



Instream Rule Clarification Task Force
Meeting Minutes
June 4, 2018
5-7 p.m. – River Bank Building, Twisp, WA

Invitees Present: Dick Ewing, Greg Knott, Natalie Kuehler, Soo Ing-Moody, George Schneider, Bill Tackman, and Travis Thornton

Minutes recorded by: Sali Kilmer, Administrative Assistant

1. Call to order

The meeting was called to order by Travis Thornton at 5:07 p.m. Acting as Facilitator of the meeting, George Schneider reviewed the agenda.

2. Review of Work to Date

Travis reminded the group that the Instream Rule Clarification Task Force was formed to craft the manner in which the Methow Watershed Council would request Ecology's clarification and interpretation of certain aspects of the Methow Instream Flow Rule. At the first meeting of the Committee, the group worked to closely align the questions and suggested interpretations with the stated goals of Section 6.1 of the 2009 Detailed Implementation Plan (DIP), which states that the purpose of the proposed Rule modification is to:

- make water available to a broader range of uses than the single domestic and stockwater uses currently allowed;
- accommodate growth of municipal and other Group A water systems and Group B water systems; and
- allow greater flexibility in managing available water resources.

Subsequently, it was brought to the attention of the group that many community members are of the opinion that new Group A and B water systems should be limited, and that growth should be concentrated to the towns. Therefore, some members of the public may take issue with the Committee's suggested definition of "single domestic", which, for the purpose of the 2 cfs reserve, included use "within a development or a municipality." In an effort to take into consideration the views of the community, Travis established a dedicated e-mail address to receive comments related to the work of the Instream Rule Clarification Task Force.

3. Review and Discussion of Comments Received

Travis summarized the three categories of comments that were received:

- Comments from individual citizens. Most, if not all, of the comments received from individual citizens were from homeowners in the Pine Forest Association concerned about a proposed adjacent development. All of these comments

reflected opposition to the inclusion of “development” in the suggested definition of “single domestic” and, instead, lean toward the “one house, one well” interpretation.

- Comments from community action groups. Methow Valley Citizens Council and Futurewise both expressed that the Methow Rule’s 2 cfs reserve for single domestic use does not allow use of a single domestic well to support subdivision of an existing parcel. Single domestic use is by a single home, and not use by several homes.
- Meeting notes from earlier discussions with Yakama Nation, Colville Confederated Tribes, and WA Department of Fish and Wildlife. George stated concern that some of the current Task Force group positions are markedly different than the proposals generated by previous sessions with these groups. Going ahead with the current draft of questions and suggested interpretations may create ill will with the tribes and/or WDFW.

Natalie Kuehler stated that the issue of “single domestic” is a hot-button topic at this time in the Methow Valley, and it is possible that it could be decided in court. She represents a group of homeowners in the Pine Forest area who are concerned about a proposed development in a closed basin, which may infringe on current water rights. The area has already been re-zoned to allow smaller parcels. The developer is attempting to attain sign off from Ecology to drill in the closed area as well as SEPA permission from the County to proceed. Several comments from these citizens express the recollection that when the Methow Rule was created, the community at large expressed their support to limit the development of rural lands by those without sufficient water rights and existing infrastructure to support such development. Natalie also stated that in her dealings with Ecology, the opinion has been consistently expressed that “single domestic” means one house, one well.

Mayor Soo Ing-Moody pointed out that the original goal of rule revision was to allow use of a portion of the 2 cfs reserve by the towns. She is afraid that the conversation about water for the towns is being lost with all of the grappling about the definition of “single domestic.”

Greg Knott replied that all of the major stakeholders are still in favor of the concept of moving water to the towns. The Hirst decision changed the landscape of water law interpretation, and now the task is to figure out the best way to implement the DIP. Ecology has stated that to accomplish this, the “single domestic” use of the reserve must be converted to municipal use for the towns to benefit.

