

Crisis to Consensus— Restoration Planning for the Upper Klamath Basin

Prepared by:

The Upper Klamath Basin Working Group

with support from:

**The U.S. Institute for Environmental
Conflict Resolution**

Technical assistance from:

 **Jones & Stokes**

August 2002

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This report represents the hard work and earnest goals of the Upper Klamath Basin Working Group (Working Group). More importantly, the report represents the spirit, commitment, and faith of these members that the Upper Klamath Basin can and will be a harmonious place. A place where locally driven resource management efforts and decisions will lead to economic stability, water-use certainty, and ecological sustainability. The Working Group has been together for more than 5 years and has worked through an intensive facilitated process over the past 12 months to develop this report. The process could not have taken place without the support of the following organizations and individuals.

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Executive Summary

This report presents the Upper Klamath Basin Working Group's (Working Group) recommendations for the development and implementation of a restoration plan for the Upper Klamath Basin. In 1996, the 104th Congress of the United States chartered the Upper Klamath Basin Working Group (Public Law 104-333 – the Oregon Resources Conservation Act) to develop a plan for the Upper Basin that focuses on enhancing ecosystem restoration, improving economic stability, and minimizing impacts associated with drought on all resources and stakeholders. The Working Group is comprised of over 30 individuals appointed by the Governor of Oregon, representing federal, state, and local governments and agencies; the Klamath Tribes; conservation organizations; farmers and ranchers; and industry and local businesses. The objective of the Working Group is to develop and oversee a restorative course of action that allows for mutually beneficial gains for stakeholders wherein everybody in the Upper Basin can achieve positive, affirming results together, and where no one is left economically, culturally, or spiritually disadvantaged.

Chapter 1 of this report presents a brief summary of the history of the Working Group and the conditions leading to the development of this effort. Chapter 2 describes the facilitated “interim planning process” the Working Group engaged in between April 2001 and July 2002. Chapter 3 presents the results of the interim planning process including key recommendations regarding Working Group decision-making and operating rules, technical data needs, future cost and time frame of the restoration planning process, and similar planning decisions. Chapter 4 describes the next steps and actions the Working Group is prepared to take to lead the restoration planning process.

The Working Group's goals and objectives will be achieved through the Working Group's continued commitment to public outreach, collaborative problem solving, and implementation of real world solutions. Desired outcomes from implementation of the restoration plan include, but are not limited to, the following:

- › improved water quality through the implementation of accepted Best Management Practices;
- › restoration of wetlands and riparian habitat;
- › enhancement of natural and structural water storage;
- › improvements to irrigation efficiency and water conservation;
- › economic growth and diversity through activities such as value added natural resource products and ecotourism; and
- › enhancement of wildlife Tribal Trust resources.

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Chapter 1

Introduction



Klamath River, California
Photograph by Tupper Ansel Blake

"Eventually, all things merge into one, and a river runs through it."

—Norman Maclean

Like winding tributaries that flow from myriad sources along myriad paths to enter the Klamath River, members of the Upper Klamath Basin Working Group (Working Group) found a common direction in 1995 through appointment by Senator Mark Hatfield. Created through authorization

and funding from Congress under the Oregon Resource Conservation Act (ORCA) of 1996 (Public Law 104-333), the Working Group began its journey to provide a broad-scale vision for the future of the Upper Klamath Basin (Upper Basin). The Upper Basin encompasses approximately 8,000 square miles in south-central Oregon and northeastern California (Figure 1).

Figure 1. The Klamath Basin



The Oregon part of the basin (more than 5,600 square miles) lies primarily in Klamath County, with smaller parts in Jackson and Lake Counties. The California part of the basin (more than 2,300 square miles) lies in Modoc and Siskiyou Counties.

The resource management history of the Upper Basin is long and complex. For close to 100 years, challenging demands have been placed on water availability; timber; and avian, terrestrial,

and aquatic species. Social conflicts between Native Americans, post-European pioneers, and state and federal governments have further complicated the Upper Basin's history. It is in this context that numerous decisions made through the decades have led to continuing conflict and controversy regarding the most appropriate way to manage these important resources.

Under Senator Hatfield's leadership, the mandate of the Working Group was clear—identify short- and long-term solutions for managing the natural resources of the Upper Basin while focusing on three primary goals: maximize ecosystem restoration opportunities, improve economic stability of the basin, and minimize the impacts associated with drought on natural resources and the agricultural economy. The Working Group's ultimate goal was to create and express a unified vision in a locally driven restoration plan that would lead future resource planning and management decisions in the Upper Basin.

Since its inception, the Working Group has been successful in finding short-term solutions by providing guidance on restoration-based projects in the Upper Basin. However, the Working Group has continued to face the unpredictable complexities that are inherent in developing long-term, landscape-level restoration plans. Political pressures and conflicting interests have impeded the Working Group's progress to date. Yet, the Working Group has continued to meet, to work together, and to believe in themselves and in their mutual goals.

In the fall of 2000, the Working Group made a significant decision. Group members decided that they could benefit from engaging a neutral facilitator to help the group through the process of addressing the very challenging and complex issues inherent to large-scale restoration planning. The Working Group needed outside help to assist in creating an Upper Basin restoration plan. Through the assistance and leadership of the U.S. Institute for Environmental Conflict Resolution, the Working Group hired a consultant to facilitate this restoration planning effort. The facilitation team was hired in March 2001 and has assisted the Working Group develop this report.

In early April 2001, the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) released their biological opinions regarding the impacts of the U.S. Bureau of Reclamation's ongoing operation of the Klamath Project on threatened and endangered species, including the Lost River and shortnose suckers, coho salmon and bald eagle.^{1,2} Based on the analysis and findings in the biological opinions, the Bureau of Reclamation (BOR) decided to impound irrigation water in Upper Klamath Lake and suspend delivery of water to the BOR Klamath Project, about 180,000 acres. Water delivery to agricultural irrigators and to the wetland operations of Lower Klamath Lake, Tule Lake, and Clear Lake National Wildlife Refuges was restricted and specific water flow amounts were established to help preserve downstream coho salmon populations.

¹ U.S. Fish and Wildlife Service. 2001. Biological/conference opinion regarding the effects of operation of the Bureau of Reclamation's Klamath project on the endangered Lost River sucker (*Deltistes Luxatus*), endangered shortnose sucker (*Chasmistes Brevirostris*), threatened bald eagle (*Haliaeetus Leucocephalus*) and proposed critical habitat for the Lost River/shortnose suckers. Prepared by Klamath Falls Fish and Wildlife Office.

² U.S. National Marine Fisheries Service. 2001. Biological opinion on the Ongoing Klamath Project Operations. Prepared by Southwest Region, Long Beach, California.



National park police protect the A Canal headgates during summer 2001 protests against the federal decision to withhold water from irrigators

*Herald and News
photograph by
Gary Thain*

In mid-April, 2001, the facilitators and the Working Group undertook a self-assessment interview process to evaluate the Working Group's capacity to achieve its stated goal.³ At the conclusion of the assessment process, the Working Group determined that they were well-positioned to develop a long-term restoration plan. Although well-positioned, the facilitators recommended the Working Group address and resolve 12 interim issues prior to launching into the restoration planning process. Members acknowledged that resolution of these 12 issues would be absolutely necessary before the Working Group could develop the more comprehensive restoration planning effort. These 12 issues were:

1. Identify a Functional Decision-Making Process
2. Define the Leadership and Guidance of the Working Group
3. Define the Specific Geographic Boundary of the Planning Area
4. Develop a Public Participation Plan
5. Assess and Potentially Revise the Membership of the Working Group
6. Develop Interim Opportunities, Constraints, Goals, and Objectives for the Planning Process

³ Jones & Stokes, an environmental consulting firm, was hired by the U.S. Institute for Environmental Conflict Resolution to perform a situation assessment and provide recommendations on the capacity of the Working Group to engage in a long-term restoration planning effort. The specific process by which this assessment was undertaken as well as the complete findings are detailed in a document entitled Situation Assessment available at www.fs.fed.us/r6/winema/ukbwg/.

