



Tribal Perspectives on
Water Policy in Washington State:
Walla Walla Basin Update

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**Confederated Tribes of the Umatilla Indian Reservation
Department of Natural Resources**

Photo: Lower Walla Walla River (NFWF)

Water in the Walla Walla Basin: A Timeline

- I. Background (pre-1855)**
- II. The “Freewater” Era (1855-1997)**
- III. Regulatory Actions (1998 - 2008)**
- IV. Experiments in Local Management (2009 - 2020)**
- V. Walla Walla Water 2050 (2021 -)**



I. Background pre-1855

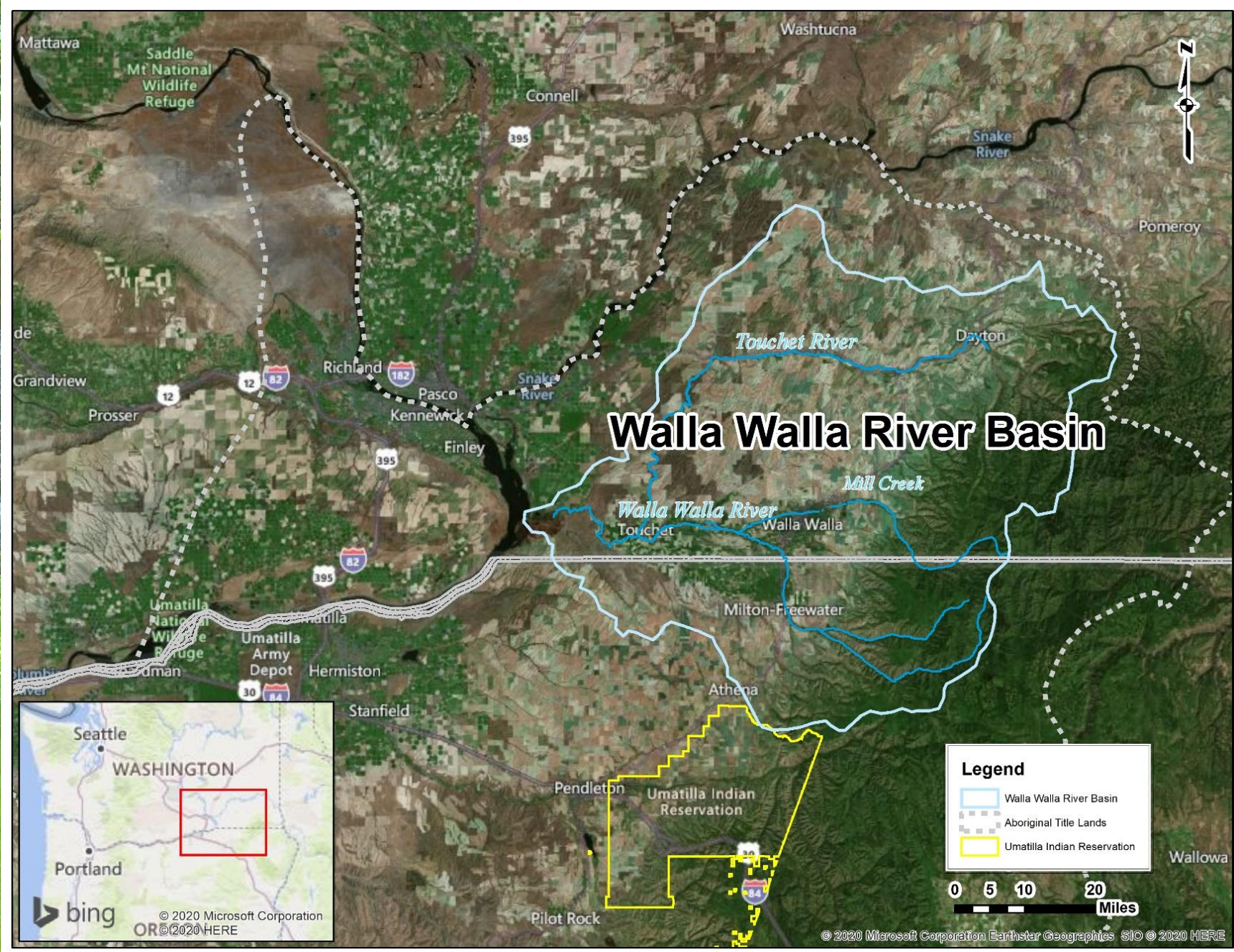


Photo: Mill Creek above City of Walla Walla (WWT)

The Treaty of 1855

- Treaty signed on banks of Mill Creek by the Umatilla, Cayuse, and Walla Walla Tribes;
- Treaty (Article I) reserved right to take fish at “***usual and accustomed stations . . . in common with citizens of the territory***”;
- Inherent in this is the maintenance of habitat (such as instream flow) necessary for the right to be exercised;
- Spring Chinook salmon, summer steelhead, and bull trout all important to Umatilla Tribes’ culture and subsistence.



