Department of Ecology/ Office of Columbia River 2017-2024

Continued Problems and Concerns

Presented by

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Wild Earth Guardians
Wilderness Watch
Wise Use Movement

https://northcascades.org/wp-content/uploads/2024/11/Ecology-OCR-Report-2017-2024-September-9-2024.pdf

September 9, 2024

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Executive Summary

SUMMARY FINDING: The Washington State Legislature should require a performance audit of Ecology/Office of Columbia River and should amend RCW 90.38.005(2)(b) and RCW 90.90.005(2) to delete the Department of Ecology (Ecology)/Office of Columbia River (OCR)'s[1] authority to "aggressively seek out new water supplies." This has resulted in the misuse of taxpayer money and the pursuit of uneconomical and environmentally damaging new irrigation dams and water projects. It also undermines efforts to reduce water demand in the face of climate change.[2]

In 2016, Power Consulting Incorporated prepared a report, *Department of Ecology Office of Columbia River: The Last Ten Years (Power Report).*[3] The Power Report reviewed the ten years after 2006 when the Washington Legislature authorized the Department of Ecology (Ecology) to "aggressively seek out new water supplies" in the Columbia River Basin.[4] This was repeated by the Legislature in 2013. It authorized Ecology to promote the aggressive pursuit of water supply solutions that provide concurrent benefits to both instream and out-of-stream uses in the Yakima River Basin as rapidly as possible.[5] *The Power Report recommended that the Washington State Legislature withhold additional funding to Ecology until a performance audit on Ecology's Office of Columbia River (OCR) is prepared for the Legislature.* The 2016 Power Report's summarized findings are found in *Appendix* A.

This new analysis reviews Ecology/OCR from 2017-2024 regarding the Yakima, Wenatchee (Icicle Creek), and Walla Walla River Basins as documented below. The findings below support, even more strongly, the need for the Washington State Legislature to request an Ecology/OCR performance audit.

- **The Legislature should be concerned and take note** that over a decade ago in 2013, the legislature set a water supply facility permit and funding milestone for the Yakima Plan of at least 214,000 ac-ft of water to be used for instream and out-of-

[1] Neither RCW 90.38.005(2)(b) nor RCW 90.90.005(2) authorized the Department of Ecology to create a separate "Office of Columbia River." Notwithstanding, this report will refer to Ecology/OCR.
[2] The 2021 Status Report states: Meeting our legislative mandates. "[The Yakima Plan] partners have been engaged in aggressively pursuing water supply solutions as a key element of the [Yakima Plan]." Page 50.
[3] http://ucrsierraclub.org/pdf/OCR-Power-Report_12-3-2016%20.pdf
[4] RCW 90.90.040.
[5] RCW 90.38.005(2)(b).

stream uses by June 30, 2025, which will not be met.[6] Ecology/OCR's Yakima Plan status report to the Legislature due Dec. 1, 2021 (2021 Status Report), was not issued until April 2024, over two years late. In addition, buried at the end of the 2021 Status Report is Ecology/OCR's admission that ". . .due to the complexities and challenges associated with development of new water supplies, it is unlikely that the permitting for the two projects will be completed by the June 30, 2025 milestone referenced"[7](*2021 Status Report,* page 53).

- **The Legislature should be concerned and take note** that none of the 2017, 2019, 2021 and 2023 Yakima Plan "status reports" required by the Legislature by December 1st of odd-number years (RCW 98.38.100) were issued by Ecology/OCR on time or included public comment or public participation. Ecology/OCR's failure to meet legislature reporting deadlines for the Yakima Plan, deprived the Governor and Legislative budget committees (Senate Ways and Means and House Capital Budget) of vital information needed to address Yakima Plan projects and budgets during the 2018-2024 legislative sessions.

- **The Legislature should be concerned and take note** of the number of projects on which Ecology/OCR and the BuRec have spent taxpayer funds and rushed forward without proper study or environmental documentation only to be abandoned:

    - The Lake Keechelus to Lake Kachess Conveyance (tunnel) Project was authorized by the Legislature in 2013, as part of the Yakima Plan (RCW 90.38.005), and authorized by Congress in 2019,[8] despite the fact that this alternative was not carried forward in an earlier FEIS.[9]
    - A new Wymer dam between Ellensburg and Yakima was authorized by the Legislature in 2013 as part of the Yakima Plan (RCW 90.38.005). Despite the lack of a completed feasibility study or EIS, Ecology/OCR lobbied the Legislature for over $6 million in 2021 to purchase the Eaton Ranch to allow for development of this project.[10] When this purchase could not be completed, Ecology/OCR was forced to return the purchase funds to the State.
    - In addition, the Springwood Dam proposal is another example of Ecology/OCR lobbying for $24 million of state taxpayer dollars to purchase the Springwood Ranch, despite the lack of any feasibility study or EIS.

- **The Legislature should be concerned and take note** of Ecology/OCR and the BuRec's lack of process for deviating from or amending the 2012 Yakima Plan. As noted in this report, projects have been funded by the Legislature and new projects are being funded by the Legislature or other entities that were not included in the Yakima Plan. Other Yakima Plan projects have been abandoned or put on hold. The Legislature cannot carry out the intent of RCW 90.38.120(1) for the state to pay its fair share of the cost to implement the plan, with at least one-half of the total costs to finance the implementation of the plan funded through federal, private, and

[6] RCW 90.38.100(2) and RCW 90.38.010(6).
[7] https://apps.ecology.wa.gov/publications/documents/2112009.pdf
[8] https://www.congress.gov/bill/116th-congress/senate-bill/47/text
[9] usbr.gov/pn/programs/eis/kdrpp/feis2019/feis2019v1.pdf
[10] Bill Text: WA SB5083 | 2021-2022 | Regular Session | Comm Sub | LegiScan

other nonstate sources, including a significant contribution of funding from local project beneficiaries, if there is no limit to what can be added to the Yakima Plan without approval of the Legislature.[11]

- **The Legislature should be concerned and take note** that since 2016, Ecology/OCR continues to pursue new environmental damaging irrigation dams and water projects that the Washington State Water Resource Center's 2014 Benefit/Cost Analysis, required by the Legislature, reported as uneconomical:
  - New Bumping Lake dam – B/C ratio of 0.18
  - New Wymer Dam – B/C ratio of 0.09
  - Lake Kachess Pumping Plant - B/C ratio of 0.46[12]

  This is especially ironic as the mission of the Bureau of Reclamation is "to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.[13]

- **The Legislature should be concerned and take note** that OCR has spent 14 years and millions of dollars responding to aggressively pursue more water storage within the Alpine Lakes Wilderness.

- **The Legislature should be concerned and take note** that it took an Office of State Auditor performance audit to expose the ad hoc Walla Walla Partnership as a failure. This has resulted in Ecology/OCR embarking on a new Walla Walla planning effort extending to 2050.

[11] *Report to Congress -Yakima Basin Integrated Plan Five-Year Progress Report 2024*, March 2024, page 2.
[12] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf/
[13] https://usbr.gov/main/about/mission.html#:~:text=The%20mission%20of%20the%20Bureau%20of%20Reclamation%20is,manner%20in%20the%20interest%20of%20the%20American%20public.

(I) COLUMBIA RIVER BASIN WATER SUPPLY 2017-2024[14]

"Aggressive pursuit of new water supplies leads to bad decision making."

In 2003, the Legislature required Ecology to complete the first Columbia River long-term water supply and demand forecast (Long-term Forecast) by November 15, 2006, and to update the report every five years thereafter. *RCW 90.90.040(1),(3)*. Ecology/OCR's December 2016 Long-term Forecast (it's third forecast) contained some startling findings:[15]

- Even as water supplies are forecast to increase by 2035, agricultural water demand—which accounts for approximately 79.4% of total out-of-stream demand (agricultural plus municipal)—is forecast to decrease by approximately 4.96% (±0.81%) by 2035, across the entire Columbia River Basin. This decrease is somewhat greater within Washington, where it is forecast to reach 6.87% (±0.98%) (Table ES-2).

For Washington State:

- 291,432 (±41,405) ac-ft decrease in total (ground and surface) agricultural water demand annually. This number assumes no change in irrigated acreage. In addition to the demands for both surface and groundwater to be applied to crops, this number accounts for irrigation application inefficiencies. By 2035, surface, out-of-stream water demands across eastern Washington are forecast to increase by 6,644 (±34,645) ac-ft per year. This additional surface water would be needed to support current water use practices in the Odessa Subarea into the future, replacing water demand currently being met by declining groundwater (page 29).
- Production changes in Washington, such as double cropping, may increase as the climate changes and crops mature earlier in the season. [Alarmingly],water development projects planned by the Office of the Columbia River would make "new" water available, leading to increased irrigated acreage. These two factors could, in combination, lead to the overall demand for irrigation water increasing by tens to hundreds of thousands of ac-ft per year by 2035 (Table ES-3) (page x).
- Forecast out-of-stream demand estimates for 2035 do not account for potential water conservation improvements (page x).

Ecology/OCR's latest Columbia River Basin Long Term Water Supply and Demand Forecast 2021 Legislative Report (2021 Long Term Forecast) predicted:[16]

- Demand for agricultural irrigation water across the entire Columbia River Basin is expected to decline slightly, on average, by 2040 (-1.2% ± 0.6%) and continue declining through 2070 (-4.1% ± 0.9%; Table 6). (page 31)
- And WRIAs in the heart of central Washington and along the Columbia River Gorge, as well as the Lower Yakima (37), are expected to experience decreases in agricultural water demand by 2040 (Figure 22). These patterns of change are expected to continue through to 2070 (page 44).

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[14] For an overview of the Bureau of Reclamation's Columbia Basin Project, irrigation districts, and water withdrawals, including maps, *see: Columbia Basin Project Water Authorizations - water authorizations at the largest federal reclamation project,* Eric Weber, LHg & Ben Lee, PE, Landau Associates, Inc. (Tacoma, WA), *The Water Report,* #208, June 15, 2021. https://www.arlis.org/docs/vol2/TheWaterReport/2021/TWR208_Jun_2021.pdf

[15] https://apps.ecology.wa.gov/publications/documents/1612001.pdf

[16] https://apps.ecology.wa.gov/publications/documents/2112006.pdf This report was to be completed by November 15, 2006, and updated every five years. RCW 90.90.040(1),(3). The 2021 report was not published until August 2022.

The 2021 Long Term Forecast also identified projects funded, completed, and developed by Ecology/OCR as of 2021:

> Columbia River Basin Project
> Sullivan Lake Water Supply – 9,400 ac-ft (out-of-stream)/4,600 ac-ft (instream)
>
> Columbia Basin ID piping – 35,000 ac-ft (out-of-stream)
>
> Plus, Lake Roosevelt Incremental Storage Releases[17]
> All Years: 55,000 ac-ft (out-of-stream)/25,000 ac-ft (instream)
> Drought Years: 88,000 ac-ft (out-of-stream/44,000 ac-ft instream)
>
> Completed Yakima Plan Projects
> Enhanced Water Conservation - 10,000 ac-ft (use unspecified)
> Manastash Conservation Tributary Enhancement -1,300 ac-ft (instream)
> Yakima City ASR – 10,000 ac-ft (out-of-stream/instream ac-ft TBD)
>
> Plus, KID/Red Mountain - 11,005 ac-ft (instream)
> Baker Ranch – 6,436 ac-ft (instream)
> (pages 12-13).

- **The Legislature should be concerned and take note** that the 2021 Long Term Forecast fails to provide a clear description of the amount of water for out-of-stream vs. instream uses for completed developed projects.

- **The Legislature should be concerned and take note** that, once again, the 2021 Long Term Forecast failed to consider water conservation:

  > ”Water Conservation: We did not consider the potential for water conservation by either municipal or agricultural users to alleviate some of the supply and demand vulnerabilities that may be encountered in the future” (page 23).[18]

- **The Legislature should be concerned and take note that** in 2006, the Department of Ecology, without specific authorization from the Legislature, created an Office of Columbia River and a Policy Advisory Group (OCRPAG).[19] The first posted OCRPAG meeting minutes from October 11, 2006, list no members of the public in attendance, with perhaps the exception of a member of the Black Rock Project, a pro-dam building group.[20] Although the OCRPAG originally included three environmental groups, Ecology/OCR has rejected several applications and has failed to fill an empty environmental group seat for several years.

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[17] As part the 2006, Columbia River water supply bill, the Legislature allowed drawing down Lake Roosevelt, behind Grand Coulee Dam. *RCW 90.90.060*. Although Ecology/OCR counts releases from Lake Roosevelt as “new water supply,” such releases merely lower the existing Lake Roosevelt water level.

[18] https://apps.ecology.wa.gov/publications/documents/2112006.pdf

[19] “The enabling legislation ([R]CW90.90) did not explicitly create the PAG.” CR-PAG Strategic Planning Summary, draft, February 23, 2018.