7. Identify the Authors, Producers, and Managers of the Plan
8. Discuss and Determine the Proposed Cost and Timeframe of the Planning Process
9. Discuss and Define Technical Data Assessment and Use Protocols
10. Discuss and Document the Roles of the State and Federal Governments
11. Identify and Document Potential Funding Sources
12. Discuss and Determine the Future Direction of the Working Group

This report explains the process by which the Working Group discussed these issues and, more importantly, also describes in detail the group's recommendations and decisions for each issue. The following chapters present the vision of how locally driven resource management decisions can be effectively made in the Upper Klamath Basin. The report also presents a specific scope of work with associated timelines and other relevant information about how the proposed restoration planning process should proceed.



Chapter 2

Interim Planning Process

“Good plans shape good decisions. That’s why good planning helps to make elusive dreams come true.”

—Lester R. Bittel

Committed to resolving the 12 issues identified in the self-assessment process, the Working Group agreed to a 7-month Interim Planning Process. With assistance from the facilitation team, the Working Group developed a workplan to guide them through the process. The Working Group recognized that their task was significant and that only through active participation, focused discussions, a strong commitment to each other, and adherence to a consensus based decision-making process would they be successful.



Working Group members deliberate during the April 2002 decision-making workshop
Photograph by Cindy Staunton

The Working Group started the Interim Planning Process by prioritizing the 12 issues. Then, over a protracted period that included thirteen meetings, the Working Group deliberated and decided upon a course of action for each of the identified issues (Appendix A graphically displays how the meetings were structured). For each of the 12 issues, a standard planning sequence was adopted: (1) introduce the issue, (2) discuss the issue, and (3) decide the issue.

At each meeting, one or more of the 12 issues was introduced. For each issue, the facilitation team prepared a *White Paper* that provided introductory information. The White Paper included original text from the Situation Assessment, background materials related to the issue, key questions related to the issue, and other useful information. After the introductory meeting, the subsequent one or two meetings focused on further discussion of the respective issue by the Working Group. Following these discussion meetings, the facilitation team prepared an issue-specific *Advisory Report*. This report summarized the focused discussions, reduced the final

decisions into short lists of critical questions, and constituted the basis for final discussion and decision-making. Over the 7-month period, two full-day decision-making workshops were held. Discussion of the critical questions in the Advisory Reports provided the basis for resolving each of the 12 issues during the workshops. Final results were summarized in a *Decision Report*.

Throughout the Interim Planning Process, members of the Working Group were reminded of ongoing unavoidable realities. While working in their consensus process, the Working Group was confronted with escalating controversy and conflict regarding the Bureau of Reclamation's decision to curtail water delivery. Communities and individuals within the Upper Basin community became more polarized. Opportunities for rational, mutually-beneficial problem solving seemed increasingly slim, but the Working Group's commitment remained solid. Working Group members knew that, more than ever before, Senator Hatfield's vision to create locally driven resource solutions was critical. The Working Group set forth with determination not only to address and resolve the 12 key issues but, more importantly, to send a message to all community members and elected officials that the Working Group had the skills, the faith, and the dedication to lead the way for positive changes in the management of lands and water in the Upper Basin.



Clockwise from top: Klamath Tribe members pray for the health of the c'wam (the Lost River sucker); bald eagles rest on irrigation equipment; red potatoes are one of the most significant crops grown in the Upper Basin; and visitors enjoy extensive outdoor opportunities within the vast Upper Klamath Basin wildlife refuge system.

Photographs clockwise from top: Klamath Tribes News Department, Anders Tomlinson, Anders Tomlinson, and Dave Menke

Chapter 3 Outcomes

“There is nothing more difficult to take in hand,
more perilous to conduct, or more uncertain in its success than to take the
lead in the introduction of a new order of things.”

—*Niccolo Machiavelli*

The determination with which the Working Group undertook the interim planning process enabled them to emerge with resolutions to the 12 key issues. These resolutions, described in detail in this chapter, provide the organizational framework and the substantive scope requirements needed to implement a successful restoration planning process for the Upper Klamath Basin.



Wetland restoration projects, both on and off refuges, are often cooperatively funded by conservation partners such as Ducks Unlimited Inc.

Photograph by Tupper Ansel Blake

Issue 1: Geographic Boundary of the Restoration Planning Area

As specified by Senator Hatfield in the Working Group’s enabling legislation, the geographic focus of the group’s efforts is the Upper Basin above Iron Gate Dam (Figure 2). For the purpose of the planning process, the Working Group must have a definable, logical boundary for the restoration planning area. The project area should be broad enough to address the myriad resource management issues in the entire Upper Basin while also being manageable by the Working Group, associated Upper Basin stakeholders, and future project proponents. Additionally, the project area needs to be an area within which the stakeholders have the responsibility and authority to make decisions and implement actions.

To this end, the upstream geographic boundary for the restoration planning process will be based on watershed designations. The upstream boundary will be the combined limit of the watershed boundaries of the rivers listed below.

- › Klamath River
- › Williamson River
- › Sprague River
- › Lost River
- › Wood River
- › Sycan River

The drainages of these rivers (excepting the Klamath River mainstem) will subsequently be referred to as *sub-basins*. The downstream geographic boundary for the restoration planning area will be Iron Gate Dam. This planning area reflects the original geographic intent of the Working Group’s enabling legislation and also accommodates the resource management responsibilities of several member organizations of the Working Group (U.S. Timberlands, Pacificorp, Bureau of Reclamations, U.S. Bureau of Land Management, U.S. Forest Service, and the U.S. Fish and Wildlife Service, including Refuges). Lastly, this downstream boundary dovetails with the upstream boundary of the Klamath River Basin Fisheries Task Force, which extends upstream to the Iron Gate Dam. Inherent in this proposed designation is the Working Group’s continued commitment to work very closely throughout the planning process with the Klamath River Basin Fisheries Task Force, the Trinity River Task Force, and the Klamath River Compact Commission.

Figure 2 presents the geographic boundary for the restoration planning area.

Figure 2. The Upper Klamath Basin



“You could not step twice into the same river;
for other waters are ever flowing on to you.”

—Heraclitus of Ephesus

Issue 2: Goals, Objectives, and Opportunities of the Planning Process

The Working Group will develop a restoration plan that addresses three major goals:

- › Economic stability,
- › Ecosystem restoration, and
- › Drought proofing.

Specifically, the plan will present:

- › A basin-wide vision to achieve these goals;
- › A detailed description of issues, objectives, and recommended actions and strategies (with examples) at the sub-basin level;
- › Units of measurement and benchmarks to assess the effectiveness of approved projects;
- › Methods for project monitoring; and
- › Procedures by which corrective actions, if necessary, can be undertaken in the future.

Users of the Restoration Plan

Users of the Restoration Plan will comprise: Federal, state, county, local, and tribal agencies and/or commission; resource management funding organizations, watershed councils (and their companion sub-basin working groups); nongovernmental resource management organizations; Soil and Water Conservation Districts and Resource Conservation Districts; represented constituencies of the Working Group; Lower Basin stakeholders including, but not limited to, the Klamath River Fisheries Task Force, Trinity River Task Force, and Klamath River Compact Commission; all other Upper Basin Stakeholders presently or potentially associated with resource management efforts.

Organization of the Restoration Plan

The Plan will describe a roadmap of actions leading to security and assurance for the Upper Basin within the context of the entire Klamath Basin from the uppermost watershed to the mouth of the Klamath River at the Pacific Ocean. The introductory chapters of the Plan will present the *community/basin vision* and will introduce and define the three major goals (identified above). These discussions will be focused at the scale of the entire Upper Basin as it fits into the entire Klamath Basin. Following the description of the major goals, the Plan will describe a full range

of *project types* that could be used as building blocks to achieve the major goals. The objective is to develop a wide range of project types, implemented at different geographic scales, such that the cumulative results will be measurable improvements to economic stability, ecological conditions, and water availability.

Following the description of the project types, the Plan will describe specific *measurements* for each project type. The measurements are the metrics that will be used to ensure that a project type has been successful in achieving its objective(s). Inherent in the attempt to measure success is the acknowledgement that different project types and individual projects will have different levels of impact. As discussed in the preceding paragraph, the Working Group acknowledges that some projects may provide *stand-alone* resource management results, while other projects may need to be assessed as part of a *package* of several projects.

The Plan's middle chapters will present descriptions of each sub-basin of the Upper Klamath Basin. These descriptions might include existing conditions and some discussion of the specific problems, opportunities, and needs for each sub-basin. The relative geographic scale of the Plan accordingly shifts at this point from a discussion of macro-level information to a more median-level discussion.

