



## May 7<sup>th</sup> Meeting Summary For the Rathdrum Prairie Comprehensive Aquifer Management Plan Advisory Committee

On May 7, 2010, the Rathdrum Prairie CAMP Advisory Committee met in the Community Room in the Coeur d'Alene Public Library. The objectives of this meeting were to

1. Through invited speakers, obtain information and education about the technical aspects of conflict prevention, interstate issues, and other multijurisdictional considerations for the CAMP.
2. Develop, refine and seek preliminary agreement goals/action items/potential recommendations regarding conflict prevention, interstate issues, and multijurisdictional issues.
3. The agenda suggested a review of water quality work from the April meeting. The Advisory Committee preferred to continue refining the work on water quantity, and time did not permit the group to get to water quality.

### List of Participants

#### **Advisory Committee**

Phil Cerner, Mike Clary, Andy Dunau, Mike Galante, Allen Isaacson, Hal Keever, Paul Klatt, Kevin Lewis, Jim Markley, Alan Miller, Jonathan Mueller, Todd Tondee, Ron Wilson, Ken Windram

#### **IDWR/IWRB**

Helen Harrington, Sandra Thiel, Bob Graham, Chuck Cuddy

#### **Panel of Speakers**

Clive Strong, Steve Robischon

#### **Public**

16 in attendance



## Approaches for Interstate Allocation of Water

The Advisory Committee invited Clive Strong, Deputy Attorney General, to explain the various approaches to address multijurisdictional water issues. Through his dialogic presentation, Clive also shared lessons learned from his work on the Eastern Snake Plain CAMP. Clive's presentation drew heavily on the paper, *Interstate Water Allocation: The Law and Its Implications for the Pacific Northwest*, by Christopher Meyer.

**How water is allocated.** Both the paper and Clive's discussion outlined several ways to approach interstate allocation of water:

1. Equitable allocation by the Supreme Court;
2. Compacts;
3. Congressional allocation; and,
4. Informal agreements.

Clive also discussed the implications of (a) water export restrictions, (b) interstate water markets, (c) the administration of water rights transferred across state lines, and (d) private enforcement of priority across state lines.

### Box 1

#### Principal methods of interstate water allocation

1. Equitable apportionment by the US Supreme Court (usually with Special Master appointed)
2. Interstate Compact (through negotiation)
3. Congressional allocation (rarely used)
4. Informal agreement (example, Palouse Basin approach)

**Special Rathdrum considerations.** Clive offered several considerations specific to the Rathdrum Prairie Aquifer. He suggested that solutions or actions on multijurisdictional management of the aquifer will need to address these specific circumstances:

1. FERC licensing of the dam at Post Falls: What does that licensing means for State rights?
2. How do you balance between the need for (a) a lake level of 2128' and (b) needed River flow?
3. The decline of flow in the Spokane River. (Address either by moving wells, releasing more water from Lake Coeur d'Alene, or treat the aquifer like underground storage and use high river flows to recharge the aquifer through injection wells or other diversions.)
4. The sole source designation for the Rathdrum Prairie aquifer.
5. Changing hydrology and climate variability.
6. Adaptive management.

**Some options and general recommendations.** At the end of Clive's discussion, he offered general recommendations for the Advisory Committee:

1. Consider well location and the results on well depletions to River flow; for example, what is WA and ID both made aligned decisions to locate wells to minimize River depletions?
2. Respect private based rights with incentives such as a water bank that would create options to change the type of use without penalties.
3. Good fact gathering is essential to better understanding the problem.
4. Avoid jurisdictional fights. For example, conflicts between the state and the tribe.
5. Use interest based bargaining rather than promoting positions. Focusing on interests allows for more creative and sustainable problem solving.

### **Palouse Basin Aquifer Committee, example of informal agreements on interstate water**

The Advisory Committee asked Steve Robischon, Executive Director of the Palouse Basin Aquifer Committee, to share ideas on an informal approach to managing a bi-state resource. Steve described the history of the Palouse Basin Aquifer Committee (PBAC) and shared ideas and lessons he has learned from his role as executive director of the PBAC. For more detailed information, please see Steve's PowerPoint presentation on the IDWR website.