[20] https://fortress.wa.gov/ecy/ezshare/ocr/crpag/10-06_agenda.pdf

In the aftermath of the 2015 drought, the WA State Department of Agriculture (WSDA) made headlines with their reports of Washington agricultural economic losses.[21] What did not make the headlines was the Washington State Academy of Sciences 2016 evaluation of the 2015 WSDA drought report:

> The economic effects of the 2015 drought described in this [WSDA] interim report are based on gross rather than net revenue lost. This can account for an incongruity between the estimated gross revenue lost stated in this report and the fact that net farm income for Washington in 2015 was higher than in any of the previous four years by a significant amount (*Evaluation with Recommendations by the Washington State Academy of Sciences of 2015 Drought and Agriculture,* Washington State Department of Agriculture, December 2016, page 2) (emphasis added).[22]

An example of WSDA's manipulation of the facts cited by the Washington State Academy of Sciences:

> This lack of clarity on economic effects statewide or on individual farms is most pronounced by the inclusion of the $2.66 million Roza payment to the senior water rights holder. This payment is simply a transfer from one water rights holder to another within the state, so it should not be included as a drought impact. All that should be included is the net revenue associated with the lost production to the water-rights holder that leased the water. If this is what is requested, there should be some recognition that it is not the same as the net economic cost to the state, because some farmers likely benefited either through higher commodity prices or leasing water. This is a political rather than an economic decision (Washington State Academy of Sciences, page 1).

- **The Legislature should be concerned and take note** of manipulation of agricultural drought impacts that drive the "aggressive pursuit" of new water supplies. It is often the case that bumper crops result in lower prices and wasted crops, while lower crop yield can result in higher prices.

(II)THE YAKIMA PLAN[23]

"State taxpayers must pay for half the Yakima Plan."

> The Yakima River is a major tributary of the Columbia River, annually producing an average of about 3.4 million acre-feet. . .of streamflow. The Yakima and the Columbia once supported one of the world's great salmon runs. . . . The water of the Yakima River and its tributaries has been fully appropriated since the beginning of the twentieth century; present rights to water actually exceed the supply during most years.

Water Transfers in the West, National Research Council, WA D.C., 1992, pages 182, 184.[24]

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[21] https://cms.agr.wa.gov/WSDAKentico/Imported/495-2015DroughtReport.pdf
[22] https://washacad.org/wp-content/uploads/2017/02/2016_wsas_evaluation_drought_f.pdf
[23] A review of the Yakima Plan identifying problems and concerns appeared in the Feb. 15, 2013, issue of *The Water Report. http://ucrsierraclub.org/pdf/Yakima_Water-Report_Response_%202-15-2013.pdf*
[24] https://nap.nationalacademies.org/catalog/1803/water-transfers-in-the-west-efficiency-equity-and-the-environment

After several federal and state agency failed attempts to construct new irrigation dams in the Yakima River basin, the current effort to promote a "Yakima Plan" was kicked off by a BuRec WaterSMART program authorized by the SECURE Water Act in Public Law 111-11, which in Fiscal Year 2009 also funded basin studies in the Colorado River Basin and the St. Mary and Milk River Basins in Montana and Canada (*see* Section 9503(b)(4)(e) of the Act).[25]

The main objective of the Yakima Plan is to aggressively provide proratable irrigation districts with 70 percent of their water allotment during drought years by increasing the amount of surface water stored in the Yakima Basin. The Yakima Plan proposes to add about another half-million ac-ft of surface water storage, increasing the total surface water storage by about 50 percent to 1.5 million ac-ft.[26] This would have the effect of turning the proratable irrigation districts into near-Senior districts without modifying water rights in the basin.

In April 2024, Ecology's OCR issued a Status Report on the Yakima Plan, nearly two and a half years after it was due to the Legislature on December 1, 2021 (2021 Status Report)[27]. As with previous Status Reports, this was issued without an opportunity for public comment or public participation. As a result, it contains misinformation and misleading conclusions.
For example, the 2021 Status Report states:

> In 2009, federal, tribal, state, county, local governments, agricultural & environmental interests, water users, and other stakeholders joined forces to collaborate and build a framework for integrated water management solutions for the Basin. This created the foundation for what we now know as the Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan) (2021 Status Report, Page 1).

However, "Prior to the November 23, 2009 Workgroup meeting, the Department of Ecology (Ecology), Bureau of Reclamation (Reclamation), and the consultant team prepared the draft report for the Preliminary Integrated Water Resource Management Plan for the Yakima River Basin and provided it to the Workgroup for comment."[28] *Yakima Workgroup Meeting Notes*, December 17, 2009.

- **The Legislature should be concerned and take note** that Ecology/OCR developed the Yakima Plan in 2009, prior to the establishment of the Yakima Workgroup.

- **The Legislature should be concerned and take note** that the Legislature's Capital Budget process makes it difficult for the public to track and follow Ecology/OCR's budget. The Legislature's FY23-24 Capital Budget (ESS Bill 5200) lists the following accounts with a total of past expenditures, fiscal year budget, and future biennium projected costs:

  2023-25 Yakima River Basin Water Supply (40000572) $245,000,000
  Yakima River Basin Water Supply (30000590) $26,750,000
  2019-21 Yakima River Basin Water Supply (40000179) $36,914,000
  2021-23 Yakima River Basin Water Supply (40000422) $42,000,000
  Sunnyside Valley Irrigation District Water Conservation (30000589) $3,055,000

[25] http://www.doi.gov/ocl/hearings/112/WaterSurfaceStorage_020712.cfm
[26] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf (page 6)
[27] https://apps.ecology.wa.gov/publications/documents/2112009.pdf
[28] https://www.usbr.gov/pn/programs/yrbwep/2009workgroup/meetings/2009-12-17/meetingnotes.pdf

Sunnyside Valley Irrigation District Water Conservation (30000673) $4,684,000
Springwood Ranch in Kittitas County (91001663) (Recreation and Conservation Funding Board) $24,000,000

This is in addition to other accounts in the Columbia River Basin:

2023-25 Columbia River Water Supply Development Program (40000583) $303,500,000
Columbia River Water Supply Development Program (30000588) $19,000,000[29]

[29] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Senate%20Passed%20Legislature/5200-S.PL.pdf?q=20230516094055

The 2021 Status Report (page 37) provides a table of estimated Yakima Plan (2012 dollar) costs:

Table 2 Estimated Costs for the full buildout of the Integrated Plan[30] (in 2012 dollars)

Integrated Plan Element	Initial Development Phase (2013-2029)	Middle Development Phase	Final Development Phase	Full Development Costs (3 Decades)
Habitat/watershed protection and enhancement	$476,300,000	$2,100,000	$2,100,000	$480,500,000
Fish passage (6 projects)	$256,600,000	$173,400,000	$100,000,000	$530,000,000
Surface water storage	$248,700,000	**$985,925,000	**$981,925,000	$2,216,550,000
Groundwater storage — regional and municipal	$10,400,000	$56,400,000	$56,400,000	$123,200,000
Structural and operational changes	$80,800,000	***$122,650,000	***$122,650,000	$326,100,000
Enhanced water conservation	$130,600,000	$149,450,000	$149,450,000	$429,500,000
Market driven reallocation	$4,100,000	$0	$0	$4,100,000
Integrated plan update costs	$0	$1,500,000	$1,500,000	$3,000,000
Other	$2,900,000	$0	$0	$2,900,000
Total	**$1,210,400,000**	**$1,491,425,000**	**$1,414,025,000**	**$4,115,850,000**

* Keechelus to Kachess Pipeline was classified as Operational Modifications in the IDP Costs. The Kachess Reservoir Drought Relief Pumping Plant project is included as Surface Water Storage.

** Average costs of the next two surface water storage projects that are recommended under the Integrated Plan along with the additional cost of producing an updated water needs analysis and Columbia River availability analysis. The cost of subsequent storage projects described in the Integrated Plan have been averaged and divided equally between the MDP and FDP because final decisions regarding whether to proceed with those projects and project sequencing have not been made. MDP costs also include estimates for providing updated water needs and Columbia River water availability analyses.

*** This includes costs of Wapatox Canal Conveyance, KRD Main Canal, South Branch Modifications and Roza subordination. Estimated costs for the Wapatox Canal Conveyance, KRD Main Canal and South Branch Modification, and Roza Subordination projects have been totaled and divided equally between the MDP and FDP because decisions regarding project sequencing have not been made.

[30] This table is developed and maintained by Ecology/OCR.

However, Ecology/OCR notes that this [$4 billion] cost estimate is provided in 2012 dollars. It has not been revisited or updated since the Yakima Plan's Programmatic Environmental Impact Statement (PEIS) issued in 2012 (page 36). Nor does it include the expense of new projects added to the Yakima Plan since 2012 (see below).

- **The Legislature should be concerned and note** that Ecology/OCR has hidden the updated costs of the Yakima Plan from the legislature for over a decade.

(A) Surface Water Storage

"No place is safe from dams."

According to the 2021 Status Report:

> The Kachess Drought Relief Pumping Plant, Springwood Reservoir, and Bumping Reservoir enlargement projects could all help meet the Integrated Plan's 450,000 ac-ft. surface water storage goal. Looking ahead, other sites in the mid-lower Basin might be evaluated as potential new surface storage options (2021 Status Report, page 28).

(1) Lake Kachess Pumping Plant[31]

"*Is a lake with little water still a lake?*"

A Lake Kachess Pumping Plant (KPP) and a Lake Keechelus-to-Lake Kachess Conveyance (pipeline) (KKC) were part of Ecology/OCR's original Yakima Plan (See FPEIS Yakima Plan, p. vi).[32] Confusion, uncertainty, and lack of data concerning these projects resulted in Ecology/OCR and the BuRec issuing a Draft Environmental Impact Statement (DEIS) in January 2015, with Bull Trout Enhancement (BTE) as a component of each project.[33] In April 2018, a supplemental draft EIS was issued to evaluate a much larger floating pumping plant to withdraw 200,000 ac-ft from Lake Kachess, drop the KKC project as a stand-alone project; and withdrew BTE as part of this action.[34] A final EIS (FEIS) was issued in March 2019[35] (FEIS, pages 1-11 to 1-15).

This FEIS proposed Alternative 4, the Floating Pumping Plant Alternative, without the Keechelus to Kachess conveyance (pipeline). The KPP would provide access to 200,000 ac-ft. of water held in an inactive pool located just below the current reservoir outlet.[36] Shortly after the FEIS was issued, an article appeared in the *Tri-City Herald: "*Currently, the Roza Irrigation District alone would be responsible for paying for and building the pump, although other irrigation districts could step in."[37] (emphasis added). The Ecology/OCR and BuRec FEIS cover memo stated:[38]

> Reclamation and Ecology have identified Roza Irrigation District as the entity responsible for the design, construction, operation, maintenance and funding (with potential participation by other proratable entities) of Alternative 4 at Kachess Reservoir.

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[31] Additional information is provided on the Save Lake Kachess website: https://savelakekachess.org/
[32] https://www.usbr.gov/pn/programs/yrbwep/reports/FPEIS/fpeis.pdf
[33] https://www.usbr.gov/pn/programs/eis/kkc/kkcdeis.pdf
[34] https://www.usbr.gov/pn/programs/eis/kkc/kprojectsdeis2018.pdf
[35] usbr.gov/pn/programs/eis/kdrpp/feis2019/feis2019v1.pdf
[36] 2021 Status report, KPP FEIS, pages ES-ii, v; https://www.usbr.gov/pn/programs/eis/kdrpp/feis2019/feis2019v1.pdf
[37] "Floating barge could help bring more water to Tri-Cities during drought," Lex Talano, *Tri-City Herald*, updated April 15, 2019. https://www.tri-cityherald.com/news/local/article229293604.html
[38] Memo, "Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Projects Final Environmental Impact Statement, Kittitas and Yakima Counties, Washington," BuRec – Ecology, March 6, 2019

However, page 1-10 of the FEIS states,

> Roza [Irrigation District] proposes to fund, design, construct, operate, and maintain some or all of the Proposed Action. Alternatively, Reclamation if authorized or the State may fund, design, construct, operate, and maintain some or all of the Proposed Action.

But the same page states:

> . . .for full implementation of the Preferred Alternative, Roza proposes to fund, design, construct, operate, and maintain a pumping plant at Kachess Reservoir and implement fish passage at the Narrows and other components of the Proposed Action as described in Chapter 2 (FEIS, page 1-10).[39]

The 2021 Status Report states:

> Pumped water will be conveyed to the Yakima River for distribution to participating junior water right permit holders, with the option of leaving a portion of this water instream to enhance stream flows. Roza [Irrigation District] has committed to paying for a substantial portion of the cost to design, construct, operate and maintain the drought relief pumping plant (*2021 Status Report*, page 28).