Following the description of a specific sub-basin, the specific project types and associated measurements appropriate for each sub-basin will be introduced. The Plan's level of detail in this way becomes increasingly refined.

The last chapter or appendices will present specific proposed projects within specific areas of each sub-basin. Some future projects could include all previously recommended project types for that sub-basin, packaged together as one or more *master* projects. Conversely, some future projects might include only one or a few recommended project types. Such decisions would ultimately depend on the specific objectives of each sub-basin and the need to achieve the cumulative balance where all stakeholders experience benefits.

Duration of the Restoration Plan

The Plan is envisioned to assist and promote restoration within the Upper Basin over a number of decades. However, ***the Plan will undergo a comprehensive update every ten (10) years. The Plan will be reviewed annually to assess the effectiveness of monitoring and funding, and to identify new projects.*** As new information becomes available, new regulations are enacted, and/or new decisions are made, the Working Group will determine if the Plan needs to be revisited.

“To will is to select a goal, determine a course of action that will bring one to that goal, and then hold to that action till the goal is reached. The key is action.”

—Michael Hanson

Issue 3: Develop a Functional Decision-Making Process

Fundamental to the near- and long-term success of the proposed restoration planning process is the Working Group's ability to make defensible, equitable, consensus-based decisions. Through many past and recent trials, the Working Group members have maintained their deep professional and personal respect for each other and their strict adherence to the concepts of consensus. Through the facilitated process, the Working Group codified the decision-making steps they followed as described below; these steps are also part of the Working Group's formal operating rules. See Appendix B for the complete *Ratified Operating Rules of the Upper Klamath Basin Working Group*.

1. Decisions will not be made lightly, and Working Group members understand that decisions will frame future actions. It is the responsibility of all Working Group members to keep the process and meetings on track and focused.
2. As the participants discuss and make decisions on issues, the co-chairs, facilitators (when in use), or an appointed recorder will draft language that reflects the emerging consensus of the participants. Draft statements that are prepared in this manner will then be circulated for review by all participants during and after meetings. The co-chairs or facilitators will then integrate comments into a revised statement which will in turn be presented at the next meeting, where the co-chairs or facilitators will seek further discussion and possible ratification. This pattern of drafting, revising, and ratification will be the primary method of seeking agreements that emerge from discussions held by the participants.
3. The Working Group will strive to achieve decisions by consensus. In seeking consensus, each member has an obligation to articulate interests, propose alternatives, listen to proposals, and build agreements by negotiating a recommendation for adoption by the full Working Group. In exchange, each member has the right to expect a full articulation of agreements and areas of disagreement (if any exist), and an opportunity to revisit issues on grounds of substantial new information becoming available during the Working Group's deliberations.

Definition of Consensus. The Working Group's enabling legislation defines consensus as "unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting." Quorum is defined as half of the total current membership plus one in attendance at a given meeting.

From a legal perspective, the Working Group must utilize the definition of consensus as given in the enabling legislation. From a functional perspective, however, the Working Group will utilize the following operational interpretation of consensus: "Consensus is a process used to find the highest level of agreement without dividing the participants into factions. Everyone in the group supports, agrees to, or can accept a particular decision."

In seeking consensus on an interim or final recommendation, it is understood that members should voice their concerns with specific proposals along the way, rather than waiting until a final recommendation has been developed. In addition, the Working Group will use the following three levels to indicate a member's degree of approval and support for any proposal or decision being considered by the Working Group and to determine the degree of consensus in the Working Group:

Thumbs Down: I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.

Thumbs Sideways: I neither support nor oppose the decision.

Thumbs Up: I think this proposal is the best choice of the options available to us.



Working Group members show unanimous "thumbs up" support for a decision

Photograph by Austin McInerney

The goal is for all members of the Working Group to be in the Thumbs Up or Thumbs Sideways levels of agreement. The Working Group will be considered to have reached consensus if all members are at those two levels. If any member of the Working Group is at a Thumbs Down level, the Working Group will stop and evaluate how best to proceed.

Straw Polls. Straw polls may be taken to assess the degree of preliminary support for an idea before it is submitted as a formal proposal for final consideration by the Working Group. Members may indicate only tentative approval for a preliminary proposal without fully committing to its support. It is understood that agreement on a final recommendation will typically require consideration by constituent groups of all elements of the recommendation that ultimately emerges from the Working Group.

Absence When Decisions Are Made. When members cannot attend a meeting of the Working Group, they will communicate their views verbally or in writing to the co-chairs or members prior to that meeting.

Decision-Making with Other Groups Formed by the Working Group. In the event that the Working Group convenes any other body of stakeholders (including technical experts, consultants, legal representation, etc.) any decisions made by that body will be conducted using the above adopted decision-making processes of the Working Group.

“No trumpets sound when the important decisions of our life are made.
Destiny is made known silently.”

—*Agnes DeMille*

Issue 4: Leadership and Guidance of the Working Group

Through the facilitated process, the Working Group decided to articulate the specific roles, responsibilities, and expectations of all members in a formal set of operating rules. An example of these decisions (specifically relevant to the planning process) is presented below (see Appendix B for the complete *Ratified Operating Rules of the Upper Klamath Basin Working Group*).

It is the responsibility of all Working Group members to support the following principles:

- › The personal integrity and values of each Working Group member will be respected by all members. The motivations and intentions of Working Group members will not be criticized.
- › Every Working Group member will check back with his/her respective organization or constituency and will be responsible for keeping them aware of ongoing review processes and project timelines. Significant comments and questions expressed by the peers, senior staff, and/or governing boards of the members will be communicated back to the Working Group at its next regular meeting.
- › For all public participants at Working Group meetings (including Working Group members), the personal integrity, values, and legitimacy of the interests of each participant will be respected by other participants. Participants are requested to listen actively and to speak one at a time. Everyone will participate in discussions; no one will dominate.
- › Every Working Group member is responsible for communicating his/her position on issues under consideration. It is incumbent upon each member to state the interests of the organization or constituency he/she represents. Voicing these interests is essential in enabling meaningful dialogue and full consideration of issues by the Working Group. After a decision is made, no member will work to undermine that decision

- › If a Working Group member must miss a meeting, that person will communicate his/her comments verbally or in writing to the Working Group, co-chairs, and/or facilitator team (if in use) at least 2 days before the scheduled meeting. Members can also contact the co-chairs and/or facilitators between meetings at any time to discuss their concerns and needs related to this dialogue. If requested by a member, these discussions can be treated as confidential with the co-chairs and facilitators.

It is the responsibility of the co-chairs to:

- › Develop and distribute meeting agendas with input from the members and in consultation with the facilitators (when in use). (Distribution responsibilities may be deferred to another appointed party by the Co-chairs.)
- › Serve as the official spokespersons for the planning process.
- › Encourage the active participation of all Working Group members.
- › Publicly represent the consensus opinion of the Working Group.
- › Keep Working Group members and support staff accountable for agreed-upon tasks and deadlines.
- › Support the efforts of the facilitators (when in use).
- › Support the orderly and efficient function of Working Group meetings while still being allowed to represent their respective constituencies.
- › Encourage wide public participation and attendance at all Working Group meetings.

For the purpose of the restoration planning process, topics are introduced, discussed, and decided upon over a varying number of Working Group meetings. Accordingly, adequate time will be available between the time a topic is introduced and the time a decision is reached for members to discuss issues with constituents and among themselves. However, if extraordinary situations arise, the Working Group may be required to discuss and take appropriate action on specific issues within the timeframe of a single meeting.



Lost River Sucker (known as c'wam by the Klamath Tribes) are protected by federal laws
Photograph by Tupper Ansel Blake

Topic-specific subcommittees may be convened (as appropriate) to further discuss restoration planning process issues and to develop advisory documents on key topics. The composition of all subcommittees will be approved by the Working Group prior to initiating work. Subcommittees will adhere to the Working Group’s Operating Rules (as presented in Appendix B). Subcommittees may draft advisory documents as necessary to inform the Working Group’s deliberations on specific topics. The distribution of these advisory documents to the full Working Group serves as notification that the subject topic is being discussed and will be decided upon by the full Working Group.

