Alpine Lakes Protection Society - Endangered Species Coalition
Kittitas Audubon Society - Federation of Western Outdoor Clubs
The Mazamas - North Cascades Conservation Council
Sierra Club - Western Lands Project – Western Watersheds Project

January 1, 2012

Bureau of Reclamation
Columbia-Cascades Area Office
Attention: Candace McKinley
Environmental Program Manager
1917 Marsh Road
Yakima, WA 98901

RE: Draft Programmatic Environmental Impact Statement for the Yakima River Basin Integrated Water Resource Management Plan
Via Email to: yrbwep@usbr.gov

Dear Ms. McKinley:

We have reviewed the Draft Programmatic Environmental Impact Statement (DPEIS) for the "Integrated Water Resource Management Plan, Yakima River Basin Water Enhancement Project", Benton, Kittitas, Klickitat, and Yakima Counties, Washington, issued by the Bureau of Reclamation (BuRec) and the Washington State Department of Ecology (Ecology). *76 FR 71070 (November 16, 2011)*. In addition to compliance with the National Environmental Policy Act (NEPA), the DPEIS must also comply with the State Environmental Policy Act (SEPA).

GENERAL COMMENTS

Procedures and Due Process

* The DPEIS (cover letter, page 1) states that BuRec and Ecology "working with the Yakima River Basin Water Enhancement Project (YRBWEP) Workgroup," developed the proposed Integrated Plan. We object to the manner in which the BuRec and Ecology funded this Workgroup.

Q. What was the selection process for the "Workgroup?"
Q. Were any organizations denied membership in the "Workgroup?"
Q. Why did the BuRec choose to form a "Workgroup" rather than use the existing Yakima River Basin Conservation Advisory Group, established under the Federal Advisory Committee Act?

Q. What is the total amount that has been spent by the BuRec and Ecology on the "Workgroup" from 2009 through current?

Comment period.
* The BuRec and Ecology have allotted a 49-day comment period, which is an inadequate time for comments. We fail to understand the haste by which the BuRec and Ecology are proceeding. The scoping comment period was held from April 2, 2011, to June 14, 2011.
Q. Why are the BuRec and Ecology allotting far less time for comments on the actual DPEIS than they did for the scoping process?

Workgroup Subcommittees
Q. Why did the BuRec and Ecology allow Workgroup Subcommittees to meet without public notice?
Q. Please list all Workgroup subcommittees and the dates of all Workgroup subcommittee meetings.

Workgroup Proposal
The "Workgroup" proposal (April 11, 2011) Sec. 3.1.3 called for an evaluation of a Columbia River to Yakima Basin transfer that would involve an initial screening step and subsequent feasibility study. The DPEIS now states that because the Columbia River Pump Exchange proposal is a study and not a proposed project at this time, it is not analyzed in this DPEIS.
Q. How does the decision to exclude a Workgroup proposal from the DPEIS comply with NEPA/SEPA?
Q. Who made this decision?

The "Workgroup" proposal (April 11, 2011) Sec. 3.1.5 called for targeted watershed protections and enhancements. On Dec. 5, 2011, after the beginning of the DPEIS comment period, the Watershed Lands Conservation Subcommittee released its proposal, which now includes the establishment of National Recreational Areas on National Forest Service land focusing on motorized recreation.
Q. How does the decision to add a Subcommittee proposal submitted after the beginning of the DPEIS comment period comply with NEPA/SEPA?
Q. Who made this decision?

Reliance on New Dams and Storage
Since the 1979 passage by Congress of the Yakima River Basin Enhancement Project, the BuRec and Ecology have failed for over 30 years to seriously address issues of water-spreading, water-pricing, water

metering, project repayment, surplus crops, and water conservation in irrigation districts in the Yakima Basin.

We remain strongly opposed to efforts to construct massive new water storage dams for irrigators in Eastern Washington. Projects such as the Bumping Lake Enlargement would flood ancient forest roadless land within the Wenatchee National Forest. The Bumping Lake Enlargement and Wymer Dam proposals would likely cost over two billion dollars if they were ever built. These projects have been studied repeatedly over the last three decades and have failed to generate a positive benefit/cost ratio or Congressional authorization. During this same time period, Yakima irrigation districts have only been asked to undertake voluntary water conservation and have yet to pay off the existing BuRec's Yakima Basin Project.