In addition, the BuRec's Record of Decision states: ". . .Washington State is not considering funding construction of either the KDRPP or KKC project." *Record of Decision for the Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Final Environmental Impact Statement Yakima Project, Washington*, dated April 26, 2019, Attachment A, page A-5.[40]

On March 12, 2019, President Trump signed the *John D. Dingell Jr. Conservation, Management, and Recreation Act* (S. 47; P.L. No. 116-9). Sec. 8201(c) provides that the KPP be financed from non-Federal sources:[41]

> (1)(a) In general.—A long-term agreement negotiated pursuant to this section or the reclamation laws between the Secretary and a participating proratable irrigation entity in the Yakima River basin for the non-Federal financing, construction, operation, or maintenance of the Drought Relief Pumping Plant or the Keechelus to Kachess Pipeline shall include provisions regarding—
>
> (i) responsibilities of each participating proratable irrigation entity for—
>
> (I) the planning, design, and construction of infrastructure, in consultation and coordination with the Secretary; . . .

To date, the BuRec has not released any long-term agreement. The 2021 Status Report indicates that from 2013-2025 the State's share of the KPP is already $17.6 million. For FY23-25,

[39] Note that the FEIS lists the Roza Irrigation District, Kittitas Reclamation District, Wapato Irrigation District, and Kennewick Irrigations (sic) District as "Local Agency. *Table 1.1, FEIS, page 1-11.*
[40] https://www.usbr.gov/pn/programs/eis/kdrpp/feis2019/rod.pdf
[41] https://www.congress.gov/bill/116th-congress/senate-bill/47/text

an additional $212.1 million of funding from “Federal & Other Sources of Funding” is needed (*2021 Status Report*, Table 4, page 39).

- **The Legislature should be concerned and take note** that despite representations that the Roza Irrigation District would pay the full costs for the Kachess Pumping Plant project (as they would reap the benefits), the State has already spent $17.6 million on the KPP. It is far more likely that Ecology/OCR would lobby the Washington State Legislature or Congress to pass these costs on to state or federal taxpayers.

In addition, the 2021 Status Report has still not resolved the impacts of the drastic removal of 200,000 ac-ft of water below the normal outlet on domestic groundwater wells:

> Following the release of the KDRPP EIS in 2019, Reclamation released a Record of Decision that discussed the need for a Tier 2 EIS to analyze the potential project impacts on critical fish habitat, domestic groundwater wells, and surrounding property values. If it is found that domestic wells could be impacted, then mitigation and adaptive management strategies will be developed (2021 Status Report, page 28).

- **The Legislature should be concerned and take note** that despite the fact that the proposed Kachess Pumping Plant was part of the initial 2012 Yakima Plan/FPEIS, Ecology/OCR’s failure to reach out to include Lake Kachess residents means that basic questions regarding impacts to surrounding groundwater wells and property values remain unanswered, over a decade later.

The proposed Kachess Pumping Plant would have significant adverse environmental impact to bull trout. The draining of an additional 200,000 ac-ft of water from Lake Kachess would increase the falloff from upper Lake Kachess to lower Lake Kachess. In 2017, a short agency Bull Trout Enhancement Memorandum of Understanding (KDRPP and KKC FEIS – p. 1-14, Appendix A) was signed. However, the BTE was not carried forward as part of the 2019 proposal because, “BTE project designs were not sufficiently advanced” (KDRPP and KKC FEIS, March 2019, page 1-14.) Nonetheless, OCR and the Bureau proposed a 1500' long roughened channel from the downstream end of the Narrows around the eastern shore for bull trout passage or a trap and haul.[42]

- **The Legislature should be concerned and take note** that, yet again, rather than restoring Yakima Basin River flows and habitat, the Yakima Plan proposes even more expensive engineering and plumbing projects for Lake Kachess.

- **The Legislature should be concerned and take note** that the KPP project proposed in 2012 for $195.8 million in 2012 would have only returned 46 cents for every dollar spent (B/C ratio of 0.46). *Benefit-Cost Analysis of the Yakima Basin Integrated Plan Projects Report to the Washinton State Legislature*, Washington Research Center, December 15, 2014, p. iv.[43] The 2021 Status Report displays projected funding requests from all sources 2013-2025 at $236.2 million and admits that “Costs do not include inflation. They are listed in dollars from the most recent study available (typically 2012 to 2015 dollars).” 2021 Status Report, Table 4, page 41-41. Thus, the KPP project would have an even lower B/C ratio.

[42] https://ybfwrb.org/wp-content/uploads/2017/10/Approved_2016_Kachess_Updates.pdf
[43] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf/

- **The Legislature should be concerned and take note of** a 2015 *Water Market Reallocation as Part of the Yakima Basin Integrated Plan,* prepared by Martin Merz, for American Rivers. This report noted that the Yakima Plan "is a political plan" (page 5) and that:

> "Roza irrigation district [the KPP's biggest pusher] is strikingly out of accordance with the theory that cropping patterns will be aligned with water rights priority, relying solely on the less reliable proratable water rights, and growing a much higher proportion of perennial crops such as apples than would be expected or advised. Partially as a result of this, Roza irrigation district is one of the most adamant voices behind the need for increased storage. . ." (page 13)[44] (emphasis added).

(2) New Bumping Lake Dam[45]

"A seventy-year-old Zombie project."

The 2021 Status Report (page 29) provides only a brief one paragraph update on a new Bumping Lake Dam:

> Bumping Reservoir Enlargement Project, located approximately 40 miles northwest of Yakima, will involve construction of a new dam and fish passage facility located approximately 4,500 feet downstream from the existing dam, which was constructed over a century ago. This project is estimated to increase the storage capacity of the reservoir from 33,700 ac-ft up to 190,000 ac-ft. Site considerations for this project are ongoing.

This is completely inadequate as an update of a dam project that has been pushed for and rejected since the 1950's.[46] According to the BuRec's December 2008 *Final Planning Report/Environmental Impact Statement Volume 1 Yakima River Basin Water Storage Feasibility Study*:[47]

> The U.S. Fish and Wildlife Service and BuRec prepared a *Bumping Lake Enlargement Joint Feasibility Report* was prepared in 1966 by Reclamation and the U.S. Fish and Wildlife Service. The purpose of this feasibility study, authorized by the Act of September 7, 1966 (Public Law 89–56) Yakima River Basin Water Storage Feasibility Study Final PR/EIS and the Fish and Wildlife Coordination Act (FWCA), was to address the water related problems and needs of the Yakima River basin. A preliminary feasibility report was completed in March 1968 on construction of a new dam about 1 mile downstream from the existing Bumping Lake Dam on the Bumping River, a tributary in the Naches River drainage. (fn7: "The capacity of the enlarged Bumping Lake was about 458,000 acre-feet, including the existing 33,700 acre-feet of the existing reservoir, which would be inundated.") The report was forwarded to the Secretary

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[44] *Water Market Reallocation as Part of the Yakima Basin Integrated Plan*, Martin Merz, October 4, 2015.
[45] Additional information is posted on the Friends of Bumping Lake Website: https://friendsofbumpinglake.org/
[46] "Enlarging Bumping Lake has been proposed at various times by Reclamation and others in the Yakima River basin since the 1950s," *Final Planning Report/Environmental Impact Statement Volume 1 Yakima River Basin Water Storage Feasibility Study*, December 2008 (p. 2-128).
https://www.usbr.gov/pn/studies/yakimastoragestudy/reports/eis/final/volume1.pdf
[47] https://www.usbr.gov/pn/studies/yakimastoragestudy/reports/eis/final/volume1.pdf

> of the Interior for consideration. During this process, recreation development in the recommended plan became a concern as to its compatibility with the Cougar Mountain (William O. Douglas) Wilderness Area then under consideration. It was determined that the recommended plan should be reevaluated and modified.
>
> Following appropriations for the reevaluation work in 1974, the revised feasibility report was resubmitted to the Commissioner of Reclamation and the Director, U.S. Fish and Wildlife Service, in 1976. It was approved by the Secretary of the Interior in 1979. Reclamation filed the Proposed Bumping Lake Enlargement, Final Environmental Impact Statement with the Council of Environmental Quality August 23, 1979 (Reclamation, 1979). Bills were introduced in the Congress in 1979, 1981, and 1985 to authorize construction of the Bumping Lake enlargement, but the Congress did not take action (pages 1-17 to 1-18).

According to the 2012 Yakima Plan FPEIS:[48]

> This proposal is a modification of earlier proposals to expand Bumping Lake Reservoir. In the 1979 Proposed Bumping Lake Enlargement Supplemental Storage Division Yakima Project Final EIS (Reclamation, 1979) and the December 2008 Final PR/EIS, Reclamation evaluated an approximately 450,000 acre-foot reservoir. The 1979 proposal was not authorized by Congress. In the Final PR/EIS, Reclamation decided not to carry the proposed reservoir forward to more detailed study because of habitat impacts, proximity to the nearby William O. Douglas Wilderness, and problems with filling such a large reservoir (page 2-25).

In 2008 and 2009, the United States Forest Service (USFS) issued strong letters of concern to Ecology regarding a new 458,000 ac-ft Bumping Lake reservoir.[49] Even when the size of a proposed new Bumping Lake dam was reduced to 190,000 ac-ft, the Okanogan-Wenatchee National Forest continued to express concerns:

> **Who operates the Bumping Lake dam and manages the reservoir?**
> The U.S. Bureau of Reclamation operates the dam and reservoir. Reclamation and the Forest Service have mutual jurisdiction over the land around the reservoir. Reclamation holds the land around the reservoir as "withdrawn land" and it is represented as a strip of land which surround the lake one mile in width from the normal high water line. The lands around the lake are jointly managed by both agencies, with Reclamation's Yakima Field Office operating the dam and reservoir, and the Forest Service managing the recreation and land use around the reservoir.
>
> **How would the plan affect the Bumping Lake ecosystem?**
> Enlarging the Bumping Lake dam and raising the water level would flood considerable forest area, some of which may include critical habitat for the northern spotted owl. Removal of this habitat could also have an adverse effect on species dependent upon similar conditions. Deer, elk and numerous other species inhabit this area. Flooding of habitat and wildlife corridors could have adverse impacts on them.

[48] https://apps.ecology.wa.gov/publications/documents/1212002.pdf
[49] Letter from Randall D. Shepard, Naches District Ranger, USFS, to Derek Sandison, Department of Ecology, dated July 31, 2008; Letter from Randall D. Shepard, Naches District Ranger, USFS, to Derek Sandison, Department of Ecology, dated November 20, 2009.

Deep Creek and the Upper Bumping drainage are two of the few remaining areas that have truly significant old growth. What will happen to these trees? Will they be harvested?
The mouth of Deep Creek would be inundated with the enlargement and subject to fluctuations. The old growth trees would be harvested in areas where they would be inundated by water or conflict with the location of the new dam and related features. Mitigation measures would be implemented.
Okanogan-Wenatchee National Forest Fact Sheet, dated March 6, 2012.[50]

Since 2012, the only updated Bumping Lake report posted on the BuRec's Yakima Plan website[51] is a Ecology/OCR and BuRec *Yakima River Basin Water Enhancement Project Phase III Bumping Dam and Reservoir Enlargement – Data Gap Analysis Technical Memorandum* (Bumping Memo), released in February 2021.[52] The Bumping Memo reviewed a proposed new Bumping dam that would impound a reservoir of 193,300 ac-ft (page 1), but provided little in the way of new information. Of the 14 reference documents in the 2021 Bumping Memo, only three (two water quality and one wetland) documents are later than 2012 (page 11).

The Bumping Memo noted:

- As an important bull trout spawning area, further analysis of the potential inundation of Deep Creek would be required. The analysis would need to consider how inundation and dewatering would impact bull trout utilizing the creek (page 3).
- In addition to general concerns about wildlife habitat impacts, the terrestrial species of concern in the study area includes the northern spotted owl. NEPA and SEPA compliance would require concurrent preparation of ESA consultation documentation for activities with the potential to impact listed species. (page 3)
- The expanded reservoir has the potential to inundate existing recreational opportunities around the reservoir. (page 8). A *Yakima River Basin Study Environmental, Policy and Legal Barriers* (June 2011) document is referenced which "notes that recreational facilities would be constructed where possible, but it is unlikely that comparable replacement locations for the residences and the marina could be provided on Bumping Lake, given the steepness of the topography on the north and the proximity of the William O. Douglas Wilderness Area. Replacing recreation facilities such as the campground and boat launch would cause additional impacts on forested communities that could further adversely affect the listed and priority species and habitats known to occur in the vicinity" (page 9).