“The significant problems we face cannot be solved at the same level of thinking we were at when we created them. “

—Albert Einstein

Issue 5: Assess and Revise the Membership of the Working Group

Discussion by Working Group members confirmed that they could not adjust their membership because the numbers and types of members are dictated by the enabling legislation that formed the Working Group in 1996 (see Appendix C for the complete text of the enabling legislation). However, group members have developed and approved a process by which the Working Group can solicit interested new members to replace individuals when they leave the group. While the Governor of Oregon must make the official appointment to the Working Group, the Working Group itself can make recommendations to the Governor. The specifics of this process are detailed in the Ratified Operating Rules contained in Appendix B.

That said, the Working Group decided that it was *fundamentally* important to improve outreach to Upper Basin stakeholders. The Working Group decided that the most appropriate opportunity to discuss Working Group issues and make relevant decisions was during the development of the Public Participation Plan. See Issue 6 for more discussion on that topic.

“We don’t work for each other.
We work with each other.”

—Stanley C. Gault

Issue 6: Develop a Public Participation Plan

The Working Group is committed to establishing better opportunities for basin-wide dialogue. The Working Group acknowledges that its past outreach efforts have not been successful and that now, more than ever, the Upper Basin needs a venue for all interested parties to discuss events, concerns, ideas, and solutions. The Working Group is prepared to serve as that venue.

As described under Issue 2, a key part of the Restoration Plan will be the focus on sub-basin existing conditions, problems, and opportunities. To prepare such information will require a considerable increase of outreach and communication between the Working Group and other Upper Basin stakeholders. The Working Group is prepared to lead this effort. To that end, the Working Group has formed an Outreach Subcommittee and has assigned the subcommittee several tasks related to the development of a Public Participation Plan. The Public Participation Plan will be a guide for real, on-the-ground outreach efforts. It will include the elements listed below.

- › A catalog of all Upper and Lower Basin resource-oriented programs, organizations, and entities, including a summary of their mission, membership, meeting schedule, and key points of contacts.
- › An outreach schedule to routinely communicate and interact with the aforementioned groups.
- › An outreach strategy for the aforementioned groups, including agreed-upon roles, responsibilities, and expectations for involvement with the Working Group's efforts.
- › A media outreach strategy, including current and future information materials, specific points of contact with media outlets, and key milestones for media coverage.
- › An agency partner outreach strategy, including information materials and specific points of contact for all appropriate federal and state agencies.
- › An informational newsletter prototype for regular direct mailings.
- › A web-based outreach strategy for internet/email access.



The “discovery marsh” near Tule Lake National Wildlife Refuge visitor center serves as an outdoor laboratory for students

*Photograph by
Dave Menke*

Assuming that appropriate funding support is acquired, the Working Group is prepared to expeditiously complete and initiate implementation of the Public Participation Plan. Based on the subcommittee recommendations, further discussion by the entire Working Group, and the previously described funding needs, the Outreach Subcommittee is prepared to complete the following additional tasks.

1. Prepare an outline of the Public Participation Plan.
2. Prepare the draft text of the Public Participation Plan.
3. Prepare the final text and implementation schedule of the Public Participation Plan.
4. Assuming additional funding support is available, initiate implementation of the Public Participation Plan.

“Call it a clan, call it a network, call it a tribe, call it a family.
Whatever you call it, whoever you are, you need one.”

—*Jane Howard*

Issue 7: Identify the Authors, Technical Support, and Managers of the Restoration Plan

The Working Group knows that initiating and completing the Restoration Plan is a large effort. Group members are very aware that recommendations about roles and responsibilities in the planning process are critically important to the success of the effort and, thus, cannot be taken lightly. In that context, the Working Group had considerable discussion over options of who will author the Plan, provide technical support in the planning process, and fund the planning process. These options included local volunteers, academic institutions, federal and state agencies, Working Group members, technical consultants, and a combination of the above. In the end, the Working Group reached the following conclusions.

- › ***The Working Group will author the plan.*** The Working Group will have overall responsibility for the content of the plan and the timeline of the process. The Working Group will have overall responsibility to report to a contract management entity that has provided the funding/contracting vehicle. The Working Group will work with the contracting manager to select technical support consultants.



Fish biologists performing spawning gravel surveys for fish near Iron Gate dam in northern California

Photograph by Tupper Ansel Blake

- › ***Consultants will provide primary technical support.*** These consultants will provide specialists with focused expertise; planners that can synthesize complex and diverse data into unified concepts; technical writers and editors to produce organized, readable documents; and managers to oversee project staff, schedules, and costs. In addition, the primary technical consultant will receive additional technical support from agencies and academic institutions. The technical consultant will be encouraged to contract local expertise. The technical consultant will act at the direction of the Working Group or its designee. The technical consultant will need to have the tools to physically modify, reproduce, and distribute the various versions of the plan in a reasonable timeframe and for a reasonable cost.

- › ***A contract manager will provide the contract vehicle that facilitates funding, contracting with consultants, and other support services.*** The contract manager may represent a state, federal, local, or nongovernmental organization and must have the flexibility to receive and distribute funding from single or multiple sources that could include government agencies, nongovernmental organizations, and private entities. The contract manager will implement the scope as specifically directed by the Working Group. The scope of the Restoration Plan must adhere to local, state, and federal laws and regulations.

“Decide what you want, decide what you are willing to exchange for it.
Establish your priorities and go to work.”

—H. L. Hunt

Issue 8: Determine the Roles of the Federal and State Governments in the Restoration Plan

The Working Group recognizes the importance of having both federal and state agencies participate as members of the group. The positive professional and personal relationships between agency representatives and other Working Group members has been a cornerstone to the continued success of the group. The decision to withhold irrigation water and subsequent events of summer 2001 regrettably challenged these relationships. More critically, non-agency Working Group members needed to be responsive to their constituents and concerns about the role that these government agencies would play in the proposed planning process. The consensus opinion of the Working Group is that the agencies are significant stakeholders in the Upper Basin because of their responsibilities for managing large portions of the watershed, their ability to fund restoration efforts, and their responsibility to enforce respective regulations. Nonetheless, the Working Group feels that federal and state agencies should not take the lead role in the planning process.

The Working Group recommends that the federal and state agencies provide technical support and possible funding/contracting vehicles for consultant support to the Working Group during the development and implementation of the Restoration Plan.



U.S. Fish and Wildlife Service employee working in the field

*Photograph by
Tupper Ansel Blake*

The Working Group supports a locally based, cooperative multi-agency team that is involved in the development and implementation of the Restoration Plan. This team shall include the Natural Resources Conservation Service, Bureau of Land Management, U.S. Fish and Wildlife Service, the U.S. Forest Service, and Bureau of Reclamation as well as various state agencies, such as the Oregon Department of Water Resources, the Oregon Department of Fish and Wildlife, and the Oregon Governor's office. The Working Group expects cooperation, coordination, and communication among all involved parties throughout the restoration planning process.

"Work while you have the light. You are responsible for the talent that has been entrusted to you."

—Henri F. Amiel

Issue 9: Discuss and Define Technical Data Assessment and Data Use Protocols

Since September 2001, when the final Situation Assessment was written, conditions have changed in the Upper Basin. Many stakeholders have entered into the discussion of long-range planning, and the validity of recent and future resource management decisions has been questioned. In that context, there is a compelling need for data assessment and data use protocols to be developed in the very near future to support the restoration planning process.

As described above in Issue 2, the Working Group will organize the Restoration Plan at the sub-basin scale. Discussions at this geographic scale will:

- › Allow for accurate technical data collection;
- › Foster local community development and understanding of both the ecological and economic conditions of the area under study; and
- › Enhance the likelihood of honest dialogue regarding the problems, opportunities, and needs of the community and the environment.

As part of this process, Working Group members (and other stakeholders and technical specialists) will need to agree on the definition and breadth of particular problems facing their community. Difficulties are sure to arise if members and stakeholders cannot agree.

For example, environmental/conservation members may hold a different opinion than agricultural members of the status, causes, and effects of the loss of riparian habitat along a particular tributary. In such a situation, if the parties involved cannot agree on the specifics and/or severity of the problems, it is unlikely they will agree upon what actions should be pursued to create solutions. If they cannot agree on solutions, the planning process may be hampered. The challenge, therefore, is to craft a process that will allow the Working Group to reach consensus on the specific problems facing each sub-basin.

In the above description, the genesis of the problem actually begins at the collection of existing data and the use of that data in describing existing conditions. For each sub-basin, the Working Group will likely rely on large data sets that have been collected and created over many years by many methods and by many different organizations. This data will likely in turn be analyzed by a variety of specialists employed by the Working Group to determine technical adequacy and usefulness to the current restoration planning process.