As recently as December 2008, the BuRec concluded that a Bumping Lake Expansion should be dropped from its Yakima River Basin Water Storage Feasibility Study for the following reasons:

> "The William O. Douglas Wilderness Area, approximately 170,000 acres, is adjacent to the existing Bumping Lake. None of the reservoir enlargement options that have been considered were within the Wilderness Area boundary. However, a common concern voiced was that the enlarged reservoir would be visible from various vantage points and detract from the scenic vistas and aesthetic value of the Wilderness Area through reservoir drawdown and exposure of the reservoir bottom area.
>
> About 2,800 acres of terrestrial habitat, including approximately 1,900 acres of old-growth timber [ancient forest], would be inundated if Bumping Lake were enlarged to a capacity of 400,000–458,000 acre-feet. Old-growth timber serves as habitat for the spotted owl, an ESA-listed endangered species.
>
> Enlarging Bumping Lake would inundate approximately 10 miles of perennial and intermittent stream habitat downstream from the existing dam and upstream of the existing reservoir, affecting the aquatic ecosystem and fishery resources. This is compounded by the recent designation of Deep Creek and Bumping River as critical habitat for bull trout.
>
> The larger-capacity reservoir would not fill on a regular basis and would not be a reliable source of water. Previous studies identified approximately 14 summer homes within the impact area of the enlarged reservoir. It was proposed that these summer

homes would need to be relocated downstream from the new dam. A number of the owners opposed downstream relocation. The enlarged reservoir also would inundate existing recreational facilities and approximately 9 miles of U.S. Forest Service road, plus approximately 17 miles of road that would be closed, terminating all vehicle traffic above the damsite and road access to campgrounds above the existing reservoir. In addition to the roads, about 4 miles of trails would be inundated. These actions would hamper accessibility to areas above the reservoir. Increased traffic associated with construction activities at the new dam, including logging of the enlarged reservoir area, would have an adverse impact on the community of Goose Prairie. Further, increased recreation use at an enlarged reservoir also could adversely affect the community. While the concept of a natural (unregulated) hydrograph was not a primary issue in the past, it has become a significant concern in recent years. Representatives of the Washington Department of Fish and Wildlife and others expressed considerable reluctance at the spring 2007 Storage Study Roundtable discussions to include an enlarged Bumping Lake as a storage alternative to be carried into the planning report and environmental impact statement phase of the Storage Study." *BuRec Final Report/EIS, p. 2-129 (December 2008).*

* What are the Yakima irrigation districts growing? How much acreage is devoted to surplus crops? Is the Kittitas Reclamation District still growing hay for the Japanese race horse industry?

* What have the Yakima irrigation districts actually done on the ground since 1980 on water conservation? Please document the actual water conservation measures carried out by each irrigation district.

* What are the current costs to the irrigators of water (per acre-foot) and electricity (are they still subsidized by the BPA)?

* Have the Yakima River Basin irrigation districts repaid the costs of the existing Yakima Basin Irrigation Project? If not, what is the amount left to be repaid? What would be the true costs of irrigated crops if they had to pay market rates for water and power?

* How many vineyards in the Yakima River Basin are sustainable and do not rely on irrigation or groundwater?

* What is the current contribution to early spring runoff from clearcuts on the Wenatchee National Forest, DNR land and private forestry land in the

Yakima River Basin? The PEIS should look at the alternative of halting timber harvesting in the Yakima River Basin to retain more snow pack and improve instream flows throughout the summer.

More Specific Comments
As set out in 40 C.F.R. Section 1503.3 and WAC 197-11-550, we submit the following specific comments concerning the inadequacies of the DPEIS. We cannot address the merits of the alternatives, because the BuRec has failed to rigorously explore and objectively evaluate all reasonable alternatives:

Section 2.3.1 Ongoing Projects
Section 2.3.1.1 describes the Yakima River Basin Water Enhancement Project water conservation project (YRBWEP Phase 2) and the completing of a Basin Conservation Plan in 1999.
* Please identify all water conservation measures carried out in the Yakima River Basin between 1979 and 1999 and the amount of acre-feet of water conserved.
* Please identify all water conservation measures carried out in the Yakima River Basin between 1999 and 2011 and the amount of acre-feet of water conserved.

Section 2.4.3 Reservoir Fish Passage Element
* This section states that providing unimpeded fish migration past the existing BuRec dams would provide fish benefits. How is unimpeded fish migration consistent with existing storage dams? Is the BuRec equating proposed fish passage as the equivalent of a free-flowing river? Please delete the term "unimpeded" as dams with fish passage do not meet the definition of "unimpeded."

This section references a 2006 "Settlement Agreement between the Yakama Nation and Reclamation."
* How does this settlement obligate the BuRec to undertake fish passage at the five existing large storage reservoirs independent of any further action under the proposed "Integrated Plan"?

* If fish passage at BuRec dams is already a BuRec obligation, then this element should be moved to Section 2.3.1 – Ongoing projects.