II. The “Freewater” Era 1855 - 1997



The “Freewater” Era

- Extensive irrigation development in both Oregon and Washington from the late 1800s to mid-1900s;
- Local Oregon community named “Freewater” to entice prospective settlers;
- Resulting irrigation development has dewatered much of the Walla Walla River, Mill Creek, and Touchet River during the summer;
- Spring Chinook salmon extirpated in early 20th century; steelhead and bull trout populations continue to decline.



Lower Walla Walla River in late summer (Photo: WWWMP)



Photo: Mill Creek below City of Walla Walla

III. Regulatory Actions 1998 - 2008



Photo: Mill Creek below City of Walla Walla

Endangered Species Act Listings

- Bull trout (*Salvelinus confluentus*) listed as threatened in 1998 under 50 CFR § 17.31(a); Mid-Columbia summer steelhead (*O. mykiss*) follow suit in 1999;
- USFWS contended that “take” of threatened bull trout had occurred during summers of 1998 and 1999 in the Walla Walla River;
- Irrigation districts in both Oregon and Washington were found to be in violation of the ESA;
- USFWS prepared to move forward with a civil penalty action against three largest irrigation districts (one in WA and two in OR).



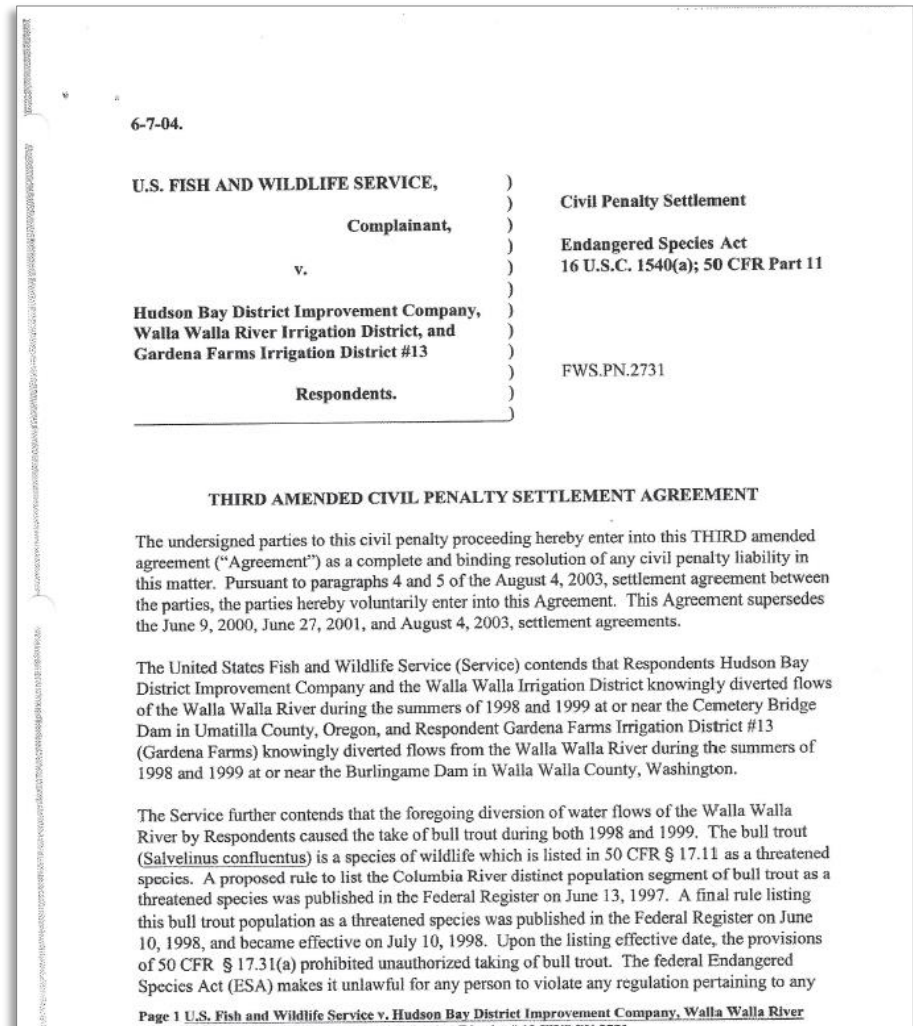
Dead Mid-Columbia steelhead at Walla Walla River Irrigation Diversion (June 2019)

USFWS Civil Penalty Settlement Agreement

- In 2000, USFWS entered into civil penalty settlement agreement (CPSA) negotiations with the three Walla Walla irrigation districts;