Fish and Wildlife Service employees receive training in the identification and protection of archeological resources in wetlands of the Klamath Basin

Photograph by Dave Menke

As the events of summer 2001 highlighted, the Working Group and its specialists will need some means to reach consensus in a timely fashion regarding data validity. Even prior to this step, the Working Group will need an equitable process to determine what specialists will be employed to assess said data. These are the first steps in the restoration planning process at which some previously determined protocols for data assessment and use will be necessary.

Following the assessment of existing data, the Working Group will need a way to determine what data is missing, how this information will be collected, and how will new data be used in the planning process in a way that is agreeable to all parties. Without such data, the Working Group and its planning partners will be hard pressed to adequately define sub-basin solutions. Equally important, the Working Group will need a way to ensure that resource management recommendations in the plan are defensible.

“Bad science...does not give rise to public confidence
in the work of the department.”

—Sue Ellen Woolridge, Deputy Chief of Staff, Department of the Interior

It is proposed, therefore, that the Working Group consider employing the following steps to data assessment and use:

1. Identify mutually agreed upon protocols/specialists for use throughout the restoration planning process;
2. Update the Working Group’s Operating Rules to reinforce the relevant, agree-upon protocols;
3. Use agreed upon protocols/specialists to collect and assess existing data for validity;
4. Following the assessment of existing data, determine critical data gaps;
5. Develop agreed upon methodologies for collecting and analyzing new data to fill those data gaps; and
6. Determine a process for sharing and validating collected data with the affected community.

In the context of the foregoing, the Working Group makes the following recommendation.

The Working Group will create and oversee a Technical Advisory Committee (TAC) to support the collection of existing data, the identification of data gaps, and the development of data assessment and use protocols. Funding will be necessary to convene and support a TAC. Assuming that funding is provided in a timely manner, this TAC will be convened as quickly as possible.

“Science is good furniture for one’s upper chamber,
if there is common sense below.”

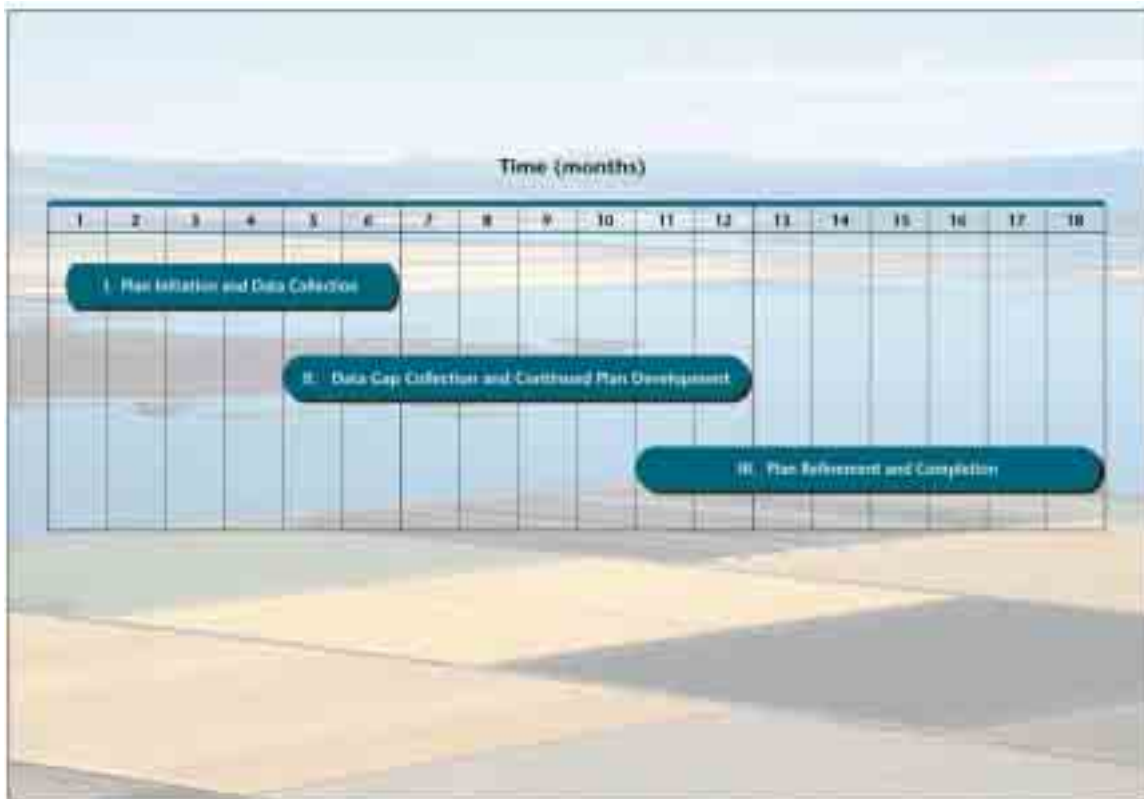
—*Oliver Wendell Holmes, Sr.*

Issue 10: Determine the Cost and Timeframe of the Restoration Plan

Like the issue of who will write and manage the Restoration Plan, the determinations of how long the planning process will take and how much it will cost are critically important. The Working Group had considerable discussion over these issues. Group members know that the restoration planning process must balance the various stakeholder community needs to be scientifically accurate, socially defensible, and politically astute. The Working Group recognizes that any successful restoration planning effort must be incentive based, and must be implemented only with voluntary, willing participants. Lastly, the Working Group understands that any future Restoration Plan must include adaptive management principles to ensure that flexible decision-making can occur over time. In this context, the Working Group offers the following recommendations.

Timeframe of the Proposed Plan. As shown in Figure 3, the planning process will take approximately 18 months. The process will be divided into three phases with several month overlap between the phases.

Figure 3. Anticipated Restoration Planning Timeline



- › **Phase I: Plan Initiation and Data Collection.** During this phase the introductory plan chapters, which present the “community/basin vision” and introduce and define the three major goals, will be crafted. In addition, the full range of project types to be used as the building blocks to achieve the major goals will be proposed. These project types would potentially be those that have already been proposed for implementation through recent efforts and would be included in a comprehensive planning process. The Phase I deliverable would identify specific measurements for each project type. Concurrently, technical specialists would initiate the collection and review of relevant data needed to develop descriptions of each sub-basin in the Upper Basin. These descriptions might include existing conditions and some discussion of the specific problems, opportunities, and needs for each sub-basin. Public outreach will be undertaken during this phase to build consensus on the identified problems, opportunities, needs, and appropriate strategies for each sub-basin.

Phase I Deliverable: Restoration Plan Outline

- › **Phase II: Data Gap Collection and Continued Plan Development.** During this phase, the Working Group will work with the community to collectively identify data gaps and develop and undertake a process for collecting missing data. Following the description of a specific sub-basin, the specific project types and associated measurements appropriate for each sub-basin would be further refined.

Phase II Deliverables: Data Gap/Data Use Technical Report; Preliminary Draft Restoration Plan

- › **Phase III: Plan Refinement and Completion.** The last phase of Plan development will allow for identification of specific proposed projects that, if implemented, will support the Plan’s goals; this phase also entails completion and publication of a final Plan. During this phase, extensive public outreach will be undertaken to build support for the Plan.

Phase III Deliverables: Draft Final and Final Restoration Plan; Implementation Schedules; and identification of the necessary environmental compliance documents (e.g., NEPA, Biological Assessment/Biological Opinion, Section 404 permit application, etc.).

Cost of the Proposed Upper Basin Restoration Plan. Given the complexity of developing an Upper Basin Restoration Plan, current political conditions regarding Upper Basin support, and data uncertainties for the planning area, determining the recommended cost for the entire planning process is not feasible at this time. However, the Working Group understands that some preliminary basis for funding must be provided to support funding entities make accurate appropriations. In that context, the Working Group provides the following recommendation:

- › The Working Group, with assistance from the federal agencies within the group, will develop a programmatic Work Plan. This Work Plan will incorporate and significantly expand upon the decisions from the interim planning phase to identify very specific labor, direct cost, and time-frame recommendations. The proposed Work Plan will then be used as project management guidance for agency staff and/or as the basis for a request for proposal for prospective consultants seeking to conduct the technical work for the project.

“Money is like a sixth sense without which you cannot make a complete use of the other five.”