* Section 2.4.3.1 states that environmental review has been completed for the Cle Elum Dam Fish Passage Facilities. On April 13, 2011, the BuRec issued a Notice of Availability of the FEIS for the Cle Elum Dam Fish Passage Facilities and Fish Reintroduction Project in the Federal Register (76 FR 20707). Therefore, we request that this project should be moved to Section 2.3.1 – Ongoing projects.

* The Yakima Workgroup Integrated Water Resource Management Plan Summary Support Document (YRBSSD) (dated March 23, 2011), page 3, states: "For Cle Elum dam, install downstream juvenile passage facilities and fish ladder and collection facility for capture and upstream transport by tanker truck." Describe the specific location and design of the proposed downstream juvenile passage facilities and fish ladder and collection facility. Describe all anadromous or resident fish species that would use these passage facilities. Provide an estimate for each anadromous or resident fish species of the expected increased numbers due to the proposed passage facilities.

* If only minor instream flow improvements take place in the lower Yakima how will fish passage at Cle Elum be enhanced?

* Section 2.4.3.2 states that upstream and downstream fish passage would be installed at Bumping Lake. Describe the specific location and design of the proposed upstream and downstream fish passage facilities. Describe all anadromous or resident fish species that would use these passage facilities. Provide an estimate for each anadromous or resident fish species of the expected increased numbers due to the proposed passage facilities.

* Would similar improvements to the existing Bumping Lake Dam be cheaper than at an expanded dam?

* Would benefits to fish increase if the existing Bumping Lake Dam were to be removed?

* Section 2.4.3.3 states that upstream and downstream fish passage would be installed at Tieton, Keechelus, and Kachess dams. What is the cause for the lack of progress on feasibility studies on fish passage at Tieton, Keechelus, and Kachess dams given that this was part of the 2006 Settlement Agreement between the Yakama Indian Nation and BuRec?

* Regarding Section 2.4.3.4, what is the specific location and design of the proposed upstream and downstream Clear Lake Dam passage?

* This section states that a new pool/weir fish ladder located on the left abutment of the dam would provide both upstream and downstream fish passage. How does a fish ladder provide downstream passage?

* What anadromous or resident fish species would use the improved existing or new Clear Lake Dam upstream and downstream passage?

* What is the estimate for each anadromous or resident fish species of the expected increased numbers due to the proposed new upstream and downstream fishway vs. improvements or modifications to the existing Clear Lake Dam fishway?

***** If only minor instream flow improvements take place in the lower Yakima and no instream flow improvements on the Naches River occur, how will fish passage at Clear Lake be enhanced?

* If upstream and downstream fish passage facilities have not been designed for Tieton Dam, how can improved anadromous salmonid access to habitat above Clear Lake dam be estimated or assumed?

Section 2.4.4 Structural and Operational Changes Element

Section 2.4.4.1 describes the Cle Elum Pool Rise.
* Why wasn't this project included in Section 2.4.5 under Surface Water Storage Element?
* This proposed project was not evaluated as part of Ecology's 2009 Yakima River Basin Integrated Water Resource Management Alternative Final EIS.
* What are the adverse environmental impacts to the Cle Elum Reservoir shoreline, vegetation, fish forage habitat, and wildlife?
* How long would the three-foot elevation rise inundate previously unflooded shoreline area during a normal water year? During a drought water year?
* Assuming that the three-foot rise would kill the inundated forest/vegetation, what decrease in shading and insect production would occur as a result of this project?

Section 2.4.4.2 describes the Kittitas Reclamation District Canal Modificatons.
* What is the legal mechanism by which conserved water from the KRD laterals could be transferred to enhance instream flows?.
* Under the 1945 Consent Decree, would the KRD retain the same water rights to any re-regulation reservoir water during a drought year?

Section 2.4.4.3 describes the Keechelus to Kachess (K to K) pipeline
This project would be coordinated with on-going construction of I-90.
* How realistic is this given the time period need to complete this DPEIS and any additional site-specific EIS review?

Section 2.4.4.4 describes Subordinate Power at Roza Dam and Chandler Powerplants.
* What type of mitigation agreed upon and approved by BuRec, Bonneville Power Administration and either Roza or Kennewick Irrigation District as applicable would be considered?

Section 2.4.4.5 describes Wapatox Canal Improvements
This section states that this project could consolidate diversions into the Wapatox Canal such as the Naches Selah Irrigation District, the City of Yakima Water Treatment Plant and the Gleed Ditch but that these water users may choose not to participate in the project. *How many elements of the "Integrated Plan" are dependent on voluntary participation? *The PEIS should prepare a range of participation for each element and clearly disclose those elements dependent on voluntary participation.

Section 2.4.5 Surface Water Storage Element
The following are specific comments on Section 2.4.5 the Surface Water Storage Element of the DPEIS.

1. <u>Alternatives</u>
* The PEIS should evaluate other alternatives that restore instream flows to the Yakima River Basin and tributaries including a greater range of water conservation savings (see comments on enhanced water conservation below).