Steve pointed out that the original memorandum of understanding between Idaho and Washington was possible because laws were not changed on either side of the state line. The PBAC has been an "advisory body," and that body has promoted their shared values through voluntary programs, not regulatory enforcement or penalties.

Steve attributes PBAC success to several factors. The PBAC was able to get all of the players to the table, and once agreeing on the values they wanted to promote, the PBAC implemented a long-term approach to managing water. They developed a management plan and used targets to gauge success. Participants are required to make regular payments to support the executive director and ongoing research around the basin, and the PBAC has been in existence for 18 years with this payment requirement in place.

**Box 2****Key considerations and lessons from Palouse Basin informal approach**

1. Engage all key players
2. Establish the agreed upon joint values of the players
3. Remain informal as a voluntary advisory body (not a regulating body)
4. Determine how to fund the efforts and actions
5. Define a management plan using targets or indicators of success
6. Maintain a long term perspective
7. Monitor results and use adaptive management as needed

**Facilitated Discussion with Clive Strong and Steve Robischon**

Clive and Steve engaged in a conversation with the Advisory Committee following both of their presentations. The points listed below are summaries of the topics raised during the discussion.

1. In general, informal agreements can be flexible, adaptive, and respond well to uncertainty.
2. Advisory Committee members asked if an informal agreement is appropriate for the Rathdrum Prairie Aquifer. Clive and Steve said that an informal agreement could be a starting point. They said there is currently common ground and shared understanding; building on that with incremental negotiation could be an effective way to proceed.
3. During his presentation, Steve shared that the Palouse “model” did not reflect many of the actual trends in the basin, and the Advisory Committee asked what advice Steve would give knowing that the Advisory Committee is using the USGS model in CAMP work. Steve reminded everyone that uncertainty is a given, and that “a model is just a model.” He said that when a model is used as a predictive tool to measure change, it is challenging to find correct assumptions, and it is important to use models with caution.
4. Steve shared that there are challenges to updating or improving the Palouse model. The model is being incrementally improved, but there are still obstacles:
  - a. There is a lack of data due to insufficient well monitoring (There is a need for more wells. The wells they have are effective at limited monitoring, but they need more to adequately gather information needed to update the model).
  - b. The aquifer is heterogeneous. The layers of the aquifer are complex structures, and it is difficult to understand the carrying capacity or storage space available.
  - c. Funding is needed.
5. Steve commented on the ability of the PBAC to address conflict. He said that the forum provides a useful place to discuss water formally, but the PBAC often has to deliberate on whether to address highly contentious subjects, which might impede forward progress. Steve seemed to suggest that the PBAC has found a balance; all

issues are not brought up, and issues that can be dealt with in other forums – like growth, land use, or other big-conflict issues – are addressed away from the table.

6. Steve described the status of granting future water rights in the Palouse by saying that it is hard to stop new permits, and it is more of a question of how to mitigate those permits.

## **Review of the Surface and Groundwater interaction Document and the Water Supply Chapter of the CAMP Recommendation Proposed Framework**

Matt McKinney presented a document developed by Paul Klatt, Todd Tondee, and Bob Haynes. The purpose of the document was to distill information and findings from the Spokane Valley Rathdrum Prairie Atlas, the USGS Study, and the Future Demand Study. Matt went through the facts and proposed policy implications listed in the document. The drafting group for this document will continue to update that per the Advisory Committee Discussion.

The AC discussed the current water supply chapter and made several revisions to the current list of issues and options, transforming those issues and options into preliminary recommendations. The Facilitation Team recorded more changes, and the water supply subgroup will meet again via conference call to develop further language needed to reflect the Advisory Committee discussion. For more details, please see the updated version of the Water Supply Chapter that will be posted on the IDWR website prior to the next meeting.

