



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for
Environmental Law & Policy

By electronic mail

July 3, 2013

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Re: Concerns about the lack of data and analysis for the May 17th base project proposals and request for further study and more time.

Dear Mike, Jay, Dan and Derek:

On behalf of the Center for Environmental Law and Policy (CELP), I write for two purposes: first and foremost, to thank you for your leadership in bringing together the Icicle Creek working group; and second, to raise some concerns with the process and the information supporting the integrated project list presented on May 17th. CELP raises these concerns by letter because I am unable to attend the meeting on July 8th, due to late-developing conflicts.

Because this letter may be read as a long list of issues/complaints, I would like to clarify that CELP is committed to the working group process and would like to see it succeed. It is precisely because of that commitment that I raise these concerns. The working group may be the best hope the region has for restoring sufficient benchmark flows to Icicle Creek to support native fish and wildlife, and the surrounding community. I also thank you for your flexibility in opening up the working group to representatives of the Alpine Lakes Protection Society. It is difficult to balance inclusiveness against an oversized and overburdened process, and therefore, your choice is appreciated.

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Second, this letter reiterates and expands upon some of my previously expressed concerns with the process to date. The principles are simply too vague. Participants in this process need to understand where it is going, the time frame, who the decision makers are, and the cost-benefits, among other core questions. Moreover, there is simply insufficient data to establish that the projects May 17th integrated project list either feasible or the best ones. It would be imprudent for the working group to select a slate of projects from the ones currently on the table in the next few months on the hope of presenting a package to the legislature in 2014. Instead, CELP recommends that that the group relax the present schedule so that we can collectively study the options, and put together the best package of projects to secure reliable water for Icicle Creek at the times and in the quantities required to restore native fish, and wildlife, which is supported by sound scientific, legal, economic, and cost benefit analysis.

Concerns with the process.

Beyond the aspirational principles set forth originally, the working group has not agreed to an overall process. There is a vague notion that we will present an integrated project list to the legislature in 2014, but no understanding of why the time frame is so soon. That time frame is of great concern because I, for one, do not know if the projects that are on the May 17th integrated project list are tentatively the ones to be presented to the legislature or to be the preferred alternatives in a future SEPA process.

Nor is it clear what it means for a project to be on the integrated project list. For example, CELP and others have raised serious concerns with some of the projects on the draft integrated list. Since those projects remain on the list (as far as I know), does that imply that those objections have been resolved or that the working group, as a whole, supports those projects?

Moreover, there is insufficient context for a draft integrated project list. As CELP and other members of the working group have mentioned during earlier meetings, this process does not have articulated, agreed-upon specific goals, priorities among those goals, or an assessment of how the range of potential projects match up with those goals. We do not know who the ultimate decision makers are and why the current projects on the draft integrated project list were chosen. The working group's current role is best described as a sounding board. That is quite different from the Yakima Integrated Plan process, as I understand it. In short, if this process is to succeed, the working group must understand and agree to a clearly laid out decision-making process.

Lack of information and cost-benefit analysis to support the “Icicle Integrated Project List” from May 17, 2013

There is a lack of data and analysis for many of the projects that are on the May 17th integrated project list that impedes CELP (and perhaps other working group members) from supporting the current list. That lack of information must be addressed if the working group is to have a decision making role. This problem applies to most of the projects on the draft integrated project list. The following are a few examples.

1. CELP is concerned that pump exchange project 1, the option chosen for the May 17th integrated project list, is not the best choice for returning water to Icicle Creek. As you know, pump exchange 1 is a project originally and fundamentally designed to rewater Peshastin Creek-

a clear goal of the Icicle Peshastin Irrigation District (IPID).¹ Due to scope change of this proposal by Chelan County, the pump exchange project 1 would now also provide water to Icicle Creek, but the amount is less than for the pump exchange 2 project--which is not on the draft integrated project list. But this comment should not necessarily be read as an endorsement of pump exchange 2. The core concern is that before the working group signs off on any pump exchange project, the group should explore the full range of options which would benefit Icicle Creek—and gets more water back into Icicle Creek.

That full range analysis may be “in the works.” Trout Unlimited recently received funding to undertake an Icicle Irrigation District alternatives study with the support of the IPID that could provide the essential foundational information the working group needs to understand the costs and benefits of the various pump exchange projects including: stream reach benefit-distance; stream reach benefit-volume; stream reach benefit-timing; capital costs; and operation and maintenance costs.

This kind of analysis is needed for all of the projects---not just the pump exchange one.