2. <u>Earth Resources</u>
* What studies has the BuRec carried out to evaluate the potential impacts resulting from earthquakes on any of the proposed storage reservoirs?

3. <u>Air Resources</u>
Section 4.13.2 states, "Information is not currently available to estimate whether construction of the Integrated Plan elements would exceed the Ecology guidance level of 25,000 metric tons." This is a serious data gap and BuRec should obtain this information as required under 40 C.F.R. Sec. 1502.22(a).

* What would be the construction of new storage reservoirs' carbon footprint?

4. <u>Water Resources</u>
* What is the likely amount of spills of contaminants into waters of the United States from new storage construction?
* What measures are proposed, such as an emergency response plan to mitigate impacts?

Table 3-12 contains Yakima River Basin Tributary 303(d) Listings, while Table 3-13 contains Yakima River 303(d) Listings. Both of these tables do not provide information past 2008.

* Please provide this information for 2011 or the latest year for which such data is available.

Since 1996 only two tributaries appear to have improved water quality parameters (Teanaway River – temperature in 1998/none in 2008 and Wilson Creek – Fecal Coliform in 2004/none in 2008). All other parameters have not improved or have gotten worse.

* Why has there been so little water quality improvement in the Yakima Basin since 1996?
* Would reducing irrigated agriculture in the Yakima Basin result in improved water quality?
* Has Ecology developed a water quality restoration plan (Total Maximum Daily Load) for the water bodies in the Yakima River Basin and the pollutants of concern?
* If a Total Maximum Daily Load (TMDL) has not been established for those water bodies on the 303(d) list, in the interim will construction of storage reservoirs result in no net degradation of water quality to these listed waters?
* How will the anti-degradation provisions of the Clean Water Act be met for the construction of new storage reservoirs?

* How will the Clean Water Act (CWA) Section 404 requirements for wetlands be met?
* What quantifiable impacts to adjacent wetlands or indirect impacts to wetlands such as hydrologic changes due to increases in impervious surface would occur due to construction of new storage reservoirs?

* Because the DPEIS fails to evaluate alternatives, the BuRec and Ecology must disclose that the DPEIS cannot be used to comply with the Clean Water Act Section 404(b) guidelines.

* What specific wetland areas would be directly or indirectly affected by the proposed construction of new storage reservoirs?

* Will the proposed construction of new storage reservoirs incorporate any riparian/wetland restoration along Yakima River or tributaries?

* How does the BuRec intend to comply with Executive Order (E.O.) 11990, Protection of
Wetlands?

* Will the proposed construction of new storage reservoirs require any additional dredging?

5. Fishery Impacts

* What specific impacts will occur to fishery habitat from vibration, sound, shading, wave disturbance, alterations to currents and circulation, water quality, scouring, sediment transport, shoreline erosion (landfall) and structural habitat alteration?

* What specific impacts will occur due to physical and acoustical impacts during construction and operation?

Section 6.2.2 states that the BuRec will not carry out a Section 7 consultation under the Endangered Species Act. Without a consultation under the ESA, no "early action" projects can proceed. The ESA requires cumulative impact analysis, not a piecemeal approach.

* Which specific project elements will require Section 7 consultation?
* How will the BuRec address cumulative endangered species impacts?
* How will the BuRec asses fisheries and benthic impact requirements for an Essential Fish Habitat Assessment per the Magnuson Stevens Act?

* Will future studies for all final sites include an assessment of: 1) species type, life stage, and abundance; based upon existing, publicly available information, 2) potential changes to habitat types and sizes; and 3) the potential for fishery population reductions?

* What impacts will occur between the benthic, fisheries and avian resources?

* What predator-prey interaction studies were conducted to evaluate the potential impacts in siting additional dam projects within the Yakima River Basin?

6. Biological Resources

* What mitigating impacts does the BuRec propose due to the destruction of endangered species habitat?
* What are the specific critical habitat areas for each listed or proposed endangered species within the Yakima River Basin?

* What endangered species recovery plans are being carried out within the Yakima River Basin?

Section 3.9.2.5 contains a brief summary of movement corridors in the Yakima River Basin.

* Please identify on a map the known fish and wildlife corridors, migration routes, and areas of seasonal fish and wildlife congregation within the Yakima River Basin.

* What specific impacts will the proposal have on aquatic and terrestrial habitat fragmentation caused by roads, land use, and management activities, and human activity?

Section 3.10.10 states that Bumping Lake and the surrounding forests to the south and northeast are within spotted owl Critical Habitat Unit (CHU) Number 6.
* How does flooding out this habitat aid in the recovery of the spotted owl?