## **What could trigger water conflicts in the next 50 years?**

As conflict prevention is a core goal of the CAMP process, the Advisory Committee engaged in a brainstorming session to consider what future water related conflicts could be. The discussion included the preliminary identification of: what could be the most likely conflict triggers/drivers, a description of the conflict, identification of potential actors, what data was needed to further consider the conflicts and potential actions to avoid/reduce the conflict.

A very rough preliminary assessment of potential conflict is attached as a matrix in Attachment A.

## **Drafting good Recommendations**

The Facilitation Team presented to the Advisory Committee a set of considerations or attributes that may help the Committee later refine its Recommendations. The list of considerations is attached at Attachment B.

## **Action Items**

To ensure that issues do not get overlooked, the Facilitation Team will include a list of action items in the meeting summaries when necessary. These action items are to be undertaken by the Facilitation Team unless otherwise noted. Action items from the May meeting include:

1. Revise and update the Table of Contents or the framework for the CAMP recommendations from the Advisory Committee
2. Revise and update
  - a. The Surface-Groundwater Interaction document
  - b. Water Supply Chapter
  - c. Water Quality Chapter
3. Ask for volunteers to participate on a subgroup that will address the Water Quality Chapter (exactly like the current subgroups that are addressing Water Quantity and Surface-Groundwater Interactions)
4. The Facilitation Team and IDWR will pursue other presentations that may be helpful as the Advisory Committee continues to address water quality (Site disturbance and erosion? Yellowstone Pipeline?)
5. IDWR will distribute and the Advisory Committee will review the following documents related to multi-jurisdictional management of resources:
  - a. The Palouse MOU and Groundwater Management Plan
  - b. The Idaho-Washington MOU regarding the SVRP Aquifer
  - c. The MOA among tribes, AVISTA, federal and state agencies
6. Create a list for the CAMP of “Uncertainties that will influence water use” such as adjudication, reserved water rights, climate variability, etc.
7. Start a list of terms that will need to be defined in the CAMP (glossary)

### Next meetings

Please see the work plan for more detail on upcoming meeting topics and objectives. The scheduled meeting dates are listed below.

June 4<sup>th</sup> – Growth and meeting anticipated future needs

July 19<sup>th</sup> – Groundwater management, climate change, reviewing work to date, and discussing a public participation plan.

August and September – The Advisory Committee is not currently scheduled to meet in August or September. Drafting groups will continue progress on the draft recommendations during that time.

## Attachment A

### Multijurisdictional Issue – What could trigger conflict in the next 50 years?

Most likely Drivers	Description – What makes this multijurisdictional?	Actors	What do we need to know?	Potential Actions to prevent or minimize conflict
Instream Flows in WA	Pumping near the river; timing of depletions; mutual responsibility; role clarity	WA, ID, Tribes, FERC, Avista, DOE, species, recreation, federal and state agencies, local government, water rights holders	Status of existing instream flow rights? Existing legal relationships. Status of current and future water rights. Legal process (rule-making). Is the Spokane R. part of the Columbia R. system? System-wide demands for water.	
Water Quality in WA/ID	Surface and ground. Metals. Nutrient pollution. Temperature (what flow regimes are proper at what times)	WA, ID, Tribes, FERC, Avista, DOE, species, recreation, federal and state agencies, local government, point-source dischargers	What are the water interests and current standards of the Spokane Tribe and CDA Tribe?	
Tribal Interests	All other drivers.	Coeur d’Alene Tribe, Spokane Tribe, other tribes downstream.	What are the water interests and current standards of the Spokane Tribe and CDA Tribe?	
Water Development	Efficiency in impacts. Location of wells. Wastewater. Retention of snowmelt, spring flow. Reserve rights.	CDA Tribe, dischargers, water purveyors, local government, SAJB, irrigators, state agencies, existing and future power generation plants.	What are the potential power demands for water? What is the effect of exempt well holders?	
Hydropower	Spokane River Complex (7 existing dams). Quality/quantity power. Implications of FERC licensing on state water rights.	Spokane River and Columbia River power generation.	Does the outcome of the adjudication affect the current FERQ agreement?	
Coeur d’Alene Lake Level	Established policy to balance the lake level demands and flow demands. Recreation and economic development.	All of the above.	Which rights have priority? What are the state’s rights? What happens this summer?	

