

**CHEHALIS BASIN PARTNERSHIP  
STEERING TECHNICAL COMMITTEE  
Washington State Department of Fish and Wildlife  
600 Capitol Way  
Olympia, WA  
January 6, 2011  
9:30 AM**

**Meeting Summary**

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**MEMBERS, ALTERNATES, AND GUESTS PRESENT**

Janel Spaulding, CBP/Grays Harbor College  
Julie Balmelli-Powe, Lewis County Farm Bureau  
Mark Swartout, Thurston County  
Kahle Jennings, City of Centralia  
Glen Connelly, Confederated Tribes of the Chehalis  
Reservation  
Peggy Clifford, DOE

J Roach, Citizen, Thurston County  
Chris Hempleman, Department of Ecology (DOE)  
Tom Gow, Puget Sound Meeting Services  
Jim Hill, Citizen, Lewis County  
Bob Burkle, Washington Department of Fish and  
Wildlife (WDFW)  
Erik Borgen, Washington Water Trust

**Welcome & Introductions**

Glen Connelly called the meeting to order at 9:35 a.m. Everyone present provided self-introductions.

**Discussion on Water Banking with Peggy Clifford, Department of Ecology**

Mr. Swartout referred to the Watershed Management Plan and the goal of bridging the gap between existing stream flows and target flows, fish, wildlife, and human use. One of the objectives of the goal was identifying tools available to meet the goal. Within the plan under water quantity and water conservation action item 25 states, "Provide opportunities for the Partnership and the agriculture community to consider cooperative efforts to simultaneously support agriculture and stream flows. This could lead to a coordinated effort involving farm bureaus, conservation districts, the Washington State Department of Agriculture, and/or members of the agricultural community including a resource for technological information." Action 27 encourages consideration of the Trust Water Rights program as a method to preserve water rights and allow water to go to the streams.

The next step involved developing a Detail Implementation Plan (DIP). The plan established milestones to achieve specific goals and objectives. Although one of the interim milestones speaks to developing tools for meeting water quantity needs, it doesn't specifically call out water banking. Some of the tasks include:

- Refine and promote a toolbox for municipal water purveyors to assist them in meeting their water supply responsibilities while also contributing to the protection of instream base flows.
- Pursue the development of a policy that would provide for mitigation credit of water use by considering and returning of reclaimed water to aquifer recharge, wetland enhancement, and/or instream augmentation.
- Analyze and develop means for capturing and storing surface water during rainy season for agriculture, municipal, and other beneficial uses.
- Develop and consider incentives for landowner involvement and establish instream flows for critical subbasins.

- Develop approaches to keep forestry and agriculture on the land. That includes a specific mention of water rights banking that states, “innovative approaches to water rights.” One task is to explore the use of water rights banking to prevent relinquishment of unused water rights.

Mr. Swartout said under water conservation, another goal is to provide opportunities between the Partnership and the agriculture community to consider cooperative efforts to support agriculture and stream flows. Mr. Swartout said there are no incentives for Ag producers to conserve water because if they do not use their water right it can be relinquished. The Department of Ecology has proposed legislation addressing that issue, however.

Mr. Swartout reported Thurston County hired Washington Water Trust to complete a water banking feasibility study on the Nisqually. Funding was limited for a full scoped study and the effort began with the feasibility study.

Mr. Swartout asked about the definition and benefits associated with water banking in a watershed.

Kahle Jennings commented on the importance of Ag rights to the City of Centralia as the City has water rights and irrigates and will eventually apply for a land application for wastewater Reclaimed Class A water, which currently requires mitigation for the water no longer discharged to the river. The City is considering those Ag water rights as eventually being the rights that the City would relinquish to offset the affluent that is no longer discharged to the river. It's important for the City to protect those rights because the City is using them.