* What impacts would new dam construction and operation have on the Pacific Lamprey? How would the proposal contribute to the recovery of the Pacific Lamprey?

7. <u>Avian Impacts</u>
* What impact will the proposal have on migratory birds?
* What new field studies were undertaken for the DPEIS?
* What impact will the proposal have on (1) bird migration, (2) food availability, (3) predation, and (4) benthic habitat and benthic food sources?

8. <u>Noise</u>
Section 4.14 describes noise impacts.
* What underwater noise levels would result from the proposed in-water construction?
* Has the BuRec carried out an assessment of the magnitude and frequency of underwater noise and vibrations, and the potential for adversely affecting fish and mammal habitats and migration?
* Have noise contour maps been developed for construction of new storage reservoirs and does it show day-night average sound level (DNL)? How will any DNL's that are in excess of local ordinance requirements be mitigated?

9. <u>Environmental Health</u>
* What quantities of hazardous materials are involved with the proposal?
* How will disposal of hazardous materials be carried out?

10. <u>Land and Shoreline Use</u>
Section 5.16 describes land and shoreline uses.
* What changes to state and federal land-use laws, plans and policies would be required due to the proposal?
***** What State Shoreline Management Act substantial development permits are anticipated to be needed due to the proposal?

* Would any cabins along the existing Bumping Lake shoreline be flooded by an Enlarged Bumping Lake? If so, would any new cabins be constructed?

* What entity would own the land around any new Wymer Dam? Would any Wymer Dam shoreline be made available for second home development?

Because the DPEIS does not provide a range of alternatives this document cannot be used to satisfy the Section 404(b)(1) guidelines for review of any permits for the disposal of dredged or fill material under Section 404 of the federal Clean Water Act.
* What Section 404 permits are anticipated to be needed due to the proposal?

11. Aesthetics

***** What aesthetic mitigation provisions will be provided to address the need for landscaping or buffers?

12. Recreation

* How will the loss of recreational opportunities at Bumping Lake due to a new dam be mitigated?

13. Transportation

* How many daily, weekend, and seasonal vehicle trips would be generated, including trips by employees and service due to the proposal?
* What increase in road maintenance costs are attributable to the proposal?
* What measures will be carried out to mitigate for traffic impacts due to the proposal?
* What is the capacity of local roads to accommodate additional traffic associated with the proposal? Will there be added congestion at any road crossings due to the proposal?
* What transportation impacts to Goose Prairie would occur due construction of a Bumping Lake Enlargement project?

14. Public Services and Utilities

* What will be the need for additional public services, including public safety and emergency services due to the proposal?
* What impacts to local school systems in the Yakima River Basin can be expected due to the proposal?
* How will housing needs for employees be addressed? Where will employee construction housing be developed?

15. Cultural Resources

* What cultural resources analysis have been carried out to identify all historic properties or cultural resources potentially impacted by the proposal or associated offsite development, including traditional cultural properties, other Native cultural resources, and non-Native historic properties?

* What impact would the proposal have on Yakama Indian Nation sacred sites and fishing grounds?
* Has the proposal fulfilled the requirements of Section 106 of National Historic Preservation Act including coordination with the State Historic Preservation Officer?

16. Socio-Economics

* Can Section 5.22 clarify the time frame for the assessment of economic and social impacts over 10, 20, and 50 years?
* What research was carried out on the socioeconomic effects of other similar projects on other communities?
* What will be the demand for hotel rooms in the Yakima River basin due to the proposal?
* How many jobs will be created; at what wage levels? What percentage of work would be reserved for local contractors?
* What will be the consequences on property values and property taxes in the Yakima River Basin?
* What will be the impacts from the proposal on existing restaurants, hotels, motels, RV facilities, and other overnight tourism lodging facilities?
* Will there be a loss of workers from existing businesses?
* What nationally accepted socio-economic professional or scholarly data was used to evaluate the potential impacts from the proposal over the next ten years?
* Will there be a shortfall in adequate public and essential commercial services (e.g., housing, medical, emergency) for current and future workers due to the proposal?
* How will safety considerations during construction of any project be addressed?

18. Other Issues

* What specific Tribal consultations have occur with nearby Indian tribes in a manner consistent with Section 20(b)(1)(A) of IGRA, Ecology's trust responsibilities to tribes, and the 1994 Executive Memorandum entitled Government-to-Government IGRA Section 20?
* What consultation has occurred with area school districts and other service providers?
* What geo-tech studies been done for any proposed construction project site?
* Would any proposed project be affected by seismic faults or fractures?
* Will any element of the proposal increase the potential for litter?
* How will the proposal address the disposal of solid waste?
* What drilling data is available to show the profile and nature of the proposed dam sites for the Bumping Lake Enlargement and the Wymer Dam project?

