

WASHINGTON STATE DEPARTMENT OF ECOLOGY MEMORANDUM

Date: 12-3-2020

To: Laura Watson, Ecology Director

From: Mary Verner, Water Resources Program Manager

Re: Recommendation to Adopt WRIA 49 Watershed Plan Addendum

Summary

The Water Resources Program (Program), based on its analysis of the locally approved Water Resource Inventory Area (WRIA) 49 Watershed Plan Addendum (Addendum), **recommends that Ecology adopt this Addendum as described in RCW 90.94.020(4)(c).**

This memorandum provides the Water Resources Program's analysis and recommendations regarding Ecology's action required pursuant to the Streamflow Restoration Act, RCW 90.94.020(c).

As required under this law, the Program has reviewed the locally approved WRIA 49 (Okanogan River Basin) Addendum and recommends that Ecology adopt this Addendum as described in RCW 90.94.020(4)(c). The Program reviewed the Addendum, in accordance with the requirements of RCW 90.94.020(4)(b) and (c), and programmatic guidance.¹ We determined that the “...actions identified in the watershed plan, after accounting for new projected uses of water over the subsequent twenty years, will result in a Net Ecological Benefit [NEB] to instream resources within the water resource inventory area.”²

Based upon a thorough review of the Addendum, it is the Program's position that the WRIA 49 Planning Unit (Planning Unit) used reasonable and scientifically-sound methods to forecast new, permit-exempt domestic consumptive use for the next twenty years. The Planning Unit forecasted 578 new permit-exempt domestic wells, an average watered yard size of 0.14 acres, with a projected consumptive use per well of 0.35 acre-feet per year (AFY). The Planning Unit forecasted the total consumptive water use impact of these projected permit-exempt domestic wells to be 203 AFY. The Planning Unit identified and detailed 21 projects in their Addendum to offset the impacts and achieve an NEB.

The Program's recommendation is reinforced by the Addendum's inclusion of the Antoine Valley

¹ Final Guidance for Determining Net Ecological Benefit - GUID-2094 Water Resources Program Guidance - July 31, 2019 - Publication 19-11-079

² RCW 90.94.020(4)(c)

Ranch (AVR) acquisition³ and the Methow Beaver Project's Restoring Streamflow after Wildfire in Okanogan and Methow River Sub-basins, both selected for funding under the 2020 Streamflow Restoration competitive grant round. For the AVR acquisition, Ecology awarded 2020 competitive grant funds to Western Rivers Conservancy, in partnership with the Confederated Tribes of the Colville Reservation (CTCR), to assist with the purchase of the 2,524 acre ranch with approximately 1,200 acre feet of water rights, and 500 acre feet of reservoir rights. This project provides a unique opportunity to improve and re-time flows in Antoine Creek, benefiting native rainbow trout and Endangered Species Act (ESA)-listed Columbia Basin summer steelhead, and will provide a quantity of water offset which far exceeds the projected impacts of future permit-exempt domestic well water use, through 2038. Funding of the Methow Beaver Project reinforces reasonable assurances that the Addendum achieves a NEB, by restoring degraded stream channels impacted by wildfire, using process-based restoration strategies such as beaver dam analogs and engineered log jam installations, riparian plantings, and beaver relocation.

As discussed below and in the attached Ecology technical review report, the Program is sufficiently assured that the work described in the Addendum will offset the anticipated impacts from permit except domestic wells over the next two decades, and result in a NEB to instream resources within WRIA 49.

Authorities

RCW 90.94.020(c) requires the WRIA 49 Planning Unit (as well as several other planning groups around the state) to prepare an addendum to their existing Watershed Plan. This law requires each of these Planning Units to forecast the impacts of permit exempt wells from 2018 to 2038, and to identify projects and actions to offset those impacts. Planning Units must then submit a locally approved Addendum to Ecology. Ecology's statutory deadline for action on such an Addendum is February 1, 2021. Prior to adopting any such Addendum, Ecology is required by RCW 90.94.020(4)(c) to "...determine that actions identified in the watershed plan, after accounting for new projected uses of water over the subsequent twenty years, will result in a net ecological benefit to instream resources within the water resource inventory area."