—W. Somerset Maugham

Issue 11: Identify Potential Funding Sources

The proposed Upper Basin Restoration Plan will be a comprehensive process. Many stakeholders from many walks of life and jurisdictions have a vested interest in the success of this planning process. In this context, the Working Group proposes that funding for the effort come from a variety of governmental and private sources. More specifically, the Working Group seeks a distribution of 85 percent public funding and 15 percent private funding in support of the planning process.

That said, the Working Group believes there are excellent opportunities for the recently convened Presidential Task Force for the Klamath Basin to help provide leadership and direction in finding and procuring the needed funding for this planning effort. President Bush has pledged his support to finding equitable, long-lasting solutions for the Klamath Basin. He and his

appointed Task Force members have also expressed a public desire that any future solutions in the Klamath Basin be created and influenced by locally driven efforts.

“We need to get past the finger-pointing and look for solutions.”

—*Wendell Wood*

The Working Group is the most logical organization to lead this local effort. The Working Group represents a diverse cross-section of basin stakeholders, it is organized and focused, and, as evidenced by this document, is the only stakeholder organization in the Upper Basin to have prepared a comprehensive, “game plan” for basin-wide improvements. The Working Group is confident that this document and the proposed next steps in this planning process are the very tools the Presidential Task Force is seeking.

In addition to the Presidential Task Force, the Working Group also looks forward to increased support from the Congressional delegations of Oregon and California and from the Governors of Oregon and California.

“Money never starts an idea; it is the idea that starts the money.”

—*W. J. Cameron*

Issue 12: Determine the Future Role for the Working Group

The past year has been tumultuous for many parties in the Upper Basin. The Working Group is no exception. Successes have been replaced by setbacks in a matter of days. Enthusiasm has led to disappointment. Such is the nature of a conflict that has impacted so many different people with different values and different cultures.

And yet . . . perhaps we are not so different.

We all want clean, abundant water. We all want a successful, vibrant community and a healthy environment. We all want to provide for our families and know that our friends are safe and secure.

And in that light, the Working Group, even in the context of any past or future deficiencies, represents all that can be good and vibrant about our community. We represent a forum through

which all of us who have been affected by the current crisis and the long-standing issues that led to the crisis can discuss and resolve these issues openly, candidly, thoughtfully, and respectfully.

The following chapter presents the Working Group's next steps. We need to work together in a focused framework to develop meaningful and lasting solutions that maximize mutually beneficial gains for all stakeholders.

The time is now for great things.

“The great French Marshall Lyautey once asked his gardener to plant a tree. The gardener objected that the tree was slow growing and would not reach maturity for 100 years. The Marshall replied, 'In that case, there is no time to lose; plant it this afternoon!’”

—*John F. Kennedy*



White Lake on Lower Klamath National Wildlife Refuge at sunset
Photograph by Tupper Ansel Blake

Chapter 4

Next Steps

“The future is not something we enter.
The future is something we create.”

—Leonard I. Sweet

The Working Group is prepared to write a comprehensive Restoration Plan for the Upper Klamath Basin. We will be organized, committed, and focused during the development of the Restoration Plan. We have been honest with ourselves about our past efforts and have taken steps to improve our deficiencies and enhance our strengths. With appropriate and timely resources, we will:

- › Implement a comprehensive, basin-wide outreach program to include all stakeholders in a mutually beneficial collaborative planning process;
- › Provide a forum where thoughtful, respectful dialogue will take place for all stakeholders in the Upper Basin;
- › Manage an organized, efficient planning process;
- › Select and manage a highly qualified team of technical specialists to support the planning process; and
- › Support and be accountable to a focused contract manager and one or more funding sources investing in the planning process.



The Klamath Basin
provides critical habitat to
migratory birds

*Photograph by
Anders Tomlinson*

Most specifically, and from a time-critical perspective, we need the commitment of funding from one or more sources to start the Work Plan described in Chapter 3, Issue 10. Assuming timely and appropriate funding, we will develop a request for proposals for professional assistance to develop the Restoration Plan. Time is of the essence; we are committed to moving the restoration planning process forward as quickly as possible.

The Working Group will begin the necessary steps to: (1) develop the Work Plan and Request for Proposals as described in Chapter 3, Issue 10; and (2) secure long-term funding for the full restoration planning effort. To support this latter effort, the Working Group will prepare a short list of potential funding sources and their respective decision-makers. Working Group representatives will prepare background materials to facilitate discussions at project update meetings with said potential funding entities. Proactive communication will hopefully expedite the funding and subsequent initiation of the full restoration planning process. Assuming appropriate and timely funding is secured, the Working Group is committed to initiating the following tasks.

- › Further develop and implement the Public Participation Plan as described in Chapter 3, Issue 6. In the interim, the Working Group will initiate preliminary, *must do* outreach efforts to set the stage for future, more comprehensive efforts. Necessary tasks will include, but will not be limited to, the following activities.
 - £ Participation in scheduled meetings with the Klamath River Fisheries Task Force, Trinity River Task Force, and the Klamath River Compact Commission for basin-wide coordination purposes (as detailed in the Memorandum of Understanding between these entities).
 - £ Establish and publicly announce future Working Group meeting dates and times in order to generate increased participation.
 - £ Organize and hold a signing ceremony for this document to publicly celebrate the completion of this interim planning phase and the initiation of the restoration planning process. This event will be held at the Oregon Institute of Technology on August 21, 2002.
 - £ Update both the Working Group's existing website (www.fs.fed.us/r6/winema/ukbwg/) and the basin-wide website (www.klamathgroup.org) with information regarding the restoration planning process and how to become involved.
 - £ Present an overview of the Working Group's restoration planning process to as many local civic groups as possible. To accomplish this, pairs of Working Group members will be assigned to meet with various groups.
 - £ Develop and distribute a simple and informative flyer describing the restoration planning process and opportunities for involvement.
 - £ Make presentations to local educational institutions, including the Oregon Institute of Technology.

- › Create a Consultant Review Subcommittee and will widely announce a public request for qualifications for interested and qualified consulting firms. In doing so, the Working Group hopes that a subset of firms can be pre-screened to expedite the proposal and contracting process for the restoration planning effort.
- › Identify a contract manager to work with the Consultant Review Subcommittee to develop a standardized set of selection criteria to assess the preliminary proposals. Assuming it is appropriate, this subcommittee and the contract manager will provide recommendations to the Working Group for a shortlist of consultants. The Working Group and the contract manager will establish an interview process including dates, locations, and decision criteria with which to assess the project finalists. Upon receipt of the proposals, the Working Group will quickly evaluate all submittals and award the contract.
- › Form a Project Management Subcommittee to ensure progress on several key project tasks identified in this report. Another role of this subcommittee will be to assign appropriate Working Group members oversight responsibility of the yet to-be-determined planning consultant and their associated tasks. Upon awarding the planning contract, the Working Group will hold a multi-day meeting meet with the new project consultant. This meeting will allow:
 - £ Introduction of the planning consultant staff to the Working Group and the public;
 - £ Initial discussion and clarification of the project scope;
 - £ An extensive field trip during which the Working Group and the consultant team will travel throughout the Upper Basin to visit key locations and community members;
 - £ Development of task-specific project schedules and critical next steps
 - £ Holding a highly publicized public meeting to introduce the project team to the community, answer questions, and formally initiate the planning process.

With a professional planning team in place, the Working Group, in close coordination with others in the Klamath Basin, will work as quickly as possible to develop a Restoration Plan for the Upper Basin. The Working Group believes that solutions to the Upper Basin’s problems are most appropriately generated by people working in collaboration within the Upper Basin.

“...It all comes down to thoughtful people who work to solve differences instead of litigating through the federal government and the courts.”

—Bob Kingzett

Local self-determination regarding natural resource issues can only come if we speak loudly with a united voice and if we do so with commitment to making the ecosystem healthy through elevated stewardship and well-designed and effective restoration projects. The Working Group has made a firm commitment to share in the creation of this united voice for restoring the Klamath Basin. The Working Group respectfully seeks your support in this endeavor.