A new Bumping dam would have long-term adverse effects from habitat losses and shoreline recreational losses (*Yakima Plan FPEIS*, March 2012, page 2-12).[53] Among the recreational resources lost would be the flooding of US Forest Service (USFS) trails #970 (Swamp Lake Tr.) and #971 (Bumping Lk. Tr.). These are currently accessed from the end of the Bumping River Road / FS 1800. The trail to Swamp Lake within the William O. Douglas Wilderness is a 9.4-mile roundtrip.[54] The Bumping Lake trail also accesses the William O. Douglas Wilderness. The trail crosses into the Wilderness and travels south to access the Pacific Crest National Scenic Trail at Fish Lake.[55]

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[50] Yakima Workgroup, Meeting Notes, Attachments, March 14, 2021, https://www.usbr.gov/pn/programs/yrbwep/2011integratedplan/meetings/2012mtgs.pdf
[51] https://www.usbr.gov/pn/programs/yrbwep/2011integratedplan/
[52] https://www.usbr.gov/pn/programs/yrbwep/reports/2021bumpinggap.pdf
[53] https://www.usbr.gov/pn/programs/yrbwep/reports/FPEIS/fpeis.pdf
[54] https://www.wta.org/go-hiking/hikes/swamp-lake
[55] https://www.fs.usda.gov/recarea/okawen/recarea/?recid=58147

The Legislature required that the Washington Water Research Center prepare a *Benefit-Cost Analysis of the Yakima Basin Integrated Plan Projects,"* (WRC B/C) that was completed December 15, 2014.[56] The WRC B/C reviewed a 190,000 ac-ft reservoir created by a new dam downstream at a cost of $452.3 million (2012 dollars) generating a B/C ratio of only 0.18. (WRC B/C page 63, 121). In addition, the WRC B/C calculated that using the same assumptions used by Ecology/OCR and the BuRec to calculate Yakima Plan fish benefits and using the same four percent real discount rate and 100-yr timeframe, the new Bumping project would result in damages from lost old-growth forest of $1.85 billion. "If this value were included as a cost of Bumping Lake expansion, which it arguably could be, it would provide B/C ratios ranging from 0.05 to 0.02" (WRC B/C pages 108-109).

- **The Legislature should be concerned and note** that a new Bumping Lake Dam remains immensely uneconomical. It would have significant adverse impacts on irreplaceable carbon storage old-growth, Northern spotted owl and bull trout habitat, as well as recreational features that would be flooded and cannot be mitigated.

(3) New Wymer Dam

"Sage-grouse saved – project abandoned."

Despite being part of the 2012 Yakima Plan and having the Legislature authorize funds for land purchase for a proposed new Wymer dam (162,500 ac-ft) on Lumuma Creek. This proposed project would flood shrub-steppe greater sage-grouse habitat between Ellensburg and Yakima, but appears to have dead-ended. According to the 2021 Status Report:

> In May of 2022, after many years of collaboration and discussion with the Eaton Family and their legal counsel, detailed property evaluations and subsequent negotiations, proved unsuccessful in acquiring the property for the reservoir site at this time" (page 51).

Ecology/OCR and BuRec "aggressively pursued" this project despite the fact that in 2008, as part of the Yakima River Basin Water Storage and Feasibility Study, the BuRec had already concluded that alternative versions of Wymer Reservoir – with and without a pump exchange on the Yakima River – had benefit-cost ratios less than 0.08 and 0.33, respectively.[57] The Washington State Water Resource Center's 2015 B/C analysis for this project estimated the cost for a new Wymer dam at $1,331.2 billion with a benefit-cost ratio of 0.09.[58]

- **The Legislature should be concerned and note** that Ecology/OCR requested and received millions of dollars for land acquisition for a new Wymer Dam, without proper feasibility studies or environmental review.

(4) Springwood Reservoir - KRD

"A non-Yakima Plan Project"

Ecology/OCR's 2017 Status Report (page 21) noted that the Kittitas Reclamation District (KRD) conducted an initial water storage assessment to determine possible surface water storage

[56] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf/
[57] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf/ (page 10)
[58] https://wrc.wsu.edu/documents/2014/12/ybip_bca_swwrc_dec2014.pdf/ (page 3; Table 7, page 63)

locations within or adjacent to the KRD service area.[59] This resulted in questions concerning if and how new projects could be added to the Yakima Plan considering that in 2013, the Legislature had committed to paying for half of the total costs of the Yakima Plan (RCW 90.38(1)(a).

At the September 19, 2019, Yakima Workgroup meeting, Ecology/OCR and BuRec discussed an "Integrated Plan Adaptive Management/Plan Update Process," and presented a working draft, dated May 29, 2019. It proposed having Ecology/OCR, BuRec, and the Yakama Nation screen new projects. "Large new projects approved for advancement will be added to the [Yakima] Plan document at such time as Reclamation, the Yakama Nation and Ecology determine that the plan as a whole should be updated or amended."[60] However, as of August 1, 2024, no final plan adaptation process has been adopted.

At the December 9, 2020, Yakima Workgroup meeting, the Kittitas Reclamation District presented "additional proposed surface storage" projects: "Upper Yakima System Storage – New off-channel reservoir, 20,000 acre-feet" [later identified as the Springwood Reservoir project] and "North Fork Cowiche Creek Reservoir – New off-channel reservoir 30,000 to 35,000 acre-feet."[61] A cost estimate of $82 million for the Upper Yakima System Storage project was provided to the Yakima Workgroup on March 10, 2021.

By Dec. 8, 2021, Ecology/OCR and BuRec announced to the Workgroup that the Springwood Reservoir had been adopted as part of the Yakima Plan. This was done without any supplemental EIS. In addition, over a year later, the Workgroup meeting notes for Dec. 14, 2022, state:

> Public comment: Also in February 2021, HDR prepared a similar Technical Memorandum concerning compliance requirements for the construction and operation of new water storage projects at the Wymer Dam and Reservoir, Springwood Reservoir, and North Fork Cowiche Canyon Reservoir. https://www.usbr.gov/pn/programs/yrbwep/reports/2021newresgap.pdf. Have these reports been presented to the Yakima Workgroup? If not, why not?
>
> > Response: Thank you for your comment. These reports have been shared on Reclamation's website and will be shared with the YRBWEP Workgroup as part of our ongoing discussions on surface water storage element. (emphasis added).[62]

This documents that key Springwood Dam and North Fork Cowiche Canyon Dam proposal reports were NOT shared with the Workgroup, prior to Ecology/OCR and BuRec's "adoption" of this project into the Yakima Plan.

In 2023, without public comment or participation, Ecology/OCR, BuRec, and the Yakama Nation:

> . . .agreed to include Yakima Tieton Irrigation District's (YTID) proposal for change in the point of diversion to Wapatox and removal of the Tieton Diversion Dam as part of the [Yakima] Plan. In addition, Upper Yakima System Storage was also included as part of the Integrated Plan.[63]

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[59] https://apps.ecology.wa.gov/publications/documents/1812005.pdf
[60] Yakima Workgroup, Meeting Notes, March 13, 2019, "Working Draft," attachment.
[61] https://www.usbr.gov/pn/programs/yrbwep/2011integratedplan/meetings/2020mtgs.pdf, attachment
[62] Yakima Plan Workgroup meeting notes are posted at: https://www.usbr.gov/pn/programs/yrbwep/2011integratedplan/meetings/index.html
[63] YPIP Project Activity Update, Ecology/OCR and BuRec, November 2023, page 7.

The Trust for Public Lands purchased the Springwood Ranch in March 2023 with the idea that it would eventually be put into public ownership. The Legislature approved $24 million for the purchase from the trust in the 2023-25 Capital appropriations to purchase the land from TPL.[64] According to the 2021 Status Report: "KRD is currently working closely with partners to investigate funding options to move forward with a feasibility study for the project. As proposed, the volume of water held in Springwood Reservoir will benefit instream flows for fish in the Yakima River" (page 29).

However, in an April 2024, *Ellensburg Daily Record* article: "Urban Eberhart, secretary/manager of the Kittitas Reclamation District, said a $20.8 million feasibility study would be conducted for the proposed water reservoir." "'It's fish and farms,' said State Sen. Judy Warnick, a 13th District lawmaker."[65] Buried in the 2021 Status Report is the startling admission that instead of the $82 million project costs presented to the Yakima Workgroup in March of 2021, " . . .the KRD's proposed Springwood surface water storage project is expected to cost over $1 billion to construct and will likely take several biennia to complete the feasibility and design alone (2021 Status Report, page 48). (emphasis added)

According to the 2021 Status Report:

> Springwood Reservoir KRD is in the process of narrowing down potential sites for additional surface water storage in the upper Yakima River Basin. One potential site examined in the appraisal level Upper Yakima System Storage evaluation, the proposed Springwood Reservoir, would be located south of the Teanaway Community Forest and would have an estimated storage volume of between 20,000 and 68,000 ac-ft. . . . additional geotechnical investigation is planned as the proposed project moves into the feasibility phase after the Phase I Environmental Assessment is complete (2021 Status Report, pages 28-29). The initial geotechnical investigation at the site in 2019 was promising, and additional geotechnical investigation is planned as the proposed project moves into the feasibility phase after the Phase I Environmental Assessment is complete (2021 Status Report, pages 28-29) (emphasis added).

This proposed project is an example of Ecology/OCR and BuRec not only adding projects to the Yakima Plan but lobbying the Washington Legislature for funds to purchase land, prior to the completion of any site-specific EIS or feasibility study. This is similar to the embarrassment Ecology/OCR experienced by requesting Legislature funds from the Capital Budget for the purchase of all or part of the Eaton Ranch for the construction of a Wymer Dam project between Ellensburg and Yakima. After receiving the land purchase funds from the Legislature, the Eaton Ranch purchase did not go forward, forcing Ecology/OCR to return the funds to the State. (*See* Wymer Dam discussion above).

- **The Legislature should be concerned and note** Ecology/OCR's pattern of decision making and requesting funds for projects that have not received proper environmental, fiscal, or public review.

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[64] "Public Hearing planned for transfer of Springwood Ranch acreage to Kittitas County, Brian Kelly, *Yakima Herald-Republic*, May 30, 2024 https://www.yakimaherald.com/news/northwest/public-hearing-planned-for-transfer-of-springwood-ranch-acreage-to-kittitas-county/article_8cddbf6e-25cf-56b5-96f9-b8e52638eec1.html

[65] "Officials offer details on future ownership of Springwood Rang," Brian Kelly, *Ellensburg Daily Record,* April 20, 2024, updated, April 22, 2024

- **The Legislature should be concerned and note** the vague reservoir sizes and purposes for the Springwood Dam project - instream flows or flows and farms? Also, the various reservoir sizes: 20 – 68K ac-ft. Also, the initial cost projections of $82 million to over $1 billion. Also, despite the presentation that this is a KRD project, the state has already contributed $24 million for land purchase and under the 2013 State Legislation (RCW 90.38.120(1)(a), state taxpayers could be called on to pay the entire cost of this project. Also, as KRD was responsible for the state of affairs of fish, KRD irrigators should pay.

- **The Legislature should also be concerned and note** that Ecology/OCR, the BuRec, and the Yakama Nation have assumed the right to add projects to the Yakima Plan without formal public notice, comment, or participation, or approval of the Legislature, which has committed to paying for half the Yakima Plan implementation, including, apparently, projects beyond those initially listed in the 2012 Yakima Plan.

(5) North Fork Cowiche Creek Reservoir

"Yet another non-Yakima Plan project."

According to a February 2021 Ecology/OCR BuRec Technical Memorandum, North Fork Cowiche Creek Reservoir is a proposed off-stream water storage reservoir located approximately 0.5 mile upstream on the North Fork Cowiche Creek. This 35,000 ac-ft reservoir would increase available water supplies in the lower Yakima River Watershed (*Ecology/OCR BuRec Technical Memorandum, a North Fork Cowiche Creek Reservoir*, February 2021, page 2)[66]

This project, which was not part of the 2012 Yakima Plan, is hidden away in the 2021 Status Report. Table 4 displays $1.5 million of state appropriations from 2013-2025 for: "Misc. future surface water supply storage options". A footnote says, "Other State Land Acquisitions include Tieton Cattle Co./North Fork Cowiche Creek; and Heart of the Cascades/Manastash Block" (2021 Status Report, Table 4, pages 40-41).

- **The Legislature should be concerned and note** how projects that lack proper environmental review, feasibility reports, or public review pop up in Ecology/OCR estimated costs and budget requests.

(6) Cle Elum Pool Three-Foot Pool Raise

"Water for fish or water for irrigators?"

The 2021 Status Report fails to disclose that Congress authorized the Cle Elum Pool Three-foot pool raise in 1994 (P.L. 103-434), nearly twenty years before the 2012 Yakima Plan. Or that the radial gates for the project were not installed until 2017. Or that the needed shoreline stabilization won't be completed until 2026, over thirty years after the project was first authorized.

According to the 2021 Status Report:

> By extending the Cle Elum Dam radial gates by three feet in 2017, the Cle Elum Pool Raise project increases the storage capacity of the Cle Elum Reservoir by 14,600 ac-ft. Once shoreline stabilization work is complete, the additional 14,600

[66] https://www.usbr.gov/pn/programs/yrbwep/reports/2021newresgap.pdf

> ac-ft of water can be stored and will be released for augmenting instream flows in the Cle Elum and Yakima rivers and improving fish habitat. . . The remaining six shoreline stabilization design and construction work areas will be implemented as funds become available (2021 Status Report, page 33).

The Yakima River Basin's 1945 Consent Decree[67] "pooled" all Yakima River Basin natural flow, the BuRec's Yakima Reclamation Project's storage, and all other sources of surface water as "total water supply available" (TWSA) to supply the BuRec's water contract obligations and water rights. Under the Consent Decree, the additional water stored by the three-foot rise would be allocated first to Senior Irrigator Water Right holders during a drought year.