Peggy Clifford described water banking. She has been trying to foster water banking in the state for over a decade. The first effort was in the Yakima area involving a group of stakeholders and agencies who took six months to develop a working definition of water banking. Water banking is any way that water is held by any person. She described several methods for water banking. Anytime water is held and been released that is considered water banking. It is a much broader definition than the classical definition that is in most publications. That definition was used in Yakima. It was important to enable any kind of activity with water rights. When legislation was prepared last year to enable water banking statewide it was through careful consideration to define water banking as a verb and not a noun. Water banking is considered an activity and not a business.

In the Chehalis basin there is a concern about preserving agriculture and unfortunately most of the water available is used for agricultural purposes. There are ways to preserve agriculture and still use the water. However, enabling that kind of activity can lead to unintended consequences and it's important to think carefully about how the basin wants to proceed with water banking. Water banking will eventually happen in the basin, as it's a matter of guiding it in a way that's appropriate for the area.

Ms. Clifford said she is working with the Farmland Trust that is developing a report on how to use economic markets to help farmers utilize their land and water while helping the environment and the agriculture community. One of the banking efforts of most interest is the super ditch, an activity occurring in Colorado. It entails a group of individual farmers or ditch companies forming a larger group and rotating fallowing to provide water to municipalities as a backup water supply. The method preserves that agriculture sector because the farmers still owns the land and the rights to the water. The farmers are fallowing once every seven years in a 40-year lease to provide water to municipalities. However the agriculture community retains control over what occurs with the water. There are ways moving forward that can preserve agricultural rights.

In Washington State, the issue is whether it's possible for municipalities to build out under a similar program. There are lots of ways to preserve agriculture and still allow for growth. Ms. Clifford said she has been working with the Grange about the Family Farm Act where those family farm rights cannot currently be leased because the purpose of use cannot be changed. DOE has been discussing the possibility of changing the law to allow for short-term leases so that farmers can be involved in banking activity. However, the issue is the length of the term because 40 year leases are in opposition to the law, which was to avoid changing farmland to other uses. Short-term leases may limit the use of the water to specific uses and likely wouldn't supply the water to meet demand of municipal growth.

Mr. Swartout said the state's water law really inhibits the ability for water banking. For instance, Napavine located at the top of the watershed is seeking water. He asked whether water banked downstream can be used upstream. Ms. Clifford said it depends. It could be in some cases, but there has to be some type of hydrological connection. She cited some examples in other areas of the state involving a certificate program.

Julie Balmelli-Powe asked how water banking factors in senior versus junior water rights. Junior water rights are interruptible in the basin. Mr. Swartout said over the last three summers DOE has enforced interruptible water rights, which limits Ag producers in terms of what they can grow during the summer. He asked whether water banking assists those farmers in that situation. Ms. Clifford said water banking has been used in the Yakima when interruptible water rights occurred. The City of Roslyn had the same problem and rights were leased to provide water during the drought. The same thing happened to the cabins in the Yakima area. Ms. Clifford affirmed that if water banking is available, it is possible to use the water when interruptible water rights are enforced. Water rights can be leased for instream or out of stream purposes. For instance, there are split season leases where water was leased in July and August.

Discussion followed on some of the pitfalls associated with water banking, such as farmers profiting from water banking thereby diminishing Ag uses, renegotiating leases, and municipalities leasing water rights to satisfy growth needs. Mr. Swartout noted that the cities of Lacey and Yelm were willing to buy as many Ag rights as possible because both jurisdictions are running out of water supply. Thurston County looked at the Watershed Planning Act as a way to protect those water rights.

Ms. Hempleman said it appears water banking is very specific, flexible, as well as situational. She asked whether DOE is making a decision on each transfer. Ms. Clifford said the state's water law requires DOE to review any transfer or change, which slows banking considerably.

Mr. Jennings asked about the difference between the relinquishment statute and banking. Ms. Clifford said if the Trust Water Program is exempt from relinquishment DOE considers that the vault for banking. The exception is Walla Walla where they have its own structure and laws and do not need the Trust Program to hold a right. However, for the rest of the state the only way to protect against relinquishment after five years is being in the Trust Program.