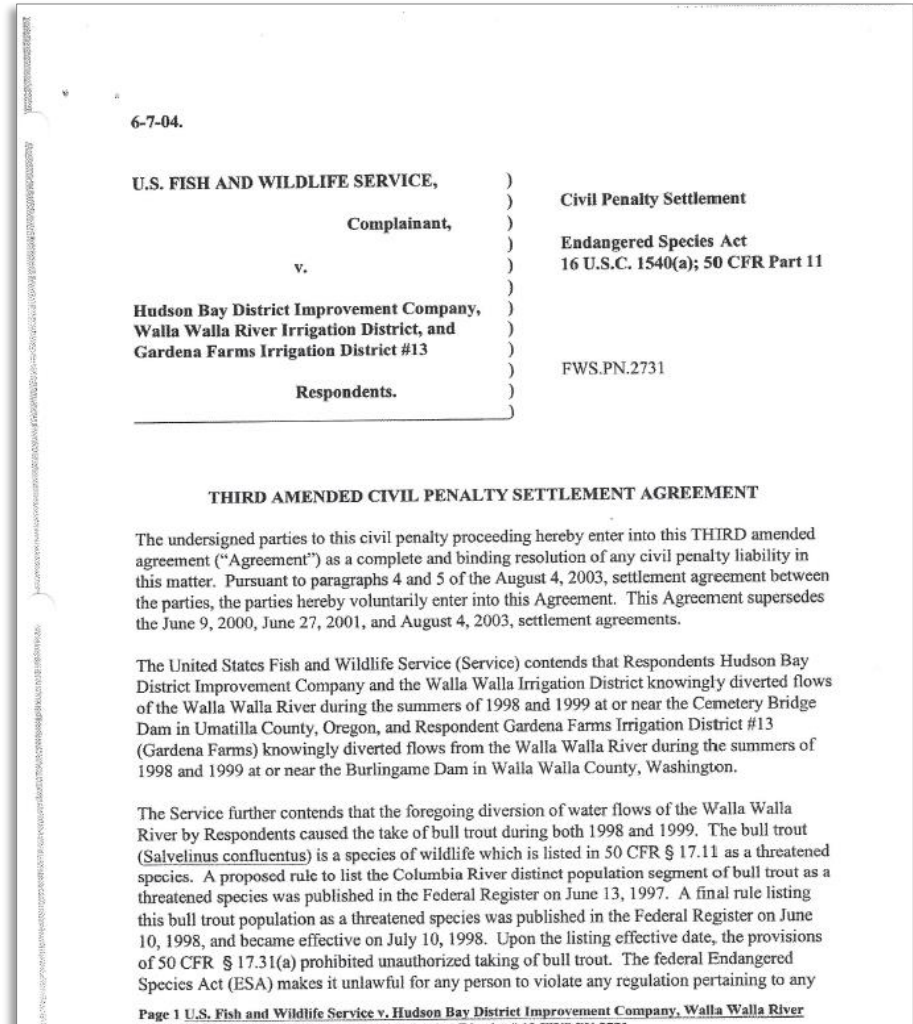
- USFWS identified 48 cfs as an appropriate summer flow for bull trout;

- Fearing the impact this would have on local agriculture, basin stakeholders asked for a chance to attempt a collaborative approach to restoring flows;



USFWS Civil Penalty Settlement Agreement

- As a result, minimum summer flows set by the CPSA were calibrated to prevent “take,” but also not decimate the local agricultural economy;
- The largest Oregon irrigation districts were required to maintain 25 cfs in the Walla Walla River during the summer;
- The downstream Washington district was required to maintain 18 cfs during the summer.



Habitat Conservation Plan

- Habitat Conservation Plan (HCP) negotiations followed, but disagreements on flow targets soon arose;
- When HCP efforts finally collapsed in 2007, the basin was left to pin its hopes on local management.

Walla Walla River Irrigation District, Hudson Bay District Improvement Company, and Gardena Farms Irrigation District No. 13

HCP Proposal
Discussion Draft

Presented to
U. S. Fish and Wildlife Service
National Marine Fisheries Service

June 6, 2007

"DISCLAIMER: This Draft HCP Proposal is for discussion purposes only, and is intended to facilitate further discussions as between the Districts, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service that will lead to a formal, District-board approved proposal. While this Draft has been reviewed by the District managers or their representatives, the Draft has not been reviewed or otherwise approved by the District Boards, and should not be construed as a formal offer. The Draft is subject to change and further revision based on further District review and consideration."

Walla Walla Habitat Conservation Plan Discussion Draft (2007)

IV. Experiments in Local Management 2009 - 2020



Experiments in Local Management

- With the collapse of the HCP, bypass flows were maintained to temper the threat of further action by USFWS;
- Basin stakeholders, known informally as the “Walla Walla Watershed Alliance,” began exploring collaboration as a path to restoring stream flows;
- This effort evolved into a more formal dialogue with the Dept. of Ecology on the shortcomings of existing water management institutions in the basin.



Mill Creek in early summer (Walla Walla Watershed Management Partnership)



Photo: Mill Creek below City of Walla Walla

The Walla Walla Watershed Management Partnership

- Drawing upon the basin's recommendations, Ecology submitted its *Proposal for a Pilot Local Water Management Program in the Walla Walla Basin* to the legislature in 2008;
- In April 2009, HB 1580, enabling legislation for a local water management pilot was passed and signed into law.
- HB 1580 was codified at Chapter 90.92 RCW and established the authority for Ecology to create a 10-year local water management pilot in the Walla Walla basin;



Walla Walla Watershed Management Partnership

For Fish • For Farms • For Everyone •

The Walla Walla Watershed Management Partnership

THE PARTNERSHIP'S VISION

- The guiding vision the Partnership adopted for the Walla Walla basin was:

“ . . . a place where water is managed locally to achieve and sustain a healthy river system where human and natural communities thrive and flourish now and in the future.”