To support the work of the Planning Units, Ecology issued *Final Guidance for Determining Net Ecological Benefit* (NEB Guidance) in July 2019. Ecology's NEB Guidance provides that Ecology makes a Net Ecological Benefit determination if the "anticipated [benefits] to occur through implementation of projects and actions in a plan to yield offsets that exceed impacts within: a) the planning horizon; and, b) the relevant WRIA boundary⁴." Advisory support was provided throughout the process by Ecology staff, led by Vanessa Brinkhuis. This supplemented the financial support Ecology provided to support the Planning Unit's work.

WRIA 49 Background

The Okanogan River⁵ originates in British Columbia, and flows through four lakes (Okanagan,

⁴ Final Guidance for Determining Net Ecological Benefit - GUID-2094 Water Resources Program Guidance - July 31, 2019 - Publication 19-11-079

⁵ The spelling of Okanogan changes to Okanagan once in Canada.

Skaha, Vaseaux, and Osoyoos) before crossing into the State of Washington. The Okanogan Basin contains about 2,600 square miles (1.65 million acres) in the State of Washington, and 6,300 square miles within the Province of British Columbia. WRIA 49 encompasses the Okanogan River Basin within the United States, including the lowermost reaches of its primary tributary, the Similkameen River, and numerous other perennial and intermittent tributaries to the Okanogan (Figure 1). The Okanogan River runs south from Canada through Lake Osoyoos near Oroville, WA, for approximately 70 miles through Okanogan County, before joining the Columbia River. The Similkameen River also originates in Canada, flowing south from the border and then east from Nighthawk, WA for approximately 20 miles, to its confluence with the Okanogan River near Oroville, WA. The main stem Okanogan and Similkameen Rivers and several key tributaries are designated critical habitat for ESA-listed salmonids in WRIA 49.

The watershed is characterized by mountainous terrain, with elevations ranging from about 840 feet above mean sea level (amsl) at the confluence of the Okanogan with the Columbia River, to 8,245 amsl feet at Tiffany Mountain and 7,257 feet amsl at Mount Bonaparte, the highest points on the western and eastern sides of the WRIA, respectively. The watershed lies within an ecologically diverse region that includes dry highlands habitat, open shrub steppe lands, and pine and fir forests. Agriculture and the majority of economic activity consist primarily of hay and tree fruit crops, commercial timber, and cattle. Irrigated agriculture is the predominant land use on the valley floors of the Okanogan River, as well as in several tributary drainages. CTCR lands comprise the southeastern portion of WRIA 49, on the east side of the Okanogan River, south of Riverside, were excluded from Planning Unit forecasts since these lands and are outside of the jurisdiction of Chapter 90.94 RCW.