Mr. Swartout asked how closely DOE monitors the amount of water that is available to transfer. Ms. Clifford said DOE ensures that it is a valid right, but it's not quantified. The Trust Program is the holding vault and the bank uses the vault. The bank is separate from the Trust Program. If someone banks water in the Trust Program it undergoes a level of review by DOE. If it is going into the Trust Program permanently DOE will look at it closely. If placed into the Trust Program and used next year for a transfer to another farmer in the area, at that point it's a change that DOE closely reviews.

Mr. Swartout said the challenge associated with a water bank is the Ag community having trust that if they participate they will not lose any water right. Currently, DOE is not monitoring usage of water rights. Ms.

Clifford said it's one reason why DOE contracts with Washington Water Trust. WWT works with farmers to help them understand the quality of their right and their interest in putting the right into a program without statutorily requiring them to relinquish the right. There is a level of trust because WWT is not a regulatory agency. DOE is in a difficult position because discovery of a water right that's not fully utilized forces DOE to initiate proceedings for relinquishment.

Mr. Swartout commented that water banking is a multi-faceted process as well as a substantial public outreach process for urban residents.

Members discussed consumptive versus non-consumptive uses.

Erik Borgen was asked about the possibility of establishing a water banking system in the Chehalis basin if a feasibility study was completed. Mr. Borgen said more research would be required on supply and demand. He's unsure about the status of municipal water rights. Mr. Jennings said the cities of Chehalis and Napavine have some issues primarily because of the requirement to have fire flows. Currently, Napavine doesn't have sufficient quantity for fire flows. Mr. Borgen said WWT could assist with individual water bank transactions. To create a bank, it's necessary to have a high volume of transactions. Ms. Clifford suggested looking carefully at the problems and determining the protections for the Ag community. It takes time to develop that strategy.

Mr. Borgen said his presentation next month will cover an eastside project that involved a solar-powered groundwater system to satisfy Ag needs while adding water to the stream.

Mr. Jennings asked when DOE will begin examining the issue of exempt wells in the Chehalis basin. Ms. Clifford said DOE received a petition by a citizen to consider a moratorium. The law requires DOE, when petitioned, to consider establishing a moratorium. DOE had no choice but to establish the moratorium and tried to seek a middle ground. DOE was ultimately sued causing DOE to enact the moratorium. It was a situation where new exempt wells were impacting Ag uses. The people who petitioned were water right holders and not exempt well holders. They claimed the proliferation of exempt wells would impact their ability to draw water. Mr. Jennings said in reality, that situation already exists.

Mr. Swartout referred to the situation in Skagit County, which used the reservation mechanism for allocating water for exempt wells.

Ms. Clifford cautioned that it is only a matter of time before all watersheds begin running out of water and DOE receives citizen petitions for moratoriums. It is hopeful that over time, it will be clear that this is the pathway and it's important to avoid crisis management.

Members discussed possible next steps to prepare for next month's presentation. Mr. Borgen said he plans to provide a presentation at the February STC meeting on WWT and the types of transactions and planning the organization is pursuing. Mr. Swartout invited Ms. Clifford to attend next month's meeting. Mr. Clifford urged the committee to consider the problem that needs solving, such as growth or interruptible rights and set goals for water banking.

Mr. Swartout said the Watershed Management Plan includes some white papers, which members could review to help prepare for the presentation.

Ms. Clifford asked Ms. Balmelli-Powe about the extent of outreach from the Partnership to the Ag community. Ms. Balmelli-Powe said the Ag community is interested in water but there could be more

communication. The Ag community is typically fighting scars from the past. Ms. Clifford suggested it's important to find ways to engage the Ag community in a non-threatening way.

**Review CBP Legislative Outreach Brochure**

Ms. Spaulding reviewed the latest version of the legislative brochure, which was updated and electronically mailed to members. Mark White and Dave Rountry provided feedback on the accomplishment section and there was some concern about retaining the language on water quality monitoring by the Tribe.