- **The Legislature should be concerned and take note** that although, in 1994, Congress authorized the three-foot rise for instream flows, this project has taken over thirty years to complete, and the 1945 Consent Decree has not been amended with the consent of the parties. In the past, irrigation districts have claimed that any additional storage at Lake Cle Elum should be allocated to irrigation districts in the event of a drought.

(7) Black Rock Reservoir

"*Not even the Columbia River is safe from water grabs."*

According to the BuRec's 2008 Yakima Storage study: "Columbia River water pumped from Priest Rapids Lake would be stored in a Black Rock reservoir to be constructed in the Black Rock Valley [east of Yakima]" (page 2-43).*[68]*

The 2012 Yakima Plan FPEIS states:[69]

> In 2003, Congress directed Reclamation to conduct a feasibility study of options for additional water storage in the Yakima River basin. . .[70] The authorization states that the study will place "… emphasis on the feasibility of storage of Columbia River water in the potential Black Rock Reservoir and the benefit of additional storage to endangered and threatened fish, irrigated agriculture, and municipal water supply." Reclamation began the Storage Study in May 2003. . . Reclamation understood that the congressional authorization for the 2003 Storage Study limited the range of alternatives that it could consider in the EIS to the Black Rock Reservoir and other potential storage facilities in the Yakima River basin. The alternatives considered by Reclamation were:
> - No Action Alternative;
> - Black Rock Reservoir Alternative;
> - Wymer Dam and Reservoir Alternative; and
> - Wymer Dam Plus Yakima River Pump Exchange Alternative. These storage facilities were referred to as the "Joint Alternatives" in the January 2008 Draft PR/EIS because they were advanced jointly by Reclamation and Ecology (pages 1-33 to 1-34).

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[67] *Kittitas Reclamation District, et al. vs. Sunnyside Valley Irrigation District, et al.,* U.S. District Court, Civil #21, 1945 (E.D. Wash)

[68] https://www.usbr.gov/pn/studies/yakimastoragestudy/reports/eis/final/volume1.pdf; *see also:* "New dam project on the Columbia could cost $1.6B," *Journal of Commerce,* November 23, 2001.

[69] https://www.usbr.gov/pn/programs/yrbwep/reports/FPEIS/fpeis.pdf

[70] Section 214 of the Act of February 20, 2003 (Public Law 108-7)

Ecology and the BuRec continued to push the Black Rock project despite a National Research Council report, *Managing the Columbia River: Instream Flows, Water Withdrawals , and Salmon Survival in the Columbia River Basin,* Water Science and Technology Board, 2004:[71]

> Of special interest in this study was consideration of the effects and risks to salmonid survival of a specific range of possible additional water withdrawals, ranging from 250,000 acre-feet per year to 1.3 million acre-feet per year. . .Decisions regarding the issue of additional water withdrawal permits are matters of public policy. . .Allowing for additional withdrawals during the critical periods of high demand, low flows, and comparatively high water temperatures identified in this report would increase risks of survivability to listed salmon stocks and would reduce management flexibility during these periods.

To facilitate the Black Rock project, on December 28, 2004, the BuRec notified Ecology of its intent to utilize the unappropriated waters of the Columbia River and its tributaries for the operation of storage and distribution facilities under the P.L.108-7 (the Yakima Basin Water Storage Study). The BuRec also filed a list for lands owned by the State of Washington to be reserved from sale that would be needed for Black Rock project right-of-ways.[72]

In December 2008, the BuRec issued a *Final Planning Report/Environmental Impact Statement Volume 1 Yakima River Basin Water Storage Feasibility Study.*[73] It included an analysis of a major new Black Rock reservoir. The proposed site is located approximately 5 miles west of the 586-square-mile Hanford Nuclear Reservation (page xii). The Black Rock Alternative involves a diversion and partial exchange of Columbia River water for Yakima Project water currently diverted by Roza and Sunnyside Divisions (Roza and Sunnyside) of the Yakima Project for irrigation. The operation objective was to maintain Black Rock reservoir at full active capacity (1.3 million acre-feet) to ensure the water exchange can be effected. Stored water would be conveyed to the lower Yakima Valley and delivered to Roza and Sunnyside's existing canals (page xvi). A probable cost estimate of $5.69 billion in April 2007 prices was given (page xvii). The BuRec concluded that the Black Rock reservoir project would have a negative benefit/cost of 0.13 (page xxix).

Despite the fact that the BuRec had completed its "examinations and surveys" under P.L. 108-7, the 2012 Yakima Plan FPEIS announced that "Reclamation and Ecology intend to conduct appraisal and, potentially, feasibility-level studies on other water supply enhancements, including the potential for an interbasin transfer from the Columbia River (page 2-25). In addition, the Yakima Basin Storage Alliance, a Yakima Workgroup member has continued to make pleas to Ecology/OCR and BuRec to resurrect the Black Rock project (*see* YBSA Monthly Report for June 2015).[74] In 2017, a BuRec representative confirmed to the Yakima Workgroup that "there is consideration of Columbia River water in the future."[75]

And on May 20, 2024, OCR issued an order captioned: "In the Matter of the Request of the Secretary of the Interior of the United States for an Extension of the Period of Withdrawal of the Unappropriated Waters of the Columbia River and its Tributaries Upstream from Priest Rapids

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[71] https://nap.nationalacademies.org/catalog/10962/managing-the-columbia-river-instream-flows-water-withdrawals-and-salmon
[72] Letter from J. William McDonald, BuRec Regional Director to Joe Stohr, Department of Ecology, dated December 28, 2004.
[73] https://www.usbr.gov/pn/studies/yakimastoragestudy/reports/eis/final/volume1.pdf
[74] https://ybsa.org/2015/07/
[75] Yakima Workgroup, Meeting Notes, December 13, 2017

Dam within the State of Washington." However, rather than limiting the extension of withdrawal to tributaries upstream from Priest Rapids Dam, the order extended "the time within which the United States is required to complete plans for the utilization of the withdrawn waters of the Columbia River and its tributaries and file applications for permits for the appropriation thereof be and is hereby extended to December 23, 2026.[76]

- **The Legislature should be concerned and note** that without notifying the Legislature, Ecology/OCR has granted the BuRec an extension of the period of withdrawal of the entire "Columbia River and its tributaries," not just the tributaries above Priest Rapids Dam.

(B) Lack of Aggressive Water Conservation in the Yakima River Basin

"No wonder. Water conservation/efficiency is voluntary."

In 1979, Congress passed P.L. 96-162, authorizing the Secretary of Interior to conduct a feasibility study of the Yakima River Basin Water Enhancement Project ([YRBWEP), which shall include an analysis by the United States Geological Survey (USGS) of the water-supply data for the Yakima River Basin.[77] In 1982, the BuRec issued a Phase 1 Feasibility Report.[78] No USGS analysis was included.

In 1994, Congress passed P.L. 103-424, Title XII (Phase II of the Yakima River Basin Water Enhancement Project) and required a Basin Water Conservation Program and a Basin Conservation Plan.[79] Congress established requirements that the Water Conservation Program achieve not less than **40,000 ac-ft** of water savings per year by the end of the fourth year of the Basin Conservation Program, and not less than **110,000 ac-ft** of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than **55,000 ac-ft** of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation. *Sec. 1201(4).*

This means that in 1994, Congress required a total of **165,000 ac-ft** of conserved water by the eighth year of the Basin Conservation Program. These YRBWEP targets have still not been met.[80] And despite these Congressional targets, BuRec considered this a "voluntary program" (*Final Planning Report/Environmental Impact Statement Volume 1 Yakima River Basin Water Storage Feasibility Study*, December 2008, page 1-19).[81]

In December 2007, Ecology issued a *Technical Report on the Enhanced Water Conservation Alternative for the Yakima River Basin Water Storage Feasibility Study*, No. 07-11-044.[82] While the report did not identify any past irrigation district water conservation measures that have been implemented, the report estimated the total water savings in the Yakima River basin for all water conservation projects listed in the report to be 229,199 ac-ft per year. *Ecology, Technical Report No. 07-11-044, December 2007, page 15.*

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[76] Order and Determination Granting Extension of Time, Department of Ecology, May 20, 2024
[77] https://www.usbr.gov/pn/programs/yrbwep/authorization/publiclaw96-162.pdf
[78] https://www.usbr.gov/pn/programs/yrbwep/reports/phase1/1982phase1.pdf
[79] https://www.usbr.gov/pn/programs/yrbwep/authorization/amended-legislation.pdf
[80] According to a Bureau of Reclamation letter of September 4, 2015, the 1994 authorized Basin Conservation Plan, resulted in **only 40,000 ac-ft** of water savings for instream flows and **13,000 ac-ft** for irrigation. In addition, two districts have not installed water measuring devices (the Bureau did not say which ones).
[81] https://www.usbr.gov/pn/studies/yakimastoragestudy/reports/eis/final/volume1.pdf
[82] https://usbr.gov/pn/programs/storage_study/reports/07-11-044/Enhanced_Conservation_Report.pdf

The 2012 Yakima Plan "Enhanced Water Conservation Element" is found in Section 2.4.8. The scope of this element was to supplement, but not duplicate the conservation activities funded under YRBWEP Phase II. The Yakima Workgroup modeling estimated that the agricultural water conservation program would conserve approximately **170,000** ac-ft of water in good water years and substantially less in drought years.

The 2017 Status Report to the Legislature (due Dec. 1, 20217, but not issued until May 2018)[83] states:

> The Integrated Plan water conservation element consists of additional water conservation actions not included under YRBWEP Title XII. Through projects under this element, the Integrated Plan now conserves over 2,000 ac-ft. of water per year (2017 Status Report, page 18).

The 2019 Status Report to the Legislature (due December 1, 2019, but not issued until April 2020)[84] did not provide the Legislature with any updates on meeting water conservation/efficiency targets, mentioning only a five-mile-long pipeline on the Wapato Irrigation Project that replaces an aging and leaky concrete pipeline (2019 Status Report, page 1).

Also, in 2019, at the request of Ecology and the Yakima irrigators, Congress passed P.L. No. 116-9 (S. 47), [85] which designated the Yakima Plan as Phase III of the 1979 Yakima Riber Basin Water Enhancement Project (YRBWEP) (Sec. 8201(b)). This also created endless confusion as P.L. No. 116-9 also required an initial development phase, and intermediate and final phase. This legislation also

- Authorized negotiation with proratable irrigation entities for the non-Federal financing, constructing, operation, and maintenance of the Kachess Drought Relief Pumping Plant; a Keechelus Reservoir to Kachess Reservoir pipeline (Sec. 8201(c)); and
- Authorized funding for water conservation projects not subject to the provision of the 1994 Basin Conservation Program by providing 85,000 ac-ft of conserved water to improve tributary and mainstem stream flow, and for aquifer storage and recovery projects (Sec. 8202(A)(7). P.L. No. 116-9.

However, by 2020, Ecology/OCR and BuRec were listing Yakima Plan Initial Development Phase (2013-2029) water conservation at only 85,000 ac-ft by 2029, with an overall Yakima Plan goal of 170,000 ac-ft. This ignored the water conservation targets provided by Congress in 1994 or the 229,199 ac-ft per year of water savings estimated in 2007. In 2020, Ecology/OCR and BuRec reported that from 2013-2020 only ~34,951 ac-ft of water had been conserved (41% of the 85,000 ac-ft 2029 goal).[86]

The 2021 Status Report states:

> The Enhanced Water Conservation element focuses on gaining water savings through upgrading and enhancing water delivery systems by reducing leaks, changing out old irrigation methods with more efficient irrigation technologies, removing heavily water dependent landscaping by installing water-wise landscaping, and more. Water savings gained through this element benefits

[83] https://apps.ecology.wa.gov/publications/documents/1812005.pdf
[84] https://apps.ecology.wa.gov/publications/documents/1912005.pdf
[85] https://www.congress.gov/bill/116th-congress/senate-bill/47/text
[86] Yakima Workgroup Meeting, June 11, 2020, "Enhanced Water Conservation" handout

> instream flows, drought resiliency, streamline operations and maintenance work, and reduces water delivery costs (delivering less water over time) (page 11).

While the 2021 Status report claims that 58,869 ac-ft of water per year was saved in 2020-2021 through conservation (pages 1 and 54) it gives a conflicting number of 58,750 ac-ft per year of water savings from 2013 including projects completed or currently in progress:

> Since the implementation of the Integrated Plan began in 2013, projects completed or currently in progress will conserve an estimated 58,750 ac-ft. annually, with 20,985 ac-ft (35 percent) benefitting instream flows, 26,450 ac-ft. (45 percent) improving drought resiliency and operations and maintenance work, and 11,315 ac-ft. (20 percent) supporting conservation on the [Wapato Irrigation Project] WIP (Figure 3) (2021 Status Report, page 11).[87]

- **The Legislature should be concerned and take note** when Ecology/OCR comes to the Legislature counting projects "currently in progress" as a way of artificially increasing efforts to meet water conservation targets.