* Regarding the sage grouse habitat that would be inundated by a Wymer Reservoir, what is the estimated number of sage grouse currently using the proposed inundated area?
* What is the potential for shoreline erosion from using a Wymer Reservoir as a pump storage project?
* For both the Wymer and Bumping Lake projects, describe the legal mechanism by which Wymer or Bumping Lake water could be transferred to enhance instream flows. Under the 1945 Consent Decree, wouldn't the senior irrigation districts retain the same water rights requiring allocation of any Wymer or Bumping Lake reservoir water to the TWSA during a drought year?
* Under the 1945 Consent Decree how can any water retained in an enlarged Bumping Lake or Wymer Reservoir be allocated to instream flows?
* What are the estimated evaporation rates for both a Wymer and Bumping Lake reservoir?
* What are the estimated refill times for both a Wymer and Bumping Lake reservoir assuming a complete drawdown during a drought year?
* Regarding the Lake Kachess Inactive Storage project, how does accessing this inactive storage conflict with fish passage/habitat enhancement proposed for Lake Kachess?
Regarding Kachess Reservoir Inactive storage, Section 2.4.5.2 states that fish passage improvements would be carried out at Box Canyon Creek to improve passage for bull trout. The Proposed Yakima River Basin Study Integrated Water Resource Management Plan (PIWRMP) (February 2011) (Vol. 1, page 58) states that for Box Canyon Creek the "Integrated Plan" would result in adverse impacts.
* What are these adverse impacts and what mitigation is proposed?

Section 2.4.5.4 Columbia River Pump Exchange with Yakima Storage
***** Section 2.4.5 states that the study of an out-of-basin operation is included in the Integrated Plan. However, Section 2.4.5.4 states that this proposal will not be analyzed in the DPEIS. If this proposal is part of the Integrated Plan, an EIS that does not include such analysis would be inadequate.

* Identify all potential dam sites in the Yakima River Basin proposed for storage of water pumped from the Columbia River, including but not limited to Black Rock, Selah Canyon and Burbank Canyon and all significant adverse environmental impacts.

* Identify all legal and biological constraints from interbasin transfer of water from the Columbia River to the Yakima River Basin.

* Identify all cumulative impacts of other water withdrawal proposals from the Columbia River.

Section 2.4.6 Groundwater Storage Element
Sec. 2.4.6.1 describes Shallow Aquifer Recharge.
* Under the 1945 Consent Decree how would any water stored in shallow aquifers be treated under the Total Water Supply re-allocated to instream flows?

Section 2.4.6.2 describes Aquifer Storage and Recovery
* Under the 1945 Consent Decree how can any water stored in underground aquifers be allocated to instream flows?

Section 2.4.7 Targeted Watershed Protection and Enhancement Element
The DPEIS, pages 2-24 to 2-25, describes a list of watershed protections and enhancements that were first presented to the Yakima River Basin Work Group in March of 2011. Many details of this proposal are lacking. The targeted acquisitions include:

- *"45,000 acre tract in the middle and lower Teanaway River basin comprised of mid-to-high elevation mixed conifer forest and lower elevation grand fir and Ponderosa pine forest."*

* Identify the location of this tract. Clarify the current ownership of this acreage. Is the current owner being foreclosed on? If so, who is the next most likely owner? Clarify the targeted acquisition of the 45,000 acres. How much of this acreage consists of contiguous roadless areas greater than 5,000 acres? If any, where are they located? How much of this acreage contains critical area for listed ESA species? Identify all northern spotted owl habitat and current populations. Identify all known bull trout habitat and current populations. If any, where are they located? How much of this acreage is proposed for public ownership? If any, where is it located? How much of this acreage would remain in private (non-governmental) ownership? If any, where is it located? What is the remaining volume of marketable timber? If any, where is it located? Would the 45,000 acres continue to be subject to logging? What are alternative uses and environmental impacts to this tract assuming that this tract is dropped from the "Integrated Plan"?

- *"15,000 acre tract in the Yakima River canyon, including the valley bottom and eastern slopes, from the Yakima River to Interstate 82 (I-82)."*

* Clarify the current ownership of this acreage. How much of this acreage consists of contiguous roadless areas greater than 5,000 acres? If any, where are they located? How much of this acreage contains ESA habitat?

Identify all northern spotted owl habitat and current populations. Identify all known bull trout habitat and current populations. If any, where are they located? How much of this acreage is proposed for public ownership? If any, where is it located? How much of this acreage would remain in private (non-governmental) ownership? If any, where is it located? What is the remaining volume of marketable timber? If any, where is it located?