2. By separate letter, Wild Fish Conservancy will be providing you with a preliminary study by Mark Hersch and Dick Riemen of three of the projects on the May 17th integrated project list: 1) the IPID pump exchange project number 1; 2) improvement efficiencies in the IPID and Cascade Orchards Irrigation Company (COIC) systems, and 3) diversion savings by the Leavenworth National Fish Hatchery (LNFH) (collectively “the three base projects”). Their very useful analysis shows that if these three base projects were constructed, they may not deliver the base flows “promised” in the quantities and at the times Icicle Creek requires. Mr. Hersch and Mr. Riemen’s excellent, initial work underscores the need for a full-year, and full-blown analysis of the Creek’s low-flow issues. Only with that information can the working group thoroughly assess the projected instream flow benefits of the range of projects so that we can maximize the benefit to Icicle Creek for each public dollar spent.

3. CELP also repeats that a thorough examination of the time and location of the water benefits of each proposal must be correlated with the results of the IFIM study, when it is available, to correlate appropriate flows for salmonids and other species. The working group process cannot get ahead of the IFIM results—even if the IFIM study is delayed for a few months. The information we receive from the IFIM study (and any other pertinent studies) will inform an understanding of what minimum flows should be month by month, and allow the working group to optimize the benefits of all water inputs into Icicle Creek with the species that are most vulnerable/likely to succeed.

4. CELP joins in Wild Fish Conservancy’s concern that the draft integrated project list does not contain a proposed project that would provide water to Icicle Creek outside of the irrigation season. As the Hersch-Riemen study shows, the creek has critical low flows almost daily in October, and periodically during the winter months. LNFH is the largest diverter outside of the irrigation season. The problem of low flows in Icicle Creek cannot be addressed without LNFH’s participation.

CELP appreciates that the draft integrated project list addresses some of the other ecological problems caused by LNFH operations, such as fish passage and safety issues at the antiquated

¹ CELP wants to make clear that IPID’s willingness to explore options to restore Icicle Creek flow above the hatchery diversion is crucial and greatly appreciated.

and dangerous Structure 2. More information is needed on the scope of these projects, their funding, and the timing for undertaking them. However, to date, the working group has received insufficient information on the scope of (and funding for) those projects on federal property—and LNFH’s ability to getting them done.

5. CELP has also asked for more information and discussion on the proposal to “restore” 1,300² acre feet to Eight Mile Lake, as it raises significant factual and legal issues that must be closely examined before any decisions can be made. Indeed, due to these complex issues, it is a bit misleading to lump the “restoration” project under the project title “Alpine Lakes Optimization Modernization and Automation.” From rough calculations I made based upon Google Earth, the lake has about 60 acres of surface area. “Restoring” 1300 acre feet would roughly raise the existing lake height 20 feet.³ Much of the lake shore, which was tree-lined to the water line in May, would be inundated. Assuming that estimate is roughly correct, the working group has seen no analysis of whether the proposal would conflict with the Alpine Lakes Wilderness Act 16 USC § 1131 *et seq.*, and the current Forest Management Plan, let alone how such conflicts could potentially be resolved. Moreover, the dam at Eight Mile Lake is in significant disrepair and, may have been for some time which goes to whether the project would be a restoration.

Moreover, the Eight Mile Lake proposal will require assessments from the Department of Ecology and the US Forest Service: neither of which have occurred. The Eight Mile Lake proposal may provide potential long term benefits to Icicle Creek and other interests, but the complexity of the restoration proposal makes it impossible to evaluate currently.

Phasing of projects

As illustrated by the foregoing examples, an agreed upon integrated project list can only move forward after the work group has a solid understanding of the complexities and cost/benefits of each project. However, one option is already well-developed and should be done as soon as possible (perhaps as in initial phase): screening the shared LNFH/COIC intake.

CELP is concerned that this project not become bogged down in the overall process. CELP therefore urges that the working group consider an initial phase of projects that are “shovel-ready” and are ripe for funding (from the legislature or otherwise).

Conclusion

Again, it is because of CELP’s commitment to the working group process as a viable means of restoring base flows to Icicle Creek that I make this request for more information on the process itself, and more background and data on the possible projects that will make up the integrated project list projects (and their options) before SEPA analysis begins.

² There is some confusion as to whether the proposal is to restore 1,000 or 1,300 acre feet (compare the 4/28/13 Eight Mile feasibility analysis to the May 17th draft integrated project list).

³ We provide this back of the envelope calculation only to underscore that a full blown analysis is required—we have no confidence in its accuracy.

CELP thanks you again for your leadership and hard work to achieve the real possibility of restoring Iccle Creek.

A handwritten signature in cursive script that reads "Suzanne Skinner".

Suzanne Skinner
Executive Director, CELP

Cc: Harriet Bullitt
Wild Fish Conservancy
Trout Unlimited
Washington Water Trust
Lisa Pelly