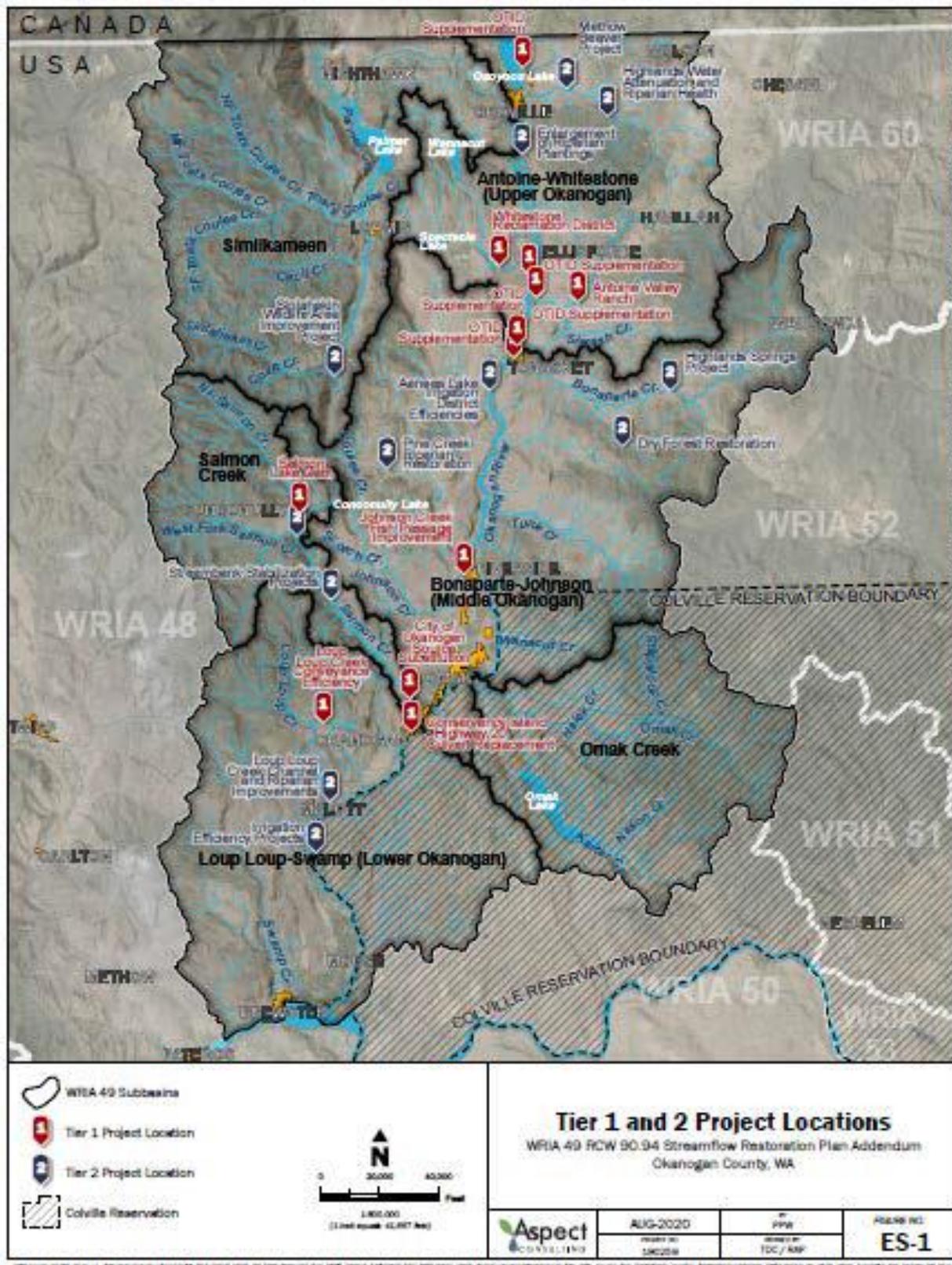


Figure 1. WRIA 49 subbasins, and Tier 1 and Tier 2 project locations (Figure ES-1 in Addendum).

WRIA 49 Planning Unit Process

In 1988, Chapter 173-549 WAC established minimum flows in four stream management units (three on the Okanogan River and one on the Similkameen River) and seasonal closures on all perennial streams in WRIA 49 to new water right appropriations, except for those with established minimum instream flows (limited to the main stem Okanogan and Similkameen rivers). The Washington Legislature passed the Watershed Planning Act (Chapter 90.82 RCW) in 1998, which led to the development of the WRIA 49 Watershed Plan; written by the Planning Unit, which was comprised of representatives from local and state governments, special interest groups, and citizens. At that time, the CTCR declined to participate. The Planning Unit reconvened, with the inclusion of CTCR, and started work on the Addendum in 2019, soon after RCW 90.94 was passed. Ecology staff participated in Planning Unit meetings to assist in the development of this Addendum.

The WRIA 49 Initiating Governments for the watershed planning process included Okanogan County Planning and Development (Okanogan County), which served as the Lead Agency for this process, the City of Omak, and the Oroville-Tonasket Irrigation District (OTID). The Planning Unit voting members were comprised of the initiating governments, municipal water right holders, private water right holders, non-government organizations, special interest groups, as well as private citizens. A number of non-voting entities, comprised of state, federal, tribal governments and non-government organizations, also participated in the planning process as Technical Advisors⁶ to the Planning Unit. The initiating governments and voting Planning Unit members worked together to draft and finalize the WRIA 49 Planning Unit Operating Procedures during the first three Planning Unit meetings. The Operating Procedures⁷ defined the roles and units of government, general conduct, meeting structure, decision-making, voting member status and membership.

Following the initiation of the planning in October of 2018, a total of 24 Planning Unit meetings were held, as well as a two-day technical workshop, with Planning Unit participation in support of the collaborative process involved in preparing the Addendum. Planning Unit Meeting agendas, meeting minutes and support materials were made available throughout the process and are accessible on the Okanogan County's website <https://www.okanogancounty.org/planning/>.