- **The Legislature should be concerned and take note** that the "Enhanced Water Conservation Element" fails to include water savings from better crop section. A June 24, 2024, *Seattle Times* reprint article from the *Tri-City Herald* reported that "Washington hop growers are dramatically curtailing production amid a crushing glut and chilling demand for both craft and commercial beer. . .Growers 'strung' about 33,000 acres in 2024." This was a 15 percent drop from 2023, "which was already reduced by 10%. . a record hops harvest in 2021 [a non-food crop] contributed to a massive oversupply."[88] This record 2021 harvest occurred at the same time that Ecology issued a near state-wide drought alert.[89]

- **The Legislature should be concerned and take note** of the Congressionally imposed 1994 Yakima River Basin water conservation targets.

- **The Legislature should be concerned and take note** how Ecology presents water conservation goals in the Yakima River Basin. Especially as the Ecology continues to request funding for Yakima River Basin projects under two separate accounts (YRBWEP) and (Yakima Plan).

- **The Legislature should be concerned and take note** that RCW 90.38.100 requires these Status Reports to be provided to the Legislature and Governor by Dec. 1 of odd number years. This is to ensure that the Legislature has up-to-date information available for the Capital Budget and Seante Ways and Means committee to respond to budget bequests. The Legislature should be concerned and take note that instead, in addition to not providing an opportunity for public participation and comment, the delay in providing status reports hides the prior two years of status report from review when a new Biennial Legislature session opens.

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[87] https://apps.ecology.wa.gov/publications/documents/2112009.pdf
[88] "Hop growers challenged by oversupply less demand," Wendy Culverwell, *Tri-City Herald,* reprinted in *The Seattle Times,* June 25, 2024, page A9
[89] https://ecology.wa.gov/about-us/who-we-are/news/2021/2021-drought-declaration

(C) Market Driven Water Reallocation

"Another voluntary program."

Market Driven Water Reallocation is one of the seven elements of the Yakima Plan. The 2021 Status Report states:

> Water markets provide water right holders a way to buy, sell, or lease water from one another on either a temporary or permanent basis. This provides a wide range of benefits to the farms, families, and fish in the Basin. There is a financial incentive for water right holders to improve their irrigation systems to become more efficient in exchange for water they conserve to be offered for sale in a market where others can acquire the water through mitigation credits. This conserved water supply provides communities with water reliability opportunities to meet future demands and irrigators with a more drought resilient supply. Conserved water may also be converted from low-value uses to high-value uses during times of drought or low system flows. It is estimated that 30,000 to 60,000 ac-ft. of water could be traded in a Yakima River Basin water market.
> KRD and Trout Unlimited released the Yakima Basin Water Market Strategy in September 2022.[90] This document provides a strategy to improve upon existing water market activities in the Yakima Basin including the development of a smart market that will streamline and automate key steps in the buying and selling of water rights (2021 Status Report, page 35).

Under the Yakima River Basin's 1945 Consent Decree[91] the Total Water Supply Available (TWSA)[92] was allocated to Seniors – (100%, Proratable, and Juniors).[93] A goal of the Yakima Plan is to ensure that Proratables receive up to 70 percent of their water delivery during a drought year. If Proratables are willing to accept 70 percent in a drought year, then the Senior Districts have the same capability. Reallocation of water was identified as part of the solution over 40 years ago. Instead, Ecology proceeded with a Yakima River Basin water adjudication that cemented in place the disparities between Senior and Proratable irrigation districts.

In addition, proratable Yakima irrigation districts, such as the Roza Irrigation District, have become adapt at broadcasting out cries for help during a drought year. For example, in May 2024 when the BuRec Yakima River Basin supply forecast that Roza would receive only 54 percent of its entitlement,[94] Roza was telling its own irrigators something entirely different on its website:[95]

> Does a 54% supply forecast mean that I will receive 54% of my water allotment?
>
> No! The full monthly allocation is available from April 1 until the date of prorationing. When the water supply is forecast at 54% that means that Roza is expected to receive 54% of its remaining 375,000-acre foot entitlement from the

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[90] https://yakimabasinwatermarketing.org/
[91] *Kittitas Reclamation District, et al. vs. Sunnyside Valley Irrigation District, et al.,* U.S. District Court, Civil #21 (E.D. Wash)
[92] WAC 173-539A-030 – TWSA Definition
[93] Senior rights are those that existed prior to the development of the Yakima Project and receive first priority for water deliver. Proratable rights share the priority date of the Yakima Project. Junior rights were established after the Yakima Project after May 10, 1905. KDRPP and KKC FEIS, March 2019, pages 1 to 3. https://www.usbr.gov/pn/programs/yrbwep/reports/FPEIS/fpeis.pdf
[94] https://www.usbr.gov/newsroom/news-release/4817
[95] https://roza.org/wp-content/uploads/2024/05/Roza-Drought-Year-Water-Supply-Facts-FAQ.pdf

date of prorationing to Sept. 30. The supply percentage is based on Roza's 375,000-acre foot entitlement rather than actual diversions. Roza usually diverts around 300,000-acre feet each season (80% +/- of the full entitlement) which means that 54% of the full Roza entitlement equates to 67.5% of typical April 1 to October annual diversions. Also, before the date of prorationing/storage control, the full scheduled allotment is available based on natural flow in the Yakima River being able to meet all irrigation demands. This means that in a 54% year, and if storage control starts in mid-May, a Roza water user will be able to receive around 70% -75% +/- of their normal water allotment, depending on how the season unfolds. Leases/purchases by Roza add to this amount. An October allocation also adds to this amount.

- **The Legislature should be concerned and take note** that when a Study Team issued a report to Ecology/OCR and the BurRec concerning Phase I of the YRBWEP in August 1982, it found under "Reallocation of Water":

> "Several reallocation potentials exist. State adjudication of the Yakima basin could alter the supply to which each water user is entitled. Reallocation possibilities should be investigated."[96]

And as the 1992 National Research Council's report on *Water Transfers in the West* concluded about the Yakima River basin: [97]

> . . .pressures for reallocation have not been great enough to induce significant use of these measures. Thus one lesson that can be drawn from the Yakima case is that markets will not reallocate water from agricultural to other uses, such as tribal or environmental, without a substantial judicial or legislative change in the allocation rules, backed by an infusion of public or private resources. . . (page 182).

- **The Legislature should be concerned and take note** that water reallocation cannot depend on merely voluntary measures.

(D) Fish Passage

"Irrigators destroyed fish runs. They should pay for restoration."

According to a BuRec September 2008 Cle Elum and Bumping Lake Dams Fish Passage Facilities Planning Report – Draft, page 13:

> Estimates of the historic abundance of the several species of salmon and steelhead in the Yakima River basin vary widely. Estimated historic abundance of spring Chinook salmon range from about 55,000 to 200,000; for summer Chinook salmon, from 86,000 to 100,000; for fall Chinook salmon, from 50,000 to 100,000; for coho salmon, from 44,000 to 150,000; for sockeye salmon, up to 211,104; and for steelhead from 24,000 to 80,000 (Yakama Nation 2001). This results in an estimated historic abundance ranging from 470,000 to 841,000 for all adult salmon and steelhead.

[96] https://www.usbr.gov/pn/programs/yrbwep/reports/phase1/1982phase1.pdf
[97] https://nap.nationalacademies.org/catalog/1803/water-transfers-in-the-west-efficiency-equity-and-the-environment

> It is estimated that by 1900, prior to construction of the Project storage dams, the number of returning anadromous salmonid adults to the Yakima River basin had been reduced by about 90 percent, compared to historic runs (Davidson 1965, as cited in Tuck 1995). Salmon and steelhead runs continued to decline as a result of loss of habitat above the lakes and other anthropogenic activities and by 1920, only an estimated 11,000 adults returned to the Yakima River basin (USBR 1979, as cited in Tuck 1995), a reduction of more than 98 percent of the historic run (NPCC 1990). [98]

The 2021 Status Report states:

> Fish passage projects are vital to restoring depleted fish runs in the Basin. The goal is to provide access to crucial cold water spawning and rearing grounds for returning anadromous adult fish and restore the ability of these fish to migrate out to the ocean to begin their next stage of life. In partnership with the Yakama Nation, Ecology and Reclamation are moving forward with multiple fish passage projects on Clear Lake, Cle Elum Reservoir, and Tieton Dam (2021 Status Report, page 30).

After several years of experimentation with an adult fish transport tube, "Whooshh," that potentially could pass adult fish over the Cle Elum dam,[99] in 2017, the BuRec abandoned this project, reverting back to a trap and hall facility to artificially assist any returning adult fish into Lake Kachess.[100]

Instream flows, however, continue to take a backseat in the Yakima River Basin. The Yakima Plan FPEIS states:

> During the development of the Integrated Plan, the YRBWEP Workgroup formed a subcommittee with representation from Yakima River basin fisheries interests to recommend instream flows for specific reaches of rivers and streams affected by the operation of the Yakima Project. The subcommittee recommended flow objectives for those reaches and recommended which of the reaches is the highest priority for flow modification (Reclamation and Ecology, 2011f). The Integrated Plan operational modeling did not include all of the flow objectives prepared by the subcommittee (page 5-9).

(1) Cle Elum Dam

"Is there fish passage without fish?"

The 2021 Status Report states:

> The Cle Elum Dam Fish Passage project will allow juvenile and adult fish to pass by the dam () in a range of reservoir water levels during their migration season. Facilities construction began in 2015. The intake ramps and helix fish transportation structure started taking form in spring of 2019. To date, construction of the secant vault that will hold the helix, the two lowest level intake ramps, and the downstream bypass tunnel is complete. The juvenile fish passage

[98] https://www.usbr.gov/pn/studies/fishpassage/planningreports/draftplanningreport.pdf
[99] https://www.usbr.gov/research/st/bulletins/1662-Bulletin.pdf
[100] Yakima Workgroup, Meeting Notes, September 20, 2018

> facility will use surface flows from the reservoir to attract juvenile fish to the intake ramps that lead to the smooth-flowing water in the helix.
>
> From the helix, fish enter into the bypass tunnel at the base of the dam that takes them straight to the Cle Elum River and on their way out to the ocean. Construction of the adult collection facility will start in July 2024. This facility will capture migrating adult fish, that are returning from the ocean, before they reach the dam and funnel them to a truck that will haul and deposit them above the dam into upstream tributaries so they can reach their spawning and rearing grounds. This project will reopen 30 miles of upstream habitat for salmon, steelhead, and other fish in Cle Elum River and its tributaries. Even with delays caused by the COVID-19 pandemic, the Cle Elum Fish Passage project is on schedule for completion in 2026 (pages 30-31).

The 2013-2025 budget for the Cle Elum Fish Passage project is listed as $219.5 million, with $71.4 million from state taxpayers (2021 Status Report, Table 4, page 31). Ecology/OCR and BuRec are aware that high temperatures have been a thermal barrier to upstream fish migration in order to reach the Cle Elum trap and haul operation. For example, The U.S. Army Corp of Engineers are working with Ecology, WDFW and Mid-Columbia Fisheries Enhancement Group (MCFEG) on environmental review and early design for the removal of the Bateman Island Causeway at the mouth of the Yakima River (2021 Status Report, page 20). This project was not part of the 2012 Yakima Plan.

However, the hundreds of millions spent on the Cle Elum Fish Passage project would have proved futile in 2015:

> . . . a sad summer for sockeye — hundreds of thousands of fish returning to the Columbia Basin hit unprecedented warm water and died far short of their spawning grounds. Only 300 made it up the Yakima River by waiting until September for water to cool enough to make the journey.[101]

or in 2021:

> . . .Bureau of Reclamation project manager Richard Vissar said the unusually hot summer still posed a serious threat. "This year, we actually had lower Yakima River water temperatures into the 80s," Visser said. "Salmon just can't live in that."[102]

- **The Legislature should be concerned and take note** of the possibility that the hundreds of millions of dollars funding the Cle Elum Fish Passage will be wasted if returning sockeye salmon cannot return due to high temperatures in the lower Columbia and Yakima Rivers and that taxpayers, rather than the irrigation districts responsible for the destruction of the Yakima River Basin's sockeye salmon, are funding this project.

[101] https://www.yakimaherald.com/news/local/drought-was-rough-on-sockeye-and-future-could-be-an-upstream-battle/article_c3574d1e-68cf-11e5-92de-8f6fa08e7611.html
[102] "Extreme summer heat puts enormous strain on salmon in Columbia River," Luke Thomson, *Yakima Herald-Republic*, September 10, 2021, updated September 14, 2021.

(2) Clear Creek Dam Fish Passage

"More engineering, because fish love engineering."