Partnership Strategic Plan 2009-2012, 2010. p. 4.



Walla Walla Watershed Management Partnership

For Fish • For Farms • For Everyone •

The Walla Walla Watershed Management Partnership

POTENTIAL TROUBLE AHEAD . . .

- Several aspects of the Partnership's structure hinted at possible problems ahead:
 - Board composition enshrined the stakeholder representation that had prevailed during the creation of the problem;
 - Majority-rule governance system preserved the power dynamic of the historic stakeholder group;
 - Vision adopted by the Partnership emphasized local management as the goal, rather than flow restoration.

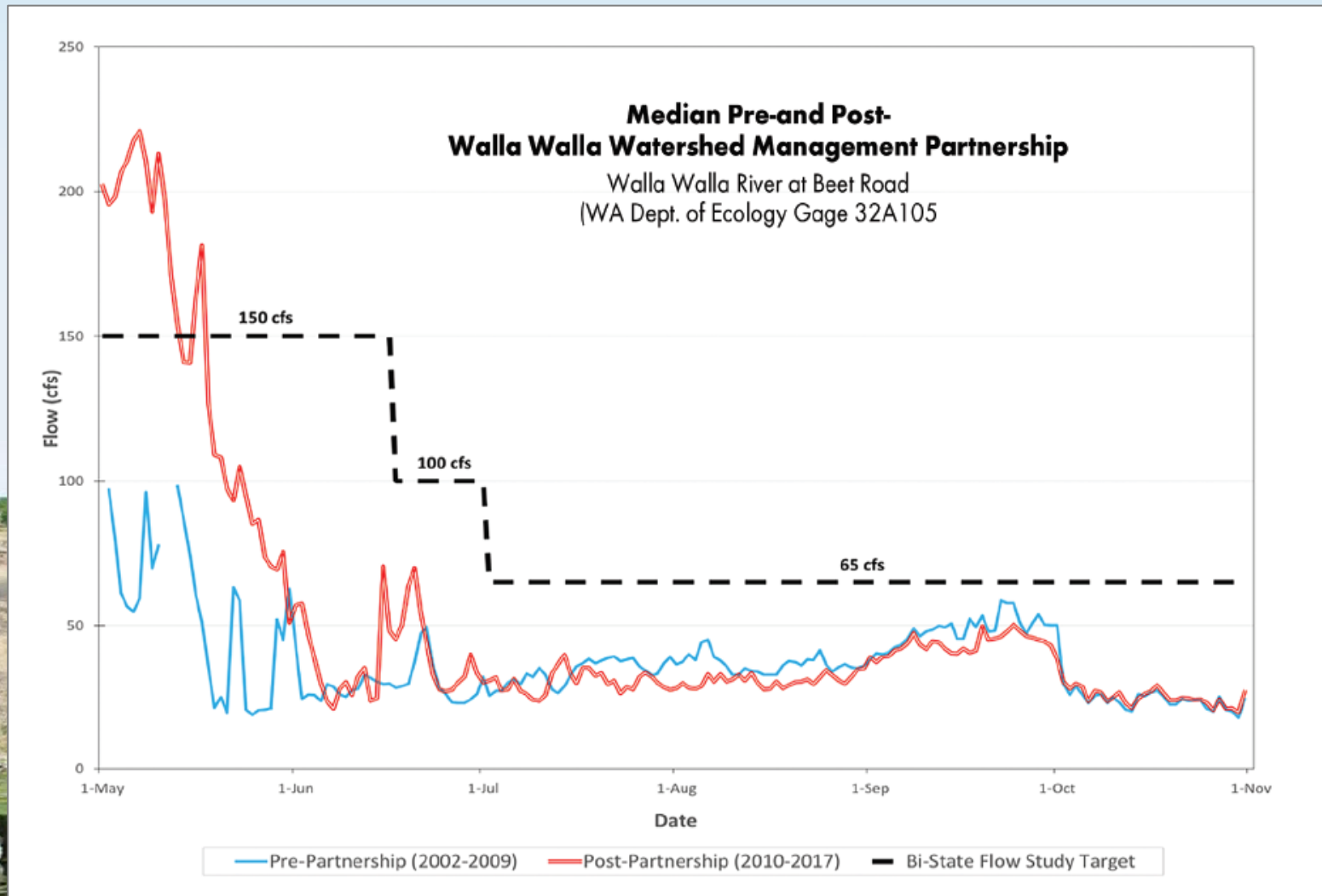


Walla Walla Watershed Management Partnership

For Fish • For Farms • For Everyone •

Taking Stock and Moving Forward

- Partnership's Final Report (2018) acknowledged no discernible increase in Walla Walla River flows since the Partnership's creation (p. 22).