- *"10,000 acres at the headwaters of the Little Naches River and lands surrounding the headwaters of Taneum and Manastash Creeks."*

* Clarify the current ownership of this acreage. How much of this acreage consists of contiguous roadless areas greater than 5,000 acres? If any, where are they located? How much of this acreage contains ESA habitat? Identify all northern spotted owl habitat and current populations. Identify all known bull trout habitat and current populations. If any, where are they located? How much of this acreage is proposed for public ownership? If any, where is it located? How much of this acreage would remain in private (non-governmental) ownership? If any, where is it located? What is the remaining volume of marketable timber? If any, where is it located?

- *"If these sites cannot be acquired, a combination of alternative sites of equivalent conservation value would be selected as long as alternatives collectively meet the target goals."*
  45,000 acres as a Conservation Target for High Elevation Watershed Enhancement;
  15,000 acres as a Conservation Target for Shrub-Steppe Habitat Enhancement;
  10,000 acreas as a Conservation Target for Forest Habitat Enhancement."

* Identify the location of these alternative conservation target lands.

The DPEIS recommends additional federal Wilderness and Wild and Scenic River designation through other processes or through designation of land that have already been recommended by other planning.

- *"Wilderness designation should be pursued for the land around Bumping Lake that is not inundated by the reservoir expansion."*

* Identify the acreage of National Forest roadless area that would be inundated by an expanded reservoir around Bumping Lake.
* Identify any previous BuRec reservoir project that has inundated a National Forest roadless area and what mitigation was proposed or carried out.

- *"Wilderness or other appropriate designation should also be sought for roadless areas in the Teanaway, in the area between Kachess and Cle Elum Lakes, and in the upper reaches of Manastash and Tanuem Creeks in order to protect headwaters streams, snow pack, and forests."*

* Identify the roadless acreage in the above areas. How does the proposal for roadless area protection in the upper reaches of Manastash and Tanuem Creek differ from the acquisition of 10,000 acres at the headwaters of the Little Naches River and lands surrounding the headwaters of Taneum and Manastash Creeks?

- *"Wild and Scenic River designation should be sought for the American, Upper Cle Elum, and Waptus rivers. . . Other rivers determined eligible and recommended for designation in future forest plans should also be considered for designation."*

* The purpose of the federal Wild and Scenic Rivers Act is to preserve rivers in "free-flowing condition." The W&SRA controls land administered by federal agencies. It prohibits federal agencies from granting permits or making loans regarding the construction of a water resources project. (p. 3-88). What additional specific dams are proposed for the American, Upper Cle Elum and Waptus rivers on federal lands that threaten the free-flowing condition of these rivers? If there are no dams proposed for these river segments, what is the purpose of a Wild or Scenic River designation?

Section 2.4.7.2 describes Mainstem Floodplain and Tributary Fish Habitat Enhancement Program
The proposed "Integrated Plan" proposes fish habitat enhancement measures including flow restoration, removing fish barriers, and screening diversions. Screening diversions was one of the original programs to be carried out by the YRBWEP authorized in 1979.
* Please list all diversion screening that has taken place since 1979.
* Why is diversion screening still needed over 30 years later?
* Which of these fish habitat enhancement measures are voluntary in nature?
* Without significant improvements to instream flows in the lower Yakima River, how will fish habitat enhancement improvements in the upper Yakima River Basin be ensured?

Section 2.4.8 Enhanced Water Conservation
Sec. 2.4.8.1 describes Agricultural Conservation.
The proposed agricultural water conservation program under the "Integrated Plan" proposes to conserve up to 170,000 acre-feet of water in good water years. However, the "Integrated Plan" does not identify specific projects for

implementation. As a result of this decision, water conservation is put at a significant disadvantage as the BuRec and Ecology are all too eager and willing to identify precisely the dam storage projects they intend to build, while refusing to disclose what or where water conservation projects would take place. In addition, it is apparent that, unlike dam storage projects that BuRec and Ecology would like to have authorized and constructed, water conservation projects would remain voluntary.

This section identifies only a single goal of conserving up to 170,000 acre-feet in good water years. The Work Group prepared a Summary Results – Water Needs Assessment Yakima River Basin Study (Task 2), date July 20, 2010. Table 2 lists 213,595 acre-feet of water conservation savings from projects recommended for inclusion.

* What accounts for these discrepancies in water conservation potential?

* What water conservation measures have been carried out in the Yakima River Basin since 1979?

* What water conservation measures would be carried out under YRBWEP Phase 2 (as described in Section 2.3.1.1)?

* What water conservation measures would be carried out under the Enhanced Water Conservation Element (as described in Section 2.4.8)?

* The PEIS should set out an alternative of maximum water conservation efforts, in addition to the 170,000 acre-feet proposed under the "Integrated Plan."

* Assuming that the proposed water conservation program would conserve up to 170,000 acre-feet of water in good water years, how many acre-feet of water would be conserved if irrigation district switched to less water consumptive crops?

