure 2 will need consultation with NMFS and USFWS and would take a lot of work.

Cynthia asked Jeff Dengel about the status of the bridge design to ensure it is ready to go out to bid. Tony indicated that if a SUP can be done quickly and USFS and IPID come to agreement, then IPID will support this approach. Jeff noted that agreements need to be in place for WDFW (CAMP) to run the bid process, which is getting difficult with more time passing. It was suggested that funding could go directly to IPID instead. There will be more follow up on next steps next week.

### **Eightmile Lake Storage Restoration Update**

Cynthia reminded the group that infrastructure was constructed at the lakes in the 1920s and 1930s. There were lands transferred to the USFS once the area became Wilderness in the 1980s. The focus of current discussions is centered on retained rights associated with the land deeds.

Peter gave an update on the current efforts focused on working through these complicated real estate documents that are subject to different interpretations. This is what makes the situation challenging. Currently, discussion is focused on the 30% design alternatives and implications of each alternative. Another meeting with wilderness stakeholders took place earlier this week (Monday, 7/6). The wilderness stakeholder group discussed these alternatives in detail and requested additional proposals that could address the concerns identified over the last several meetings. A follow up meeting will be scheduled within the month.

Erick noted that the USFS has been approached by some stakeholders who are not participating in this group who would like some information directly from the USFS. Erick invited them to participate in the Wilderness stakeholder group and informed them that any information the USFS shares with them will also be shared with the Icicle Work Group and Wilderness stakeholder group.

Cynthia wanted the IWG to understand the work that is happening, what is being discussed, and what the implications could be. The Alpine Lakes Optimization, Modernization and Automation project design is on hold right now while this process plays out. These kinds of delays affect overall Icicle Strategy implementation schedule and could have budget implications in the future.

Tony noted that he appreciates Peter's facilitation and feels that they are getting good feedback from the stakeholders.

Kitty stated that she also appreciates the productive conversations. The Wilderness Society's perspective is to look forward at possible implications. They would like to see a design alternative that does not include the need for Presidential Authority as that has never happened.

Melissa noted that the discussions have been productive, and Ecology is doing their best to provide answers. They are not able to answer all the questions posed by the wilderness stakeholders yet and understands that there is frustration around that. Ecology appreciates the time and effort all have put into this work.

### **PEIS Project Alternative Groupings**

This is intended to be a general discussion to remind IWG members that the package of projects in the preferred alternative was based on conceptual level project ideas and as implementation advances, there will be changes. This is because more data and information is available as time goes by (e.g. data collected from manual releases), and new opportunities/constraints are learned as projects develop more detail. That was the intent of doing this within a Programmatic EIS – evaluate a full suite of projects that bracket potential impacts.

- 1) The IWG has always discussed that projects could be swapped with new ones if needed, as long as the guiding principles are met.
- 2) Additional environmental review will be needed and will range from relying on the PEIS to a full project level EIS.
- 3) The IWG had been working on decision-making updates within the operating procedures prior to COVID-19. We will get back into those details when possible. But IWG decisions on whether to support individual projects will occur when project configurations are finalized.

### **Roundtable Updates**

**Outreach Committee** – Peter noted that this group has met twice and will meet again soon. The group has been exploring outreach tools, focusing on what will work during COVID-19 restrictions in lieu of in-person public meetings. The group is also developing a draft outreach strategy that will come to the IWG for review. The IWG has allocated \$20,000 towards this effort so far, we expect more will be needed to begin implementing and using these tools.

**Instream Flow Rule** – Mike stated that the County, Yakama Nation, and Ecology will tee up a discussion soon to review the current rule in detail, discuss the process that went into the development of the rule and establish next steps to set up a discussion with the IWG.

### **Next Steps**

- Project meetings and coordination will continue. Project teams will report back to the IWG at the next meeting.
- The next full Icicle Work Group Meeting will be August 13<sup>th</sup> via video conference, 12:30-3:30.

### **ADJOURN**