Taking Stock and Moving Forward

WASHINGTON STATE AUDITORS' CONCLUSIONS:

“At this point, it makes the most sense to return the responsibility for water management in the Walla Walla watershed to the Department of Ecology while maintaining the benefits of the Partnership in the form of board members’ participation on an advisory board. Ecology could then follow a model similar to that employed in the Yakima watershed, where streamflow has measurably improved (Performance Audit, 2020. p. 26)”

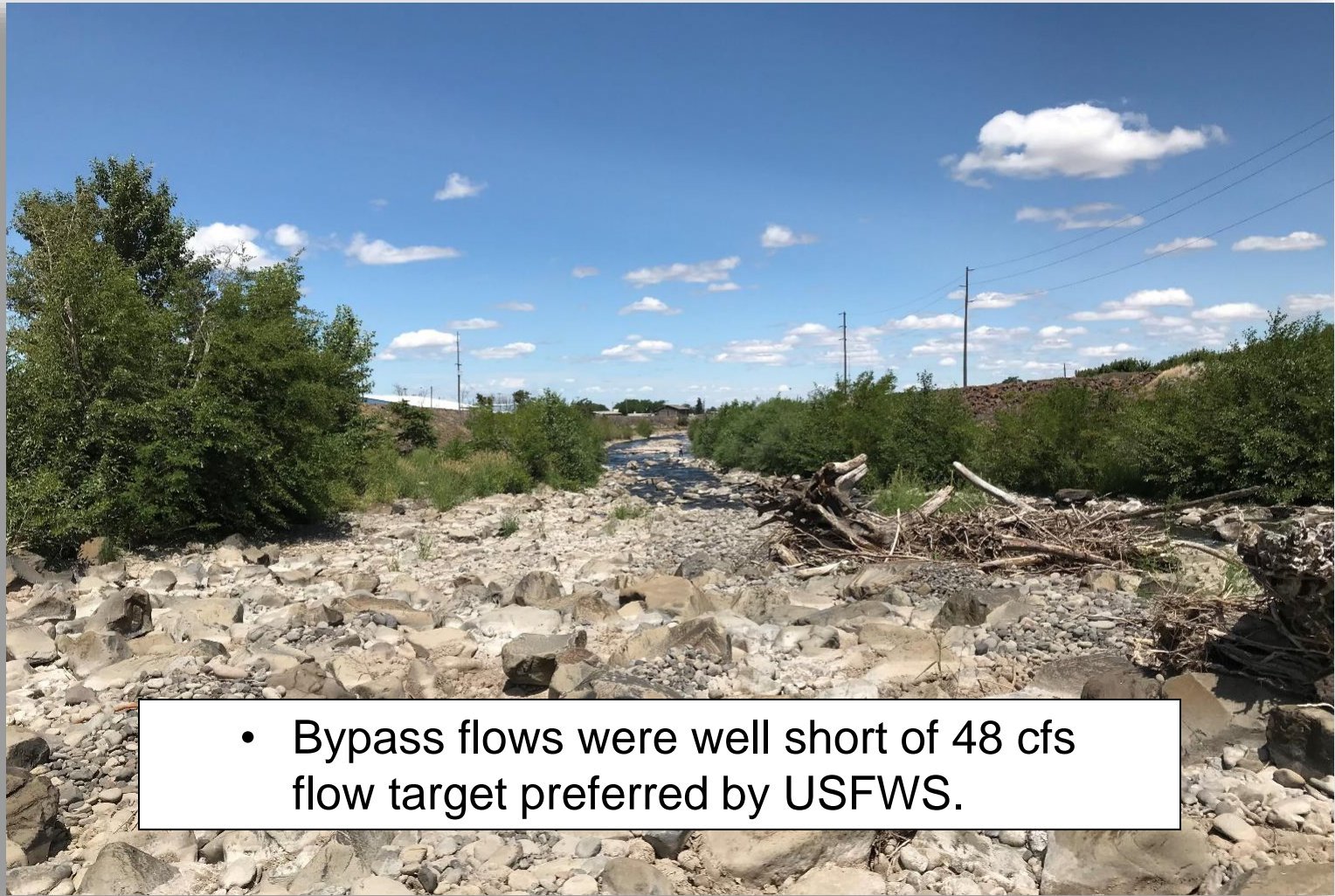


Office of the Washington State Auditor

Taking Stock and Moving Forward

- The Walla Walla Partnership, which was intended to provide the necessary additional flows through local management, acknowledged in 2018 that no flow improvements had been achieved since its inception in 2009.
- Failure of HCP negotiations in 2007 left the bypass flows as the de facto action taken to avoid further ESA violation—and the starting point for moving forward;
- Conditions essentially were the same as they were in 2000, when the first CPSA was signed, and problems remained . . .

Biological Problems . . .