Most likely Drivers	Description – What makes this multijurisdictional?	Actors	What do we need to know?	Potential Actions to prevent or minimize conflict
Water rights in ID/WA	New water rights upstream on the tributaries. Adjudication process - existing paper rights that are not in use. Inchoate rights. Future North Idaho adjudications (areas 96 & 97?).	Special interest groups (i.e. environmental/conservation interests, land development interests,	What will happen in the adjudication?  Demand study in WA like the SPF work?	
Economic Development	Ability to continue to grow on both sides of the state line. Limiting factor now is wastewater discharge (not supply.) Tourism.	CDA Tribe. Cities, Chambers of Commerce, Economic Development Council, Tourism industry.	What does the economic community anticipate their consumptive use will be?	Truth the model on regular basis
Population Growth	(driven by other drivers listed.)			Truth the model
ESA/Species of Concern Issues under federal and state law	Critical habitat for bull trout. Red Band in the river. Minimum stream flows, temperature, water quality.	USFWS. DFW. IDFG. CDA Tribe. Spokane Tribe.		Monitor listings that affect this basin; what are the standards for flow, temp, and quality.
Climate Variability	Impacts on water quality, lake metals mobilization and its effect on Spokane River. Change in precipitation. Earlier and smaller runoff peaks. Lack of snow for hydropower and recreation/ tourism. Increases of invasive species.	All of the above.	What is the impact on quantity and timing? What is the natural variability? What's the baseline? How does variability affect mobilization of sediments in Lake CDA? How does it affect all water quality? How will local land use practices impact local climate effects (heat island effects that could affect irrigation, carbon sequestration)?	

Most likely Drivers	Description – What makes this multijurisdictional?	Actors	What do we need to know?	Potential Actions to prevent or minimize conflict
Land use conflicts	How are we going to concentrate on urbanization? Where development occurs compared to where the aquifer can bear it?	Local governments, developers, enviros/conservation.	Comprehensive Plans of various entities.	
Wastewater treatment and discharge	NPDES permits. Meeting TMDL requirements at borders. Consumptive element. Point of return. Land application? Drain fields? Regional treatment? Quality standards may drive withdrawal from the river to land application. Sensitive resource aquifer. Sole-source.	Permitted dischargers and non-point dischargers. Regulators.	Who has water rights to wastewater discharge? What is the public sentiment? What are the tradeoffs of totally consumptive land application versus treatment?	
Transfer of water	<p>Out of the municipal service area?            Outside the watershed?            Off the aquifer?            Outside the basin?            Out of the state?</p> <p>Water supply issue due to increase in service area. Exportation without return to the aquifer. Exportation with unacceptable amounts of consumptive loss.</p>	New users.	What would be the consumptive use of this exportation?	
Importation	Taking water from Lake Pend Orielle. Tool to address TMDLs. Use to support growth. Management tool.	PBC. Other basins. DOE. IDWR. DEQ. CSKT. Upper Columbia tribes. BPA. USACE.	How you do it? What's the demand? What are the effects? Tool to address TMDLs? What's the timing of delivery?	



## Attachment B

Proposed and edited at the Rathdrum Prairie Advisory Committee meeting of May 7, 2010

### **A useful recommendation to IWRB is drafted in a way that:**

1. Indicates the desired endpoint or objective.
  - Promotes the interests of the entire Basin, rather than merely the interests of a sub-group
2. Satisfies the Committee's decision criteria.
3. Is sufficiently broad to guide activities for the period of 2010-2060.
  - *It does not* include detailed implementation steps
4. Is clearly and succinctly written
5. May be general in nature or alternatively directed to the responsible agency, entity or group.
6. Where relevant, identifies the timeframe for accomplishment.