Appendix A

Interim Planning Process Timeline

Upper Klamath Basin Working Group Interim Planning Process Timeline

Required Planning Decisions	Meeting Dates (2001-2002)													
	October		November		December		January		February		March		April	
	4	18	1	15	6	20	3	17	7	21	7	21	4	18
1. Develop Interim Opportunities & Constraints/Goals & Objectives for the Planning Process		●	■	■	◆									
2. Define the Leadership and Guidance of the Working Group							●	■	■	◆				
3. Develop a Functional Decision-Making Process			●	■	◆									
4. Assess and Potentially Revise the Membership of the Working Group			●	■	◆									
5. Define the Specific Geographic Boundary of the Planning Area		◆												
6. Identify the Authors, Producers, and Managers of the Plan								●	■	◆				
7. Discuss and Document the Roles of State and Federal Government								●	■	◆				
8. Discuss and Determine the Proposed Cost and Timeframe of the Planning Process								●	■	◆				
9. Develop a Public Participation Plan											●	■	■	◆
10. Discuss and Define Technical Data Assessment and Use Protocols											●	■	■	◆
11. Identify and Document Potential Funding Sources												●	■	◆
12. Determine the Future Role of Working Group												●	■	◆
Additional Agenda Items														
A. Develop draft and final Work Plan	●	■	◆											
B. Discuss and Decide Ground Rules		●	■		◆									
C. Discuss and Decide basin-wide Solutions				■			■				■			
D. Develop Subcommittee facilitation skills							■							
E. General Working Group Business	■	■	■	■			■	■	■		■	■	■	
F. Conduct interim planning process evaluation				■	■					■				
Hours Per Meeting		4	4	4	6		3	4	4	6	4	3	4	6
Legend Introduce the Topic ● Discuss the Topic ■ Discuss and Decide Topic ◆														

01257.01 001 (8/02)

September 2001

Appendix B
Ratified Operating Rules for the
Upper Klamath Basin Working Group

Ratified Operating Rules¹
for the
Upper Klamath Basin Working Group

*(Reviewed and revised Oct. 18, Nov. 1, and Dec. 6, 2001;
Ratified Dec. 6, 2001; Revised May 30, 2002)*

The following Operating Rules are subordinate to the Enabling Legislation (Public Law 104-333) for the Upper Klamath Basin Working Group.

I. Representation and Participation

1. The personal integrity and values of each member will be respected by other members. The motivations and intentions of members will not be criticized.
2. Every member will check back with their respective organization or constituency and will be responsible for keeping them aware of ongoing review processes and project timelines. Significant comments and questions expressed by the peers, senior staff and/or governing boards of the members will be communicated back to the Working Group at its next regular meeting.
3. The personal integrity, values, and legitimacy of the interests of each participant will be respected by other participants. Participants are requested to use active listening, and to speak one at a time. Everyone will participate in discussions, no one will dominate.
4. Every member is responsible for communicating their position on issues under consideration. It is incumbent upon each member to state the interests of the organization or constituency they represent. Voicing these interests is essential to enable meaningful dialogue and full consideration of issues by the Working Group. After a decision is made, no member will work to undermine that decision
5. Participants agree to read background information provided before each meeting and to be prepared to effectively discuss issues on the agenda. Information is needed at a minimum of four (4) working days prior to a meeting.
6. If a participant must miss a meeting, that person will communicate his or her comments orally or in writing to the Working Group, Co-chairs and/or facilitator team (if in use) at least two days before the scheduled meeting. Participants can also contact the Co-chairs and/or facilitators between meetings at any time to discuss their concerns and needs related to this dialogue. If requested by the participants, these discussions can be treated as confidential with the Co-chairs and facilitators.
7. In order to establish group trust, consistent participation is strongly encouraged.

¹ These Operating Rules may be refined and new terms added at the discretion of the Working Group. However, as with other changes or additions to these Operating Rules, all such revisions shall be by consensus of the Working Group.

8. The membership of the Working Group was established with the intention of having a range of community and stakeholder perspectives being represented. As per the enabling legislation (Public Law 104-333), the Working Group shall consist of the following representatives:
 - (A) three tribal members;
 - (B) one representative of the City of Klamath Falls, Oregon;
 - (C) one representative of Klamath County, Oregon;
 - (D) one representative of institutions of higher education in the Upper Klamath Basin;
 - (E) four representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;
 - (F) four representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;
 - (G) four representatives of the ranching and farming community, including representatives of Federal lease- land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;
 - (H) two representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish[[Page 110 STAT. 4225]] and Wildlife and one from the Oregon Water Resources Department;
 - (I) four representatives from the local community;
 - (J) one representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office; and
 - (K) one representative of the Klamath County Soil and Water Conservation District
9. Working Group Members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the Governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined above in Section I.8.A-K
10. Resignation and Replacement of a Working Group member. In the event that an existing member is no longer able to participate on the Working Group, said member will notify the Working Group in writing of his/her resignation and can recommend a replacement member from their organization.

Upon receipt of the resignation letter, the Working Group will either accept the recommended replacement or suggest a different individual that is of the same type of constituency that is leaving the Working Group (the list of groups represented on the Working Group is provided in Item 8 above. If acceptable to the Working Group, the proposed replacement individual will be recommended for appointment by the Governor of Oregon/Secretary of the Interior.

The Working Group may advertise publicly to fill vacancies if deemed necessary. If Working Group members recommend a number of different organizations for substitution, then perspective appointees will be invited to make a presentation regarding their experience and reasons for addition to the Working Group. After hearing presentations from prospective members, the Working Group will make a recommendation to the Governor of Oregon as to who should be appointed to the Working Group.

When multiple candidates for a particular seat exist, the Working Group will conduct a vote using a written ballot presenting all candidates. The ballot will be approved by consensus at the Working Group meeting prior to the vote. The ballot will be provided to all Working Group members X days before the vote. Working Group members shall provide their vote in writing on the ballot to the Co-Chairs prior to or at the meeting. The candidate receiving the greatest number of votes will be the Working Group's recommendation to the Governor of Oregon / Secretary of the Interior. However, all names of interested individuals will be provided to the Governor of Oregon /Secretary of the Interior along with the Working Group's recommendation

II. Working Group Management

1. Expectations of Working Group Co-Chairs. It is the responsibility of the Co-chairs to:
 - Develop and distribute meeting agendas with input from the members and in consultation with the Facilitators (when in use). Distribution responsibilities may be deferred to another appointed party by the Co-chairs.
 - Serve as the official spokespersons for the process.
 - Encourage the active participation of all Working Group members.
 - Function at the consensus opinion of the Working Group
 - Keep Working Group members and support staff accountable for agreed upon tasks and deadlines.
 - Support the efforts of the Facilitators (when in use).
 - The Co-chairs will support the orderly and efficient function of Working Group meetings while still being allowed to represent their respective constituencies.
 - Encourage wide public participation and attendance at all Working Group meetings.

2. Selection and Duration of Working Group Co-Chairs. Co-Chairs will serve a 2-year term and will be selected on a staggered basis. Co-chairs will be available for unlimited re-election. By selecting one new Co-Chair every 2-years, a seated Co-Chair will be able to assist the newly selected Co-Chair in becoming familiar with the responsibilities and tasks. The Federal Agencies on the Working Group will not serve in the Chair capacity and two different interest groups must always be represented as Co-Chairs. At the meeting before a Co-Chair's term is to expire, the Working Group will nominate a replacement. At the next meeting, the Working Group will vote to approve the new Co-Chair. The recipient of the most votes is the new Co-Chair. The departing Co-Chair will serve a two-year term on the Klamath Watershed Coordination Group.

3. For the purpose of the restoration planning process topics are introduced, discussed, and decided upon over a varying number of Working Group meetings. Thus, adequate time will be available between the time when a topic is introduced, discussed, and decided upon for members to discuss issues with constituents and amongst one another. However, if extra-ordinary situations arise, the Working Group may be required to discuss and take appropriate action on specific issues within the timing of one and only one meeting.
4. Topic-specific subcommittees may be convened (as appropriate) to further discuss restoration planning process issues and to develop advisory documents on key topics. The composition of all subcommittees will be approved by the Working Group prior to initiating work. Subcommittees will adhere to the Working Group's operating rules (as described below under "Decision-Making Process").

Subcommittees will designate a chairperson or co-chairs who will prepare and distribute meeting agendas, facilitate meetings, record substantive meeting outcomes and tasks, and provide reports on subcommittee activities to the full Working Group. The designation of the chairperson may change as the subcommittee and/or chairperson sees fit

5. Subcommittees will work at the direction of the Working Group. The Working Group will provide specific instruction to subcommittees regarding tasks, expected timelines of said tasks, and expected deliverables. Subcommittees may draft advisory documents (with assistance from the facilitation team [when in use]) as necessary to inform the Working Group's deliberations on specific topics. This distribution of these advisory documents to the full Working Group serves as notification that the subject topic is being discussed and will be decided upon by the full Working Group.
6. The Working Group withholds the option to contract consultant services for facilitation, group and meeting coordination, and similar tasks.