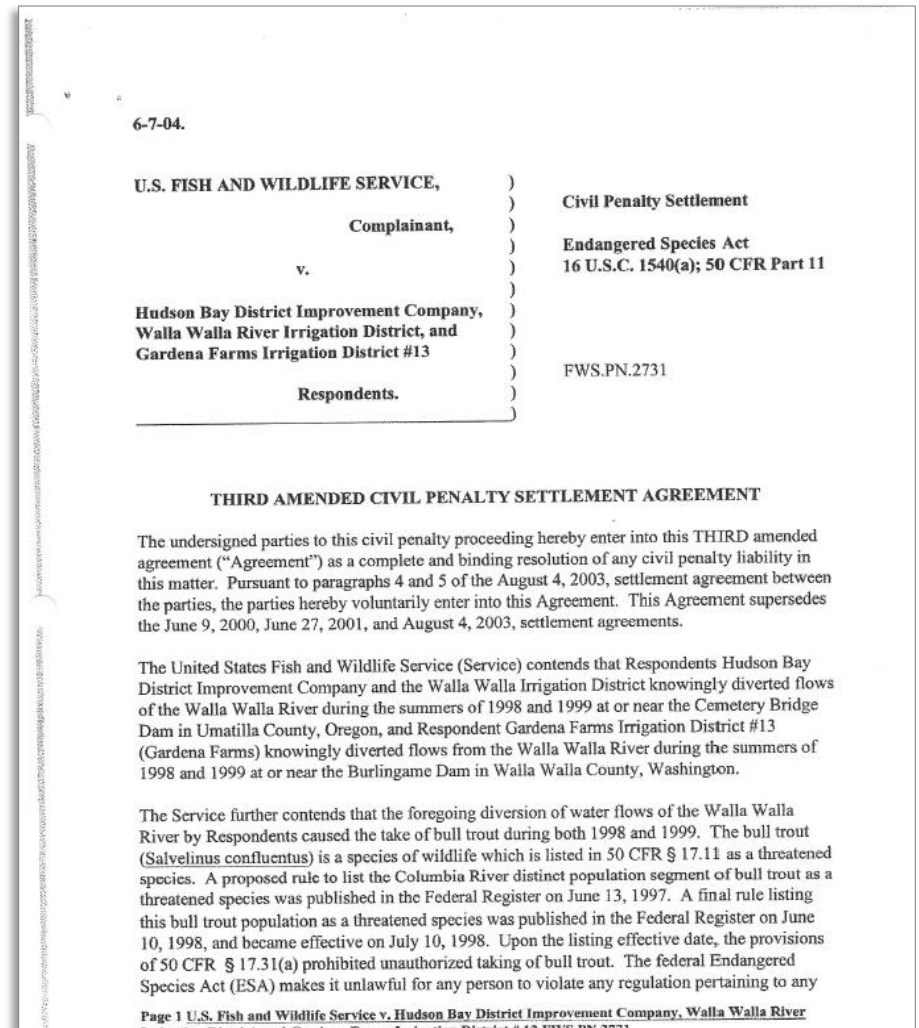


- Bypass flows were well short of 48 cfs flow target preferred by USFWS.

Walla Walla River at 25 cfs bypass flow in June of 2019 (CTUIR)

State Water Law Problems . . .

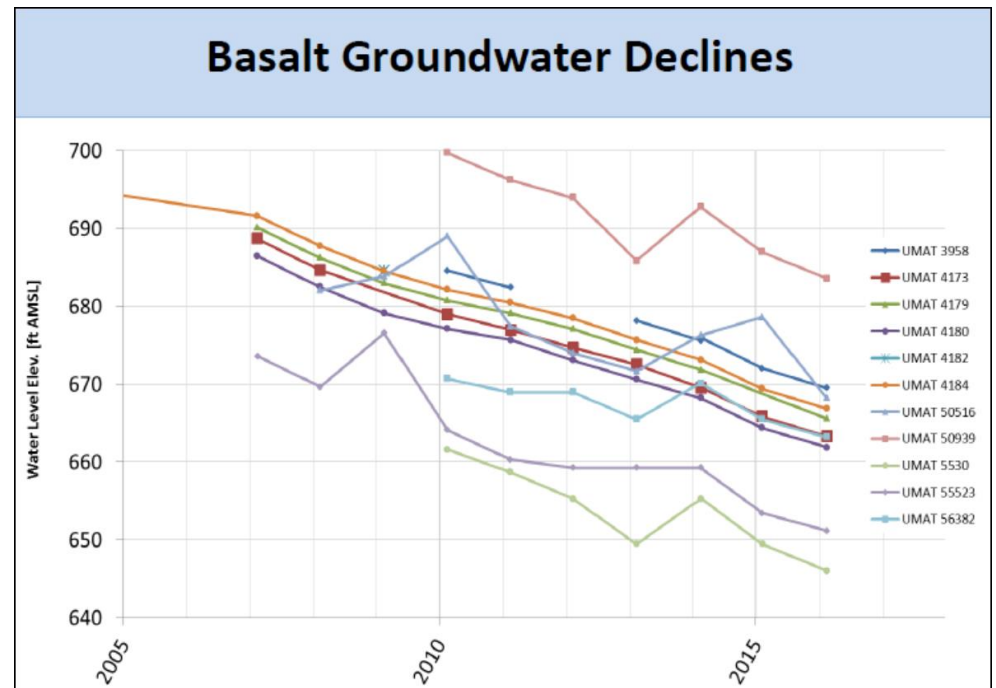
- The lack of a formal instream water right (OR) or trust water right (WA) to protect the bypass flows created problems with state law;
- Bypassing water meant that Oregon districts technically were not fully using their full surface water right;
- As a result, junior water users could not be regulated off in favor of the irrigation districts' senior water rights.