In April 2024, the BuRec released a Final Environmental Assessment (FEA) of a Clear Creek Dam Fish Passage project. As described in the FEA, Clear Creek Dam was built in 1914 without fish passage. The North Fork Tieton River flows into Clear Lake with a small 5,300 ac-ft capacity and continues below the dam; it is designated critical habitat for bull trout. A population of bull trout spawns in the North Fork Tieton River above the dam and many North Fork Tieton fish migrate downstream from the dam, where they find favorable rearing, foraging, and overwintering habitat in Rimrock Lake downstream. However, returning adult bull trout to spawn are blocked by the Clear Creek Dam. When the dam was rebuilt in 1992, two fish ladders were added which were a complete failure (pages 1 and 5).[103]

The 2021 Status Report provides only a minimal summary of this project:

> The Clear Creek Dam Fish Passage design is at 90% and consists of a traditional pool-and-weir, or fish ladder, style fish passage design. There is a steel bulkhead at the upstream end of the structure to draw up cool water from deeper in the reservoir. This will maintain suitable water temperatures for migrating bull trout. The fish ladder design was completed in 2021 and environmental compliance and permitting will be completed by the end of 2024.
> In the meantime, U.S. Fish and Wildlife Service, Reclamation and WDFW will continue bull trout capture efforts below Clear Creek Dam and haul the fish to the North Fork Tieton River spawning and rearing grounds (upstream of the Clear Creek Dam). Captured fish are reared in facilities until they are large enough to release back into the North Fork Tieton River to spawn. Since 2016, 104 captured young bull trout have been raised to adult size and released into the North Fork Tieton River (page 32).

The BuRec issued a NEPA Environmental Assessment and FONSI on this project in April 2024.[104] On June 6, 2024, Ecology issued a public notice requesting public comment concerning the adoption under SEPA of the Bureau of Reclamation's EA and FONSI for the proposed project with a comment deadline of June 24, 2024.

However, the same day, prior to the close of SEPA comments or response to comments, the BuRec issued a Road Closure Notice for the Clear Creek Dam Fish Passage Project.

- **The Legislature should be concerned and take note that** Ecology allowed the BuRec to jump the gun, prior to compliance with SEPA and that Ecology/OCR and that the BuRec refused to consider the alternative of removal of Clear Creek Dam and restoration of the ecosystem and instead chose an expensive fish ladder engineering project.

[103] https://www.usbr.gov/pn/programs/clearcreek/documents/CCDFP_EA_4-16-2024_508.pdf
[104] https://www.usbr.gov/pn/programs/clearcreek/documents/CCDFP_EA_4-16-2024_508.pdf

(3) Lake Kachess - Box Canyon Creek Fish Passage

"Still more engineering, because fish love still more engineering."

Prior to the BuRec's construction of the Kachess Dam, bull trout had access to Box Canyon Creek. After dam construction, the withdrawal of water for irrigation dropped the level of the new Lake Kachess, creating a separate upper and lower Lake Kachess. This resulted in Box Canyon Creek disappearing into mudflats as it entered upper Lake Kachess. USFWS/WDFW have attempted to artificially restore connectivity by the placement of plastic and hay bales to create a channel out from Box Canyon Creek. This has often resulted in the dispersion of plastic and hay bales into Lake Kachess. In addition, connectivity between upper and lower Lake Kachess would be further adversely impacted by the proposed Lake Kachess pumping plant project (see below).

The 2021 Status Report states:

> Ecology continues to provide input to Reclamation, WDFW, Roza, and other fish passage restoration experts on the Box Canyon Creek Fish Passage Enhancement Project. This project will enhance spawning habitat in the upper Yakima River Basin by improving channel roughness and placing large wood debris in strategic locations in Box Canyon Creek. It will also provide a portion of the mitigation required under KDRPP. The designs for this project are currently 60% complete (2021 Status Report, page 32).

- **The Legislature should be concerned and note** that Ecology/OCR's "aggressive pursuit" of new water supplies continues to put listed ESA species such as bull trout in jeopardy by pushing structural engineering solutions.

(4) Lake Kachess Narrows Fish Passage

"*Let's make things worse for bull trout."*

The KPP FEIS also identifies a new threat to bull trout from the Kachess Pumping Plant project:

> As the pool elevation of Big Kachess is drawn below 2,200 a steep shelf is exposed that impedes passage for resident bull trout in Big Kachess. To encourage resident bull trout migration through the Narrows during drought relief pumping and refill, the project proponent(s) would construct a fish passage facility between Little Kachess and Big Kachess. Figure 2-6 provides a conceptual site plan for the proposed Volitional Bull Trout Passage Improvements at the Narrows. The construction elements include a roughened channel, flow weir, isolation berm and slope stabilization soldier pile wall. (FEIS, page 2-22).

However, the 2021 Status report, appears to backtrack:

> The USFWS are conducting a study on bull trout trap and haul measures utilized at Tieton, Bumping, Kachess, and Keechelus dams. Results of this study will guide the potential design of a mobile steep pass to collect bull trout at Kachess Narrows, concurrent with the implementation of KDRPP. Data analysis is ongoing (2021 Status Report, page 28).

- **The Legislature should be concerned and take note** that rather than restoring fish, such as bull trout, to a more natural ecosystem condition, Ecology/OCR persist in proposing expensive, untried, structural solutions.

E. Water Quality

"Fish need clean water."

Forty years ago, in 1984, the BuRec reported:

> Water quality in the lower reaches of the Yakima River and tributaries is severely degraded. Standards set for acceptable levels of fecal coliform, temperature, turbidity, nitrates, and orthophosphates are exceeded at times in all reaches of the river below the towns of Cle Elum and Naches. The most severely affected reaches are below Sunnyside Dam where recommendations and standards on dissolved oxygen, nitrites, and ammonia concentrations cannot be met. Nonpoint source pollution appears to be the major factor causing reduced water quality. There is a need to improve agricultural practices and water management to reduce pollution from agricultural sources. (*Yakima River Basin Water Enhancement Project, Washington - Damsite and Structure Review Team Report* - Bureau of Reclamation Boise, Idaho January 1984, page 8)[105]

Yet, nearly four decades later, according to a 2022 Ecology report:

> For decades, high temperatures and suspended solids, turbidity, DDT, and other pesticides have been documented in the Lower Yakima. As a result, several reaches of the Lower Yakima and several of its tributaries do not meet Washington State water quality criteria. (, Quality Assurance Project Plan Lower Yakima River Monitoring for Aquatic Life Parameters to Support Water Quality Gaging) [106]

And according the 2021 Status Report, vital water quality information remains "disjointed and stored in multiple state, federal, and other databases." Only now are the Benton County Conservation District (BCCD) and Washington State University at Tri-Cities working on developing a comprehensive Yakima Basin Water Quality Inventory database of streamflow rates, water temperature, and dissolved oxygen levels on the Yakima River mainstem and tributaries (2021 Status Report, page 21).

Because Ecology/OCR is so focused on "aggressively pursuing" new water supplies, improving water quality is not one of the listed seven elements of the Yakima Plan Final Programmatic EIS. The long-term net water quality benefits from the Yakima Plan are merely improvements to streamflow conditions, riparian areas, and floodplain habitat (FPEIS, page 2-47).[107]

In the meantime, in June 2024, Environmental Protection Agency (EPA) and the Department of Justice filed a lawsuit in U.S. District Court alleging that three large dairies north of Granger failed to adequately control nitrate contamination from their operations.[108]

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[105] https://www.usbr.gov/pn/programs/yrbwep/reports/phase2/damsitereview.pdf
[106] https://apps.ecology.wa.gov/publications/documents/2203111.pdf
[107] https://apps.ecology.wa.gov/publications/documents/1212002.pdf
[108] "EPA files complaint against three Yakima Valley, Daires," by Tammy Ayer, *Yakima Herald-Republic,* June 28, 2024

- **The Legislature should be concerned and note** that the Yakima Plan has failed to focus on water quality and that Region X EPA is not a member of the Yakima Work Group.

(III) ICICLE STRATEGY AND DAMS IN THE ALPINE LAKES WILDERNESS

"Not even our National Wilderness Areas are safe."

The 2016 Power Report documented Ecology/OCR's determination to pursue "aggressive development of new water storage" in the Alpine Lakes Wilderness in the central Cascade Mountains through the establishment, with Chelan County, of an Icicle Strategy. The 2019 Icicle Strategy Final Programmatic Environmental Impact Statement (FPEIS) states:

> IPID [Icicle-Peshastin Irrigation District] and USFWS [US Fish and Wildlife Service] operate seven alpine lakes in the Icicle Creek Subbasin to augment water supply for irrigation and fish propagation. IPID operates Klonaqua, Square, Eightmile, and Colchuck Lakes, and the USFWS manages Upper and Lower Snow Lakes and Nada Lake. The reservoirs are all enhanced natural lakes with small dams and other control infrastructure at their outlets. These dams and associated infrastructure, such as control gates or valves and low-level outlet pipes or tunnels, were installed in the 1920's though 1940's, allowing IPID and the USFWS to capture and store additional runoff during the winter and spring for release during the late summer low-flow period. Flows released from Square, Klonaqua, Eightmile, and Colchuck Lakes allow IPID to maintain irrigation diversions during the late summer low-flow period on Icicle Creek. Flows released from the Snow Lakes and Nada Lake supply water to LNFH [Leavenworth National Fish Hatchery] and allow the USFWS to meet instream flow obligations. Nada Lake and Upper and Lower Snow Lakes are operated primarily for water supply to LNFH and to maintain instream flows. IPID also has storage rights in Upper and Lower Snow Lakes for irrigation. Storage and release of water from the Alpine Lakes are authorized by state-issued water rights (Icicle Strategy, FPEIS, page 2-51).[109]

In addition, the City of Leavenworth's surface water certificate authorizes an instantaneous quantity (Qi) of diversion of 1.5 cfs from Icicle Creek (FPEIS, page 1-37).[110]

Ecology/OCR's quest for Wilderness water was triggered in 2012 by the City of Leavenworth's state court appeal of an Ecology decision limiting the City's water right withdrawal from Icicle Creek.[111] The appeal was stayed pending the development of a "Yakima Plan" like Icicle Work Group[112] headed by Ecology/OCR and Chelan County.[113] In June 2015, the Icicle Work Group proposed to alter its decision process from consensus to majority vote, and adopt a rule that members must screen their opinions with the Icicle Work Group before publicly airing them. As a

[109] https://apps.ecology.wa.gov/publications/documents/1812016.pdf
[110] https://apps.ecology.wa.gov/publications/documents/1812016.pdf
[111] https://iciclestrategy.com/sites/default/files/2023-03/LeavenworthvEcology.pdf
[112] Similar to the OCR Policy Advisory Group, the Yakima Workgroup, and Walla Walla Basin Advisory Committee (WWBAC), the limited number of Icicle Work Group members are carefully selected and controlled.
[113] https://iciclestrategy.com/sites/default/files/2023-03/LeavenworthvEcology.pdf

result of this "gag rule," one of the Icicle Work Group members, the Center for Environment Law and Policy and other environmental groups, resigned from Icicle Work Group when these amended procedures[114] were adopted in July 2015.[115]

The 2019 FPEIS, evaluating the Icicle Strategy, focused on a rebuild of the over 90-year-old Eightmile Dam, within the Alpine Lakes Wilderness. Wildfire, storm events, ice, and flooding have damaged the Eightmile Dam structure. (FPEIS, pages 1-1 and 1-10). A follow-up 2020 Eightmile Dam Environmental Assessment (EA) and request for scoping comments, noted that Eightmile Lake is one of four lakes in the Alpine Lakes Wilderness managed by IPID to provide water storage and stated:

> The FPEIS evaluated five program alternatives, and the SEPA non-project action was the adoption of the program called to Icicle Strategy, intended to provide a program of integrated long-term water resource management and habitat restoration actions. The Eightmile Dam Rebuild and Restoration Project is one of several early actions to be implemented as part of the Icicle Creek Strategy, and as such is the first project level EIS undertaken in this phased review process under SEPA.[116]

In 2020, Ecology/OCR proposed that the IPID transfer part of its water right from Eightmile Lake to the city of Leavenworth, although this would require a quantification of IPID Eightmile Lake water right and whether a portion of this water right had been relinquished due to non-use.[117] However, in 2023, the City and Ecology entered into a settlement agreement of the City's appeal, in which the City seemingly abandoned its legal demands for additional withdrawals from Icicle Creek or the use of Eightmile Dam water from IPID.[118] According to one analysis, Ecology/OCR chose this option due to Ecology/OCR's refusal to lower the I-PID's Eightmile Dam water right (relinquishment) for fear of political repercussions.[119]

On June 21, 2024, Ecology issued a FEIS for the *Eightmile Dam Rebuild and Restoration*, selecting Alternative 2 as its preferred alternative.[120] Alternative 2 includes replacement of the existing dam with an earthen embankment and reinforced concrete dam with a primary spillway length of 180 feet. (page 2-13). The decrepit Eightmile Dam currently has an active storage volume of approximately 1,151 ac-ft, roughly 540 ac-ft less than the lake's historical maximum potential operational capacity of 1,698 ac-ft (page 4-24). Now Ecology/OCR is focused on how high to rebuild Eightmile Dam as the preferred alternative assumes 2,000 ac-ft of water storage after the rebuild (page 1-11;Table 2-1, page 2-2). Significantly, "This analysis does not include a review of the validity and extent of surface water rights and does not determine the validity of quantities of water that are authorized for use under such water rights" (page 4-7).