III. Information Sharing and Joint Fact-Finding

1. The parties will freely exchange documents and other information, excluding privileged or confidential information.
2. Individual members are free to discuss the work of the Working Group with other Working Group members outside of meetings and with members of other related planning efforts.
3. To the greatest extent practicable, outreach within the Upper and Lower Basin will be established in accordance with the Cooperative Agreement amongst the Working Group, the Klamath River Basin Fisheries Task Force, the Trinity River Restoration Task Force, and the Klamath River Basin Compact Commission.
4. The Working Group, (with the assistance of the facilitators when in use), may recruit members to serve on subcommittees to address specific topics or issues being considered by the Working Group. The composition of subcommittees will be approved by the Working Group prior to initiating any work. Subcommittees will use a facilitated process to develop and refine ideas, and then present this work to the Working Group for its

consideration and ratification.

5. When necessary, the Working Group will undertake technical analysis ~~in~~ utilizing a “joint fact-finding” process. In joint fact-finding, the Working Group will collectively select technical experts to develop and implement a joint strategy for answering the key policy questions, based upon generally agreed-upon scientific methods.

The selected experts will work together to analyze the options and report to the Working Group their points of agreement and disagreement, as well as the reasoning behind their conclusions. While this approach cannot be expected to resolve all issues, it will provide the Working Group with the information that does exist. It will also clearly identify areas of unavoidable uncertainty and disagreement.

IV. Decision-Making Processes

1. Decisions will not be made lightly and Working Group members understand that decisions will frame future actions. It is the responsibility of all Working Group members to keep the process and meetings on track and focused.
2. As the participants discuss and make decisions on issues, the Co-chairs, facilitators (when in use), or an appointed recorder will draft language that reflects the emerging consensus of the participants. Draft statements that are prepared in this manner will then be circulated for review by all participants during and after meetings. The Co-chairs or facilitators will then integrate comments into a revised statement, which in turn will be presented to the next meeting where the Co-chairs or facilitators will seek further discussion and possible ratification. This pattern of drafting, revising, and ratification will be the primary method of seeking agreements that emerge from discussions held by the participants.
3. The Working Group will strive to achieve decisions by consensus. In seeking consensus, each member has an obligation to articulate interests, propose alternatives, listen to proposals and build agreements by negotiating a recommendation for adoption by the full Working Group. In exchange, each member has the right to expect: a full articulation of agreements and areas of disagreement (if any exist); and an opportunity to revisit issues on grounds of substantial new information becoming available during the Working Group's deliberations.

Definition of Consensus: The enabling legislation of the Working Group (Public Law 104-333) defines consensus as “unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.” For any meeting, “quorum” is assumed to mean half of the total current membership plus one, in attendance at a meeting.

From a legal perspective, the Working Group must utilize the definition of consensus from the enabling legislation. From a functional perspective however, the Working Group will utilize the following operational interpretation of consensus: “Consensus is a process used to find the highest level of agreement without dividing the participants into factions. Everyone in the group supports, agrees to, or can accept a

particular decision.”

In seeking consensus on an interim or final recommendation, it is understood that members should voice their concerns with specific proposals along the way, rather than waiting until a final recommendation has been developed. In addition, the Working Group will use the following three levels to indicate a member’s degree of approval and support for any proposal or decision being considered by the Working Group, and to determine the degree of consensus in the Working Group:

Thumbs Down:	I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
Thumbs Sideways:	I neither support, nor oppose the decision.
Thumbs Up:	I think this proposal is the best choice of the options available to us.

The goal is for all members of the Working Group to be in the ‘Thumbs Up’, or Thumbs Sideways’ levels of agreement. The Working Group will be considered to have reached consensus if all members are at those two levels. If any member of the Working Group is at a ‘Thumbs Down’ level, the Working Group will stop and evaluate how best to proceed.

Straw Polls: Straw polls may also be taken to assess the degree of preliminary support for an idea, before being submitted as a formal proposal for final consideration by the Working Group. Members may indicate only tentative approval for a preliminary proposal, without fully committing to its support. It is understood that agreement on a final recommendation will typically require consideration by constituent groups of all elements of the recommendation that ultimately emerges from the Working Group.

Absence When Decisions Are Made: When members cannot attend a meeting of the Working Group, they will communicate verbally or in writing, their views to the Co-Chairs or members prior to that meeting.

Decision-Making With Other Groups Formed by the Working Group: In the event that the Working Group convenes any other body of stakeholders (including technical experts, consultants, legal representation, etc) any decisions made by that body will be conducted using the above adopted decision-making processes of the Working Group.

V. Media Contact and Observers

1. While the Working Group is studying, discussing or evaluating issues, no Working Group member will represent the Working Group to the media or community except as mutually agreed. No statements prejudging outcomes will be made. Such statements can hamper creative discussion and the group's ability to modify draft proposals.
2. Observers are welcome to attend Working Group meetings, and are requested to identify themselves to the Co-chairs or facilitator prior to the start of each meeting. The Co-chairs or facilitator will provide a copy of these operating rules to observers.
3. Time will be allocated for public visitors to address the Working Group at a point during the meeting which permits the Working Group to consider and discuss, if necessary, said comments. Public comments will be limited to three (3) minutes per individual. The Co-chairs or facilitator will monitor and enforce this time limit.

VI. Timetable and Work Plan

1. The Working Group commits to uphold and support the three pillars of the enabling legislation (Public Law 104-333) adopted by the 104th Congress: 1) proposing ecological restoration projects, 2) economic development and stability projects, and 3) projects designed to reduce the impact of drought conditions in the Upper Klamath Basin.
2. Upon acceptance of a preferred work plan, the Working Group is committed to adhering to the timeline and requirements of such work plan.
3. At the conclusion of each meeting, the Co-chairs or facilitator will outline the items to be considered at the next meeting. These items will be the basis for the next meeting agenda.

Appendix C

**Upper Klamath Basin Working Group
Enabling Legislation**

Appendix C

Upper Klamath Basin Working Group Enabling Legislation

Public Law 104-333
104th Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS. This Act may be cited as the “Omnibus Parks and Public Lands Management Act of 1996”.

SEC. 1024. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) Definitions.--In this section:

- (1) Ecosystem restoration office.--The term “Ecosystem Restoration Office” means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.
- (2) Working group.--The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including--
 - (A) three tribal members;
 - (B) one representative of the City of Klamath Falls, Oregon;
 - (C) one representative of Klamath County, Oregon;
 - (D) one representative of institutions of higher education in the Upper Klamath Basin;
 - (E) four representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;
 - (F) four representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

- (G) four representatives of the ranching and farming community, including representatives of Federal lease- land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;
 - (H) two representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;
 - (I) four representatives from the local community;
 - (J) one representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office; and
 - (K) one representative of the Klamath County Soil and Water Conservation District.
- (3) Secretary.--The term "Secretary" means the Secretary of the Interior.
 - (4) Task force.--The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (Public Law 99-552, 16 U.S.C. 460ss-3 et seq.).
 - (5) Compact commission.--The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.
 - (6) Consensus.--The term "consensus" means a unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.
 - (7) Quorum.--The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.
 - (8) Trinity task force.--The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98-541, as amended by Public Law 104-143.
- (b) In General.--
 - (1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.
 - (2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of \$1,000,000 during each of fiscal years 1997 through 2001.

- (3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.
 - (4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this section.
 - (5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.
- (c) Coordination.--
- (1) The Secretary shall formulate a cooperative agreement among the working group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wild [[Page 110 STAT. 4226]] life restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission. [NOTE: Notification.]
 - (2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts. The roles and relationships of the entities involved shall be clarified in the cooperative agreement.
- (d) Public Meetings.--The Working Group shall conduct all meetings subject to Federal open meeting and public participation laws. The chartering requirements of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby deemed to have been met by this section.
- (e) Terms and Vacancies.--Working Group Members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the Governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).
- (f) Rights, Duties and Authorities Unaffected.--The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this section affects any legal right, duty or authority of any person or agency, including any member of the Working Group.
- (g) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 1997 through 2002.