Final Walla Walla Civil Penalty Settlement Agreement (2004)

Groundwater Problems . . .

- Rather than following acreage, bypass flows often were met by leaving primary surface rights instream and using supplemental groundwater rights instead;
- Both alluvial and basalt aquifers in Oregon experienced precipitous declines;
- In 2017, Oregon designated Walla Walla basalt aquifer a “Severe Water Management Problem Area,” or SWMPA.



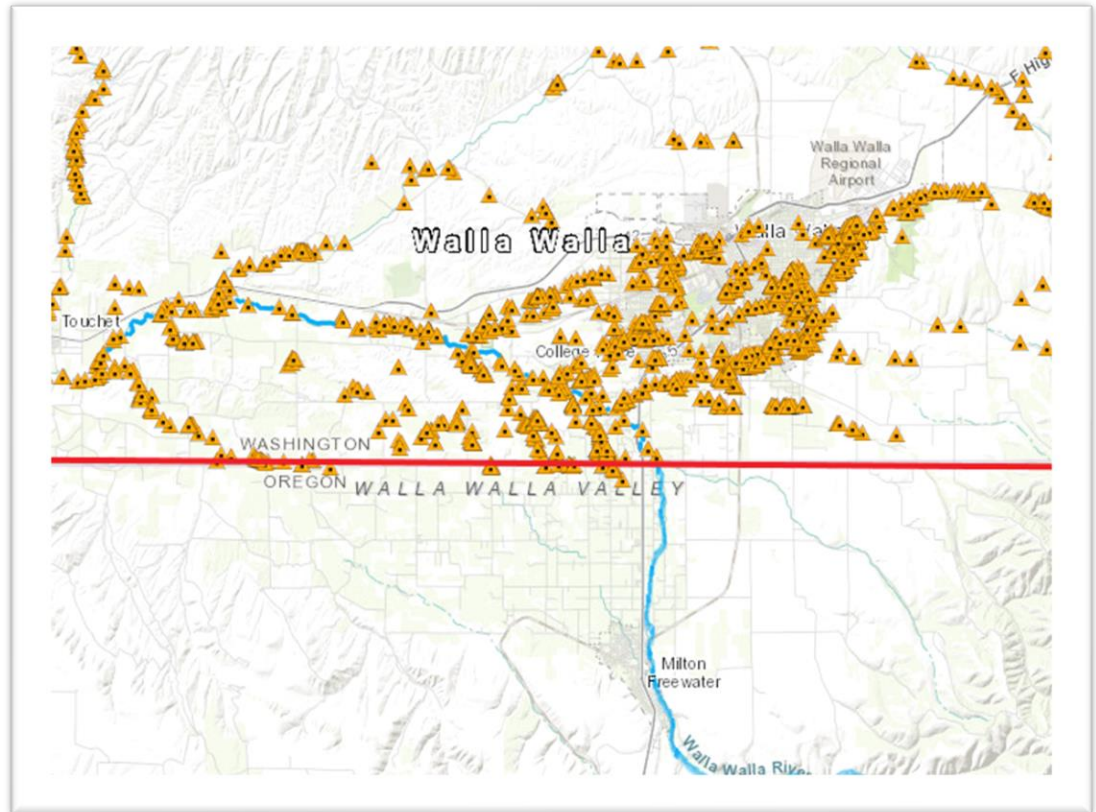
Walla Walla Basalt Monitoring Well Data, OWRD SWMPA Presentation (2016)

Interstate Water Law Problems . . .

- A portion (18 cfs) of the water bypassed by the Oregon irrigation districts also was bypassed by the largest WA irrigation district, as stipulated in the CPSA;

- However, there were many junior water right holders in WA eager to divert the new, unprotected bypass flows that began arriving in 2000 due to the CPSA.

- A bi-state water management framework desperately needed.



Washington Surface Water Diversions, Walla Walla Valley (Ecology 2022)

An aerial photograph of the Lower Walla Walla River valley. The foreground shows a winding river with lush green riparian vegetation. Beyond the river, there are large agricultural fields in various stages of cultivation, some brown and some green. A small town with several buildings and houses is visible in the middle ground. The background consists of rolling hills under a clear sky.

V. Walla Walla Water 2050 2021 -

A New Collaborative Effort: Walla Walla Water 2050

WALLA WALLA 2050 WATER PLANNING

- In 2019, SB 5352 tasked Ecology with collaboratively developing a 30-year plan for the basin, dubbed the “Walla Walla 2050 Plan”;
- Structure and process based on the Yakima Basin model;
- A diverse multi-stakeholder Advisory Committee provides recommendations to the three sovereign entities in the basin: The State of Washington, State of Oregon, and The Umatilla Tribes.