The Central Valley Project Improvement Act of 1992 (CVPIA) and the Reclamation Reform Act of 1982 established Criteria for Evaluating Water Management Plans. These plans must contain the following information:

1. Description of the District
2. Inventory of Water Resources
3. Best Management Practices (BMPs) for Agricultural Contractors
4. BMPs for Urban Contractors
5. Plan Implementation
6. Exemption Process
7. Regional Criteria

8. Five-Year Revisions.

* Has the BuRec applied the CVP Criteria to any of the past or proposed Yakima River Basin irrigation district water conservation plans?

* Please list all BuRec approved water conservation plans for the Yakima River Basin.

According to the BuRec Draft Programmatic EIS on the Yakima River Basin Water Enhancement Project, dated April 1998, page 33, "Under the Basin Conservation Program, a goal of the legislation is to achieve 165,000 acre-feet of water savings in 8 years."
* Has this level of acre-feet of water savings been achieved? If so, in which irrigation districts?

The Ecology FEIS on the Yakima River Basin Integrated Water Resource Management Alternative (dated June 2009, #09-11-012) Tables 2-3 and 2-4 display 223,596 acre-feet of potential conserved water savings from Yakima River water users and an additional 20,003 acre-feet of potential conserved water savings from Naches River Water Users.
* Why does the "Integrated Plan" propose less than half of the water conservation potential proposed just two years ago?

The above Tables disclose 84,700 acre-feet of water conservation potential on the Wapato Irrigation Project (WIP).
* Why does the "Integrated Plan" fail to identify any specific water conservation improvements for the WIP?

Sec. 2.4.8. 2 describes the Municipal and Domestic Conservation program.
* How much water could be conserved by ending the exempt well provisions under Washington Water Law?

Section 2.4.9 Market Reallocation
* Isn't this an on-going element? Please include this under Section 2.3.1, Ongoing Projects.

* What are the legal and institutional barriers to market reallocation?

* What are the estimated current water savings that could occur under existing Washington Water Law?

* How has the BuRec evaluated the results of the Market-Based Reallocation of Water Resources (Yakima River Basin Study Task 4.12, November 19, 2010, Power Point page 14)?

* Do BuRec and Ecology agree that up to 110,000 acre-feet of water may be available for inter-district water trades and up to 230,000 acre-feet of water may be available for intra-district trades?

* If all irrigation districts received equal water deliver during drought years what percent of proratable delivery would occur?

* Why does Table 3-5 only provide April 1 TWSA Estimates through 2005? Where are the figures for the last five years?

Sec. 2.4.10 Adaptive Approach (p. 2-31)
* Please explain what entity would review progress of the "Integrated Plan."

Potential Barriers to Plan Implementation and Mitigation Strategies
A Conservation Advisory Group (CAG) was appointed by the Secretary of Interior under Title XII on July 13, 1995 (membership includes two Yakima River Basin irrigators, one from the Yakama Indian Nation, one from environmental interests, one from Washington State University Ag Extension Service, and WDFW).
* Why was this group not involved in the preparation of the "Integrated Plan?"

* How can water stored or pumped in a new or expanded reservoir and already allocated under the 1945 Consent Decree be reallocated to instream flows?

Failure to comply with the Federal Advisory Committee Act (FACA) is a potential barrier to plan implementation. The Federal Advisory Committee Act (Pub. L. 92-463, 6 October 1972) seeks to curtail the rampant "locker-room discussions" that had become prevalent in administrative decisions. These "locker-room discussions" are masked under titles like "task force," "subcommittee," and "working group" meetings, which are less than full FACA meetings so they do not have to be open to the public.

* Why wasn't a FACA committee established?

* Please list the members and all meetings of the Yakima Work Group Executive Committee, the minutes from those meetings and how public notice was given.

* Please list the members and all meetings of the Yakima Work Group Implementation Subcommittee, the minutes of those meetings and how public notice was given.

* Has the BuRec evaluated the U.S. Supreme Court's May 2, 2011, decision in *Montana v. Wyoming* (563 U.S. ____(2011)) and possible legal effects on water rights in the Yakima River Basin?

Finally, as set out in 40 C.F.R. Sec. 1502.14, alternatives are the heart of the environmental impact statement. The BuRec has an affirmative obligation to "[R]igorously explore and objectively evaluate all reasonable alternatives, including those that may require changes to existing law or not within the jurisdiction of the lead agency. *40 C.F.R Sec. 1502.14(a)-f).* Any PEIS must include a non-structural alternative including both water conservation and water marketing to provide the public and Congress with a fair comparison and range of choices and not just an *ad hoc* justification of a limited work group hand-selected by the BuRec and Ecology.

Please send us a copy of any final Programmatic EIS that becomes available.

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