George concurred that the previous talks with the tribes and WDFW were not about defining “single domestic” but about moving the 2 cfs reserve from Early Winters to the towns.

4. Next Steps in the Process

Travis suggested that in light of the comments received, in place of the current approach (formulating a list of questions and suggested interpretations for submittal to Ecology) that the group think about the “Chelan Process.” Mike Kaputa of Chelan County Department of Natural Resources, made a presentation at the February, 2018, whereby he described their instream flow rule revision process, which began with

legislative protection of their reserve. Once the reserve was protected by law, the group began work on allocating the reserve without fear of losing it.

Greg agreed that a legislative fix to protect the reserve is necessary if any work on rule revision is to proceed. And he noted that even though the committee may be deciding to drop the questions to Ecology at this time, most likely Andy Hover will continue to work on trying to get clarification of these issues for the County and MWC. Bill Tackman reminded the group that Mike Kaputa offered to share technical assistance as well as process advice to the Methow Watershed Council at the time of his presentation. It would be prudent to take Mike up on the offer, since we could learn from Chelan's successes as well as roadblocks encountered during the process. Bill also iterated that in times past, Okanogan County Commissioners did not support moving forward with rule revision. However, the current Commissioners may be open to the idea of this approach. In addition to support from the Commissioners, the process would need buy-in from the tribes and from Ecology. Greg expressed that the timeline for results might actually be shorter using the "Chelan Process" than waiting for Ecology to answer the previous list of questions. He estimated that the legislative process would take approximately 18 months.

Natalie pointed out that the risk of going through the process to seek legislative protection of the reserve is that we will more than likely lose some of the reserve. However, 14 cfs (2 cfs times 7 reaches) is an extreme amount of water, which the Methow basin could never use up. Bill Tackman expressed a desire to get a firm understanding of how much of the reserve would be expected to be given up. Natalie wondered whether coming up with a minimum reserve number should be left up to the initiating governments. Greg agreed that the role of the Council is to offer recommendations to the IG's, which can be taken or left. However, Bill pointed out that the Council has the technical expertise to make a recommendation as to the reserve number.

Soo voiced concern about the town's ability to accurately estimate the amount of water they will need for future growth. Greg opined that the towns should just do the best they can with estimating water needs, perhaps aiming for the high end of Aspect's previous calculations. As long as they are able to back up their estimations with reasonable rationale, that is all that will be expected.

Soo stated that the current legislators are very familiar with the water problems faced by the Town of Twisp, and she feels that several of them would help push this legislative fix through the system. Natalie agreed that the beauty of the "Chelan Process" would be protection of the reserve and getting water for the towns in one swoop. The Water 2066 Committee could be tasked with sorting out the rest of the details down the road.

Travis pointed out that this process will require a paid staffer. Volunteers with four hours a month to offer will not be able to give this matter the attention it needs. Greg stated that the Methow Watershed Foundation may be leaning towards hiring an executive director, who could be responsible for this process as well as the data collection project recently funded by Ecology.

Travis Thornton agreed to report at the June MWC meeting that based on comments received, the Committee was unable to come to consensus on the draft questions and suggested interpretations to Ecology. Therefore, the current approach will be

abandoned. In its place, the group will recommend that the Methow Watershed Council proceed with the “Chelan Approach.” This will entail seeking legislative action that will both protect the domestic reserve as well as create a new “municipal reserve” out of the current total 14 cfs reserve. They agreed that the language of the legislation should be kept short and simple, which will encourage stakeholder buy-in. Once legislative protection of the reserve is achieved, Water 2066 can focus on rule revision, if it is deemed necessary. Soo agreed to talk to Andy Hover as well as the Town of Winthrop to inform them about the direction the Task Force decided to go on this issue. Bill Tackman agreed to reach out to Mike Kaputa regarding his availability to meet with the group regarding the “Chelan Approach.”

5. Meeting Adjournment

At 6:55 p.m. the meeting was adjourned by Travis Thornton.