A New Collaborative Effort: Walla Walla Water 2050

WALLA WALLA 2050 WATER PLANNING

- In 2021, the *Walla Walla Water 2050 Strategic Plan* was released;
- The Plan outlined “desired future conditions” for the basin and the strategies necessary to meet these goals;



A New Collaborative Effort: Walla Walla Water 2050

WALLA WALLA 2050 PLAN GOALS

- **Ensure water for fish, farms, and people;**
- **Achieve short and long-term goals for the watershed;**
- **Develop an organizational structure that ensures accountability to implement the strategy;**
- **Achieve clarity around the legal framework and regulatory scheme; and**
- **Obtain adequate/dedicated funding to support the plan.**

WW 2050 Implementation: Bureau of Reclamation Basin Study

Plan of Study

Walla Walla Basin Study

Washington and Oregon
Columbia-Pacific Northwest Region



FINAL DRAFT Walla Walla Basin Study

Memorandum of Agreement

Among

Department of Ecology's Office of the Columbia River,
Confederated Tribes of the Umatilla Indian Reservation's
Department of Natural Resources,
Oregon Water Resources Department

and

U.S. Bureau of Reclamation

August 2023



WW 2050 Implementation: Bureau of Reclamation Basin Study

FINAL DRAFT

- **Walla Walla selected by Reclamation for Basin Study Grant in early 2023;**
- **\$500,000 Study funded by Reclamation will analyze:**
 - Current and future water supply and demand;
 - Performance of existing infrastructure in meeting current and future needs;
 - Strategies needed to meet current and future water demands; and
 - A cost-benefit analysis of the strategies identified.



WW 2050 Implementation: Bureau of Reclamation Basin Study

FINAL DRAFT

- **Reclamation, Ecology, Oregon and Tribes signed MOA in August 2023 initiating Walla Walla Basin Study;**
 - Study scheduled for completion by 2026;
 - Basin Study prerequisite to further Reclamation investment in the Walla Walla (à la Yakima).



— BUREAU OF —
RECLAMATION



DEPARTMENT OF
ECOLOGY
State of Washington



WW 2050 Implementation: Walla Walla Bi-State Flow Study

Walla Walla River Bi-State Flow Study

2019 Flow Study Update

DECEMBER 2019



Prepared for:
Office of Columbia River

Prepared by:
Walla Walla Watershed Flow Study
Steering Committee

WW 2050 Implementation: Walla Walla Bi-State Flow Study

Walla Walla River

- **On-going study funded by Ecology and Reclamation;**
- **Analyzes strategies to achieve instream flow targets and provide reliable summer irrigation deliveries. These include:**
 - Large and small Columbia River pump exchanges (for 120 cfs and 160 cfs) to replace senior irrigation use; and
 - A 34,000 acre-foot off-channel reservoir filled by Walla Walla River winter flows to replace senior irrigation use.

Prepared by:
Walla Walla Watershed Flow Study
Steering Committee

WW 2050 Implementation: House Bill 1322

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1322

Chapter 239, Laws of 2023

68th Legislature
2023 Regular Session

WALLA WALLA WATER 2050 PLAN

EFFECTIVE DATE: July 23, 2023

Passed by the House March 2, 2023
Yeas 96 Nays 0

LAURIE JINKINS

Speaker of the House of
Representatives

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved May 4, 2023 10:07 AM

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1322** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 4, 2023

WW 2050 Implementation: House Bill 1322

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1322

- Amends RCW 90.90.020 (Office of Columbia River enabling language) to add a Section 2 on the Walla Walla Basin; and
- Provides tools to achieve goals of 2050 Plan, including . . .

Passed by the House March 2, 2023
Yeas 96 Nays 0

LAURIE JINKINS

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CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1322

- **Developing organizational structure that ensures accountability to implement the 2050 Plan:**
 - §2 (4) Requires that Ecology is advised by state and federal governments, tribes, and a basin advisory committee that includes a broad range of interests;
 - §2 (6) Requires report to the legislature by June 30, 2025.

Representatives

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

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WW 2050 Implementation: House Bill 1322

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1322

- **Providing the tools to ensure water for fish, farms, and people:**
 - §2 (3) Recognizes increases in water supply developed under the 2050 Plan as “developed” water; and
 - §2 (10) Requires that developed water be managed consistent with the intent of the project implemented.

LAURIE JINKINS
Speaker of the House of
Representatives

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- **Providing the tools to achieve clarity around the legal framework and regulatory scheme:**
 - §2 (5) Requires Ecology evaluate the development of a bi-state legal regulatory framework in collaboration with Oregon and the Tribes; and
 - §2 (9) Authorizes Ecology to designate water developed for instream flow restoration as unavailable to satisfy existing water rights.

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved May 4, 2023 10:07 AM

Representatives and the Senate on
the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 4, 2023

WW 2050 Implementation: House Bill 1322

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1322

- **Providing tools to obtain adequate funding to support the Plan:**
 - §2 (7) Authorizes funding projects outside of Washington if they provide benefits to water demands in the state; and
 - §2 (11) Authorizes Washington to fund up to half of the total costs of implementing the Walla Walla 2050 Plan.

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

DENNY HECK
President of the Senate
Approved May 4, 2023 10:07 AM

Representatives and the Senate on
the dates hereon set forth.

BERNARD DEAN
Chief Clerk

FILED
May 4, 2023



Epilogue



Thank you!

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