Mr. Connelly said the Tribe has continued to monitor without any funding from the state or other stakeholders. Subsequently, the Tribe has retained the data.

Mr. Hempleman said Mr. Rountry's concern is that the continuous monitors were purchased by the Legislature and that the data are not available for managing. The Tribe has the data. Mr. Connelly suggested adding an end date on when the state paid for the monitoring.

Mr. Hempleman asked whether the purpose of the brochure is only for legislators. Ms. Spaulding said the intent is to provide the brochure to legislators. The CBP has another information brochure that is distributed during the Watershed Festival.

Mr. Swartout said the message from previous visits with legislators is the need to demonstrate some progress on becoming self-supportive. The reference to "transition" highlights that intent. Ms. Hempleman suggested reversing the top and bottom paragraphs in the "Progress in Jeopardy" panel.

Members reviewed the brochure and offered several changes, additions, and minor reordering of some information. Ms. Spaulding advised that she will update the brochure for review by the CBP.

Ms. Spaulding asked about the message when outreaching to legislators. She asked members to consider some main messages for recommendation to the Partnership. Mr. Swartout suggested developing several consistent messages.

Members discussed the message the brochure may or may not be conveying to legislators. Mr. Swartout said the brochure should convey that the Chehalis watershed planning effort is a leader in watershed planning in the state.

Members exchanged opinions on what the focus of the brochure should represent. There was recognition that the brochure is geared to secure ongoing funding and should reflect how the basin is a leader in working together as well as highlighting accomplishments. Several members suggested adding subheadings within the accomplishments panel depicting:

- Watershed Planning
- Water Quantity
- Water Quality
- Salmon Recovery
- Citizen Education and Outreach

Members advised Ms. Spaulding that the suggestions are recommendations and that she has editorial control to retain or exclude some the suggestions.

**Review CBP Membership Letter**

Mr. Connelly offered some changes to the letter to eliminate redundant language and condense the letter from two to one page.

**CBP Re-Organizational Update**

Ms. Spaulding reported at the last Partnership meeting, Bill Schulte indicated he wanted to review the pro bono agreement with Glenn Carter prior to approval. She contacted Mr. Schulte for a status update but hasn't received a return call. She contacted the pro bono attorney to inform him of the delay.

**January 21 CBP Meeting Agenda, February STC Meeting Agenda**

The next meeting of the Partnership is on January 21 at the Chehalis Tribe's Community Center in the "Gathering Room."

The meeting agenda includes:

- Proposal from Kim Ashmore for construction of "FIN"
- Letter to Governor regarding GI Study Sponsorship
- Legislative Brochure
- Membership Letter

The February STC meeting agenda includes:

- Presentation by Washington Water Trust
- Tentative Nadine Romero Presentation

The February 25 CBP agenda includes:

- Presentation on Climate Changing Hydrologic Extremes in the Chehalis Basin – Dr. Alan Hamlet, UW Climate Impacts Group

Members discussed at length, issues surrounding the lack of attaining consensus to forward the letter from the CBP Chair to the Governor requesting the state assume the sponsorship role of the GI Study.

Ms. Spaulding said a small working group met in December on the Water Storage contract. Dave Burdick had indicated that there may be a possibility that funding may not be available. Recently, she confirmed funding is not available. Mr. Burdick suggested the Partnership reapply for a capital project for inclusion in DOE's budget. The deadline is January 14 for the project proposal. She said she will work with Andy Gendaszek, USGS, to develop the scope of work for submittal of the proposal. The committee supported that direction.

**Other Business**

J Roach offered to assist in developing a series of presentation modules on the accomplishments of the Partnership that can be presented to different audiences. Mr. Hill suggested presenting an outline of the proposal at the next meeting. Mr. Roach said he has been using some of the material in meetings with legislators and has been receiving positive responses. Mr. Jennings suggested meeting with Mr. Roach offline to discuss the proposal.

**Adjournment**

With there being no further business, the meeting was adjourned at 12:10 p.m.