The WRIA 49 Planning Unit has a significant history working together and as such, their planning process reflected the long standing relationships, alliances, and differing perspectives. The final stages of the WRIA 49 process are briefly summarized below as it illustrates the character of the group, their good-faith working relationship and unique approaches. Additional details can be provided if necessary.⁸

- July 31, 2020 draft Addendum distributed to the Planning Unit on, requesting written comments by August 20, 2020.

⁶ The CTCR were invited to participate in the planning process as voting members, and CTCR decided to participate in a technical advisory capacity.

⁷ For the WRIA 49 planning process, Addendum approval followed the standard decision-making procedures in the WRIA 49 Planning Unit Operating Procedures.

⁸ As a technical and policy advisor to the Planning Unit, Ecology abstained from all votes related to approval of the Addendum.

- August 13, 2020 Planning Unit met to review the draft Addendum and discuss preliminary comments and associated red lined edits ahead of the comment due date. At this meeting, the Okanogan County Farm Bureau (OCFB) representative asked to submit a Minority Report to add to the Addendum. Upon review of the Operating Procedures, it was clarified that while there is no mention of the role for a Minority Report in the planning unit's procedures, a member may submit a written statement explaining their opposition to any non-consensus vote- and that comments would be placed in the minutes, not in the Addendum itself.⁹ Consequently, the Planning Unit opted to not include the Minority Report in the Addendum, and recommended it be submitted and added to the meeting minutes as part of the planning record.
- August 27, 2020 Planning unit met to review comments¹⁰ received and associated edits to the draft Addendum. No Planning Unit member expressed concerns or objections to the draft Addendum or the conclusion that the plan will result in an NEB. The final draft Addendum was distributed ahead of the next meeting.
- September 3, 2020 Planning Unit met and following their Operating Procedures, addressed last minute comments and suggested edits. Once the Addendum language was finalized, the Planning Unit unanimously passed the motion to move the Addendum forward for SEPA review.
- September 15, 2020 Okanogan County, as lead planning entity, announced a Public Hearing on the adoption (i.e., approval) of the Addendum, followed by a two week comment period. This comment period was not required by Ecology and was undertaken by Okanogan County to fulfill their local meeting requirements.
- September 28, 2020 Okanogan County held a meeting and reviewed comments received during the Public Hearing, took additional in-person public comments, and distributed a draft Joint Resolution to be signed by the WRIA 49 Initiating Governments.
- October 1, 2020 Planning Unit met to formally vote on the Addendum approval and because of the remote meeting requirements in place due to the pandemic, verbally authorized the signing of their names to an Addendum approval recommendation letter addressed to the Initiating Governments. The Minority Report was discussed and members clarified that it was not to be considered a document produced by the Planning Unit nor was it to be included as part of the Addendum. The Planning Unit affirmed these perspectives and that it was officially considered as having been submitted as a public comment and filed as part of the public record for

⁹ Throughout the planning process, the OCFB raised various objections to Ecology's interpretation of RCW 90.94, the operating procedures of the Planning Unit, as well as a variety of other topics, but the Addendum was ultimately approved unanimously, including by the OCFB. Every time objections were formally raised, Ecology, likewise, provided formal responses. In addition to comments on the Addendum, the OCFB submitted a Minority Report for Okanogan County consideration regarding the adoption of the Addendum, on behalf of Planning Unit members who signed, including the OCFB, Landowner North, Water Rights Holders-Private South, City of Tonasket, Okanogan County Horticulture Association, Okanogan PUD No.1, and Whitestone Irrigation District. The Minority Report detailed concerns with Ecology, the Initiating Governments, and facilitator that were raised in the letters received by Ecology from the 7th Legislative District and the OCFB, and disagreements with Ecology's Streamflow Restoration Policy and Interpretive Statement.

¹⁰ Comments were received from the City of Omak, OCFB, OTID, City of Okanogan, Okanogan Highlands Alliance, and Ecology staff.

Okanogan County's consideration on their approval of the Addendum. The Planning Unit had a lengthy discussion of the Addendum and the proposed approval recommendation letter and negotiated mutually agreeable language. The Planning unit voted, by consensus, to add their names and organizations to the approval recommendation letter which was subsequently finalized and distributed to the Planning Unit.