- **The Legislature should be concerned and note** that by giving Ecology/OCR the task to "aggressively" develop new water supplies, Ecology/OCR has determined that NO new water source, including those in our National Wilderness Areas are safe or protected. An Eightmile Dam rebuild with a greater capacity is at odds with the

[114] https://naiads.blog/wp-content/uploads/2016/02/final-amended-iwg-operating-procedures-070915.pdf
[115] https://naiads.blog/wp-content/uploads/2015/09/celp-iwg-letter-final.pdf
[116] https://fortress.wa.gov/ecy/ezshare/ocr/eightmile/ScopingDS.pdf
[117] https://iciclenetwork.com/newsletter/why-switch-water-leavenworth
[118] https://www.yoursourceone.com/columbia_basin/leavenworth-and-wa-ecology-reach-historic-water-rights-settlement/article_1cb557da-9a17-11ee-add7-cfd409c35c4e.html#:~:text=The%20Icicle%20Work%20Group%2C%20comprising%20various%20government%20agencies%2C,City%20and%20Ecology%2C%20thereby%20avoiding%20further%20legal%20disputes
[119] https://iciclenetwork.com/newsletter/why-switch-water-leavenworth
[120] https://apps.ecology.wa.gov/publications/documents/2412004.pdf

National Wilderness Act. And Colchuck, Upper and Lower Snow, Nada, Klonaqua, and Square Lakes remain threatened by Ecology/OCR as their "mission" works to discourage reducing water demand.

(IV) WALLA WALLA BASIN PARTNERSHIP

"Meetings, plans, audit, rinse and repeat?"

The 2016 Power Report did not include a section on the Walla Walla Basin, as at the time a separate Walla Walla Watershed Management Partnership developed its own aggressive pursuit of water supplies beginning in 2009, independent of Ecology/OCR. This became such a fiasco that the Legislature required a Performance Audit by the Office of the Washington State Auditor, which was completed in May of 2020:

> The Walla Walla watershed, whose largest river has headwaters located in Oregon, supports critical farming, endangered species habitat, and tourism, yet more people have legal rights to the water than actual water exists. . . Codified in 2009 (RCW 90.92), the Walla Walla Watershed Management Partnership [WWWMP] was originally a 10-year pilot allowing water management through a locally focused, collaborative approach without the Department of Ecology's usual regulatory oversight. *Performance Audit,* Office of the Washington State Auditor, Report Number: 1025998, May 12, 2020 (page 3). [121]

In 2019, the state Legislature passed Senate Bill 5352, extending the WWWMP through June 30, 2021, and tasked the WWWMP and Ecology to develop a 30-year water management plan for the Walla Walla Basin.[122]

The previous "collaborative approach," turned out to be a failure according to a 2020 Office of the Washington State Auditor Performance Audit.[123] "The Partnership did not explicitly identify improving streamflow as a core goal despite clear statutory intent, and board members agree that streamflow did not improve" (Performance Audit, page 3). In addition, "the Partnership lacked sufficient funds to implement strategies necessary to improve streamflow, but failed to fully exercise its authority to pursue additional revenue" (*Performance Audit, page 4).* And instead of addressing the root water supply problem of over demand or focusing on conservation, the WWWMP set out in pursuit of extremely expensive new dams or water pumping project such as storage and uphill water pumping from the Columbia River at a cost estimate of $59-$463 million (*Performance Audit, page 21).* In its 2021 Walla Walla Water 2050 Strategic Plan Report to the Legislature (RCW 90.92), Ecology/OCR is again doubling down on aggressive pursuit of new water supplies, including the Columbia River Pump Exchange and two new water storage reservoirs (Pine Creek Reservoir and Warm Springs Reservoir) (page 31).[124]

- **The Legislature should be concerned and note** that by giving Ecology/OCR a mission to "aggressively" pursue new water supplies, that this has become Ecology/OCR's de facto go to solution, whether in the Walla Walla, Yakima, or Icicle River Basins, including within our National Wilderness Areas.

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[121] https://sao.wa.gov/sites/default/files/audit_reports/PA_Assessing_Success_WWWMP_Pilot_ar1025998.pdf
[122] https://apps.ecology.wa.gov/publications/documents/2112011.pdf
[123] https://sao.wa.gov/sites/default/files/audit_reports/PA_Assessing_Success_WWWMP_Pilot_ar1025998.pdf
[124] https://apps.ecology.wa.gov/publications/documents/2112011.pdf

CONCLUSIONS

"Waters of the state belong to the public and can't be owned by any individual or group."[125]

Ecology/OCR and the BuRec have aggressively pursued new water supplies projects that are uneconomical and environmentally damaging. A review of past OCR-Policy Advisory Group and Yakima Workgroup "meeting notes" over the last decade depicts a crabbed approach that ignores lessons that may be learned from California or other Western states facing similar problems.

There has been a refusal to recognize what is happening in our neighboring state of Oregon which is engaging in modernizing its water code from now through the 2025 legislative session. This stems from the realization that most Oregonians derive little benefit from exported irrigated crops that harm water sources. *No, We're Not There Yet: Modernizing the Conventional Wisdom A Review of Water Governance and Water Management*, Christopher Hall, Water League – July 2024.[126]

It is time for the Washington State Legislature to also take seriously the task of modernizing its water code, to restore optimum (not minimum) instream flows for fish, to stop exporting irrigated non-food crops consuming the public's water in Washington State, and to focus on benefits to the public, rather than on benefits to irrigators.

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APPENDIX A

2016 Power Consulting, Inc., findings:[127]

a. **A significant amount of the approximately 400,000 acre-feet of water that the Office of Columbia River (OCR) reports as having been "developed" during the first decade of OCR's operations is not from "new" water supply production.**

b. **The approximately 400,000 acre-feet of water that the Office of Columbia River (OCR) reports as having been "developed" during the first decade of**

[125] https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights
[126] https://drive.google.com/file/d/1PDl7mWXcJVhO-hxzWfv-QJR_MT8ue1hh/view
[127] http://ucrsierraclub.org/pdf/OCR-Power-Report_12-3-2016%20.pdf

OCR's operations is, for the most part, not water that currently has been put to productive use.

c. **There are hundreds of millions of additional taxpayer investment dollars that would be required over the next decade or more before all of that OCR "developed" water can actually be put to productive use**.

d. **Listing water as "developed" when financing has not been arranged to put that water to use exaggerates OCR's accomplishments and understates the costly taxpayer investments that will be required to put that water to use.**

e. **The OCR and BOR funded Yakima Plan is based on speculative fish production benefits to justify funding large and expensive surface water storage facilities.**

f. **Doing an aggregate benefit-cost analysis on the Yakima Plan, as the OCR and BOR chose to do, hides projects that generate major net costs among those that generate net benefits.**

g. **To economically justify large Yakima Basin surface storage projects, the enhanced instream flows facilitated by those surface water storage projects would have to be implausibly effective at increasing salmon production and/or the incremental salmon production would have to be assigned indefensibly high economic values.**

h. **In addition, within the Yakima Basin, it would be far less costly to provide the planned enhanced in-stream flows through the buying of water rights that divert water flows to out-of-stream uses, leaving the water in the rivers rather than building new or expanded large surface water storage facilities.**

i. **The proposed surface water storage projects OCR envisions being carried out in the Yakima Basin over the next three decades would be very expensive to Washington State and its citizens, costing Washington taxpayers as much as $2 billion.**

j. **The proposals to actively manipulate the level of many lakes in the Alpine Lakes Wilderness through the construction of new dams, modification of other dams, and installation of mechanical and motorized equipment within a well-known and spectacular National Wilderness Area need critical economic scrutiny.**

k. **OCR's 2105 Columbia Basin Water Supply Inventory Report begins with an explicit criticism of the efficacy of water conservation efforts and an argument in support of giving priority to investments in surface water storage, the most expensive elements of the OCR's plans. OCR's critique of the efficacy of water conservation compared to building surface water storage facilities is misleading in several ways.**

i. OCR's critique equates water conservation with improvements in the efficiency with which water is applied to crops. There are many other important types of water conservation besides improving the efficiency of irrigating crops.
ii. Even in the context of efficiency in the amount of water applied to crops, that improved efficiency can moderate the impact of irrigation on in-stream flows at the points of diversion. It can also reduce the loss of water to evaporation, evapotranspiration, and deep water aquifers.
iii. Low in-stream flows due to irrigation withdrawals often lead to efforts to enhance the in-stream flows by building more surface storage to be used to maintain in-stream flows. For instance, about half of the planned surface water stored by the proposed Wymer Dam and Reservoir would be used to enhance in-stream flows rather than delivering water to out-of-stream uses like irrigation.
iv. OCR's own analysis of a broad range of water conservation projects demonstrates that water conservation can provide water for out-of-stream uses in a cost-effective manner.

k. Over the past 10 years, the OCR has wasted millions of dollars on new dam studies for projects that have been demonstrated to be uneconomical with substantial adverse environmental impacts.

l. Over the past 10 years, the OCR has wasted millions of dollars on new dam studies for projects that have been demonstrated to be uneconomical with substantial adverse environmental impacts.

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APPENDIX B

BuRec Report to Congress – YBIP Five-Year Progress Report 2024

The 2019 Dingell Act carried a very general request for a five-year "progress report" on the Yakima Plan from the BuRec to Congress.[128]

Section 8201(b)(5) required:

> Progress report.--Not later than 5 years after the date of enactment of this Act, the Secretary, in conjunction with the State and in consultation with the Yakama Nation, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a progress report on the development and implementation of the Integrated Plan.

[128] https://www.congress.gov/bill/116th-congress/senate-bill/47/text

The BuRec released a short report in March 2024 (unlike Ecology, at least the BuRec met their reporting deadline). However, the BuRec never brought this report to the Yakima Workgroup or provided public comment opportunities. Nor has BuRec posted this report to its Yakima website.[129] It is mostly narrative and devoid of any measurements of "success" with the exception of how much land has been purchased and some irrigation district water conservation. It fails to quantify how much the Yakima Plan has contributed to in-stream flows for fish. And there is no mention that Ecology will not meet its water supply June 30, 2025, requirement of having permits for development of 214,000 ac-ft of new water supply. The progress report:

- Confirms that water quality is not a primary goal or element of the Yakima Plan despite mention of poor water quality in the Yakima Basin (pp. 10-11, 13, 23, 28, 40, 41, 44-45).
- Falsely claims that the Yakima Plan has advanced fish passage at Bumping Lake, Kachess, and Keechelus (p. 14).
- Confirms that the Cle Elum fish passage downstream helix was tested with 'electronic sensor fish' (p. 14).
- Fails to disclose the costs or who pays for the KRD Tributary Supplementation (p. 23)
- Fails to disclose the costs or who pays for the Manastash Tributary Supplementation (p. 24)
- Lists three surface water storage projects that were not part of the 2012 Yakima Plan. In addition, the BuRec/Ecology have failed to finalize a Yakima Plan Adaptation Process
  - Upper Yakima (Springwood Reservoir) (p. 32)
  - North Fork Cowiche Creek
  - Mid-Lower Yakima

  (p.29)
- States that the Roza Irrigation District (and perhaps the KRD-WIP-KID) would fund, design, construct, and operate the Lake Kachess Pumping Plant. However, there is no mention of who would pay to mitigate the Upper/Lower Kachess fish barrier (p. 30).
- Has an inadequate description of the Box Canyon bull trout mitigation description of "passage flues" that have resulted in straw and plastic being discharged into Lake Kachess (p. 30).
- Fails to disclose that the Wymer dam project would flood shrub-steppe habitat for sage groups (p. 31).
- Fails to disclose that the Bumping dam project would flood bull trout habitat and destroy ancient forests valued at $1.85 billion dollars (p. 31).
- Fails to provide cost figures for the KRD Upper Yakima _- Springwood reservoir or to disclose a reservoir size, which now ranges from 20,000 to 100,000 ac-ft (p. 32).
- Confirms that "Spawning streams are difficult to access due to reservoir drawdowns during the fall when bull trout spawn" (p. 43).
- Confirms that the Yakima Delta – Bateman causeway removal project was not part of the 2012 Yakima Plan, but rather is being funded by Sec, 1135 WRDA 1986 and the Corps (pp. 44-45).
- Confirms that since 2013, only 63,000 ac-ft of water have been saved under the Enhanced Water Conservation Element (73% of interim goal of 85,000 ac-ft from Dingell Bill (p. 46).
- Confirms that $8.5 million of taxpayer money is being used for KRD water conservation (p. 47).
- Confirms that the KID has received taxpayer money in the form of WaterSmart funding but doesn't say how much (p. 48).
- Contains a faulty Yakima Plan history, as Ecology prepared the Yakima Plan prior to the establishment of a Yakima Workgroup in June 2009 (p. 51).

[129] A copy is available by request to: Bureau of Reclamation, Columbia-Cascades Area Office, 1917 Marsh Road, Yakima, WA 98901