- October 5, 2020 the Vice President of the OCFB sent the Planning Unit a letter requesting the removal of their representative's signature and support of the Addendum. Upon review of the Planning Unit's Operating Procedures, it was clarified that the formal votes could not be altered. It was also clarified that the vote was properly held and all voting members were provided every opportunity to vote for or against the Addendum, and during the second round of discussions (as the Operating Procedures require), no objections were made. Consequently the Planning Unit rejected OCFB's request but did record their letter and request as a comment for the public record.
- October 12, 2020, the Okanogan County Planning Commission announced a second Public Hearing to be held on October 19 and that comments would be received up to the date of the hearing. Again, this comment period was not required by Ecology and was undertaken by Okanogan County to fulfill their local meeting requirements.
- October 19, 2020 the Okanogan County Planning Commission held the announced public hearing and Okanogan County discussed the Joint Resolution already signed by the other Initiating Governments (OTID and City of Omak) for the Commissioners consideration of plan approval. The Okanogan County Board of Commissioners signed the Joint Resolution on October 20th, formally documenting the local approval of the Addendum.
- October 23, 2020 on behalf of the planning unit, Okanogan County formally submitted the WRIA 49 Plan Addendum and associated materials to Ecology.

Technical Review of WRIA 49 Plan Addendum

This section of the memorandum summarizes the attached Technical Review Report (TRR) prepared by the Program's technical experts, who were also extensively engaged in supporting the planning work of WRIA 49. The TRR forms the technical basis for the Program's recommendation to adopt the Addendum.

Program staff finds that the WRIA 49 Addendum submitted by the Planning Unit meets the requirements of chapter 90.94 RCW by identifying projects and actions necessary to offset the potential consumptive use associated with new permit-exempt domestic well withdrawals anticipated through 2038, and achieve a NEB in the WRIA. The Addendum follows Ecology's Guidance for determining NEB (Publication 19-11-079), and provides ample information for Ecology to make its own determination.

Although not required under the RCW, the Planning Unit conducted its own NEB evaluation that relied on an existing Okanogan Ecosystem Diagnosis and Treatment (EDT) model. The Okanogan EDT model is a life cycle-based habitat model that synthesizes data and information about fish habitat conditions into quantitative metrics, and is well suited for this purpose. Based on that

modeling and other information presented in the Addendum, the Planning Unit concluded that the plan will provide a NEB to the Okanogan River Basin by implementing projects that will fully offset, and substantially exceed, the consumptive use impacts, while also increasing the habitat potential for steelhead, summer/fall Chinook salmon, and resident fish in most subbasins.

Ecology conducted its NEB evaluation relying upon two methods, a ledger-style comparison of anticipated detriments to benefits, and an evaluation of the EDT modeling results.

The ledger-type evaluation, compared the magnitude and spatial distribution of anticipated detriments caused by consumptive water use associated with new permit-exempt domestic wells, with the likely benefits of the proposed offset projects. On a WRIA-wide basis, anticipated new consumptive water use will be small (about 203 AFY) compared to anticipated benefits from the proposed Tier 1 water offset projects (up to a 2,786 AFY).

Ecology's evaluation of the Okanogan EDT modeling results found the approach reasonable in its application and quite conservative in its extrapolation. Those results predict significant net increases in adult and juvenile steelhead abundance in every subbasin, except the Similkameen where the effects from new permit-exempt domestic wells are anticipated to be small (10 AFY) with a modeled effect of less than one adult and juvenile fish. Modeling results also predict that adult and juvenile summer/fall Chinook salmon will increase at the WRIA scale.

Therefore, Program staff conclude that the WRIA 49 Addendum is thorough and well executed, and uses reasonable and scientifically-sound methods when conducting the analyses presented. This strategy is well integrated with existing and current watershed protection and restoration efforts, and includes a robust implementation and adaptive management strategy that clearly indicates the Planning Unit's goal to successfully implement the plan. For these reasons, we conclude the WRIA 49 Planning Unit has provided sufficient assurances that the Addendum will provide significant improvements to stream resources within WRIA 49 and achieve a NEB.

Recommendation

In summary I concur, based upon the Program technical staff's analysis of the locally approved WRIA 49 Watershed Plan Addendum, with the Planning Unit's conclusions and therefore recommend that Ecology adopt this Addendum as described in RCW 90.94.020(4)(c).