

Board of Okanogan County Commissioners
Monday, February 22, 2021 AM

JD—Jim DeTro
AH—Andy Hover
CB—Chris Branch
LJ—Lalena Johns-clerk to the Commissioners
PP—Pete Palmer—County Planner
ZK—Zak Kennedy, County Lobbyist

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Summary of significant discussions:

00:00 Commissioners discuss the best way to make changes to the agenda and how to deal with the Methow water situation.

22:00 Zak Kennedy updates the commissioners on progress of legislation in Olympia.

45:18 Commissioners discuss sending a letter of support for county businesses dealing with Covid.

55:50 Commissioners discuss Okanogan County joining a Pest Control District with Chelan and Douglas Counties.

2:15:20 Commissioners discuss water banking as a possible mitigation to the Methow water situation.

00:00—Commissioners discuss changes to the agenda, but the sound is faint for the first eight minutes. They are discussion the agenda for this week, as well as figuring out how to write the agenda in the future, so it leaves some time for issues that come up suddenly, but still is an efficient use of their time if there are no new issues.

08:00—CB brings up what’s happening in the Methow water situation.

AH—We need to ratify that letter you (CB) wrote on Wednesday. We had the Watershed Council meeting on Wednesday. Talked about the CRM. It’s a little bit broader than just the plan update. So CRM, basically look at your land use. It would tie a bunch of things together. So whatever we do with the scope of Ecology, as long as it has to do with watershed planning, it’s relevant.

AH—I’ve been getting a lot of calls from people who own property and can’t build on it. Some understand what we’re doing. Some do not.

CB—Yeah. I get some of those, too. That was one thing I thought about. If there’s a circumstance we haven’t dealt with yet, that’s useful. And we may be able to kick around some interim ideas we can talk to Ecology about as we approach the planning effort. Certain kinds of mitigation for example.

AH—One thing I want to point out—Everybody keeps bringing up Kittitas County. Their situation was very different from ours. Their river was not below base loads in winter, so they could convert irrigation to mitigation. Plus, the water right they had was really big. And had storage in a couple of different

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place. Lake Keechelus, several reservoirs. In Methow, the last storage place you could put any water into is probably Patterson Lake or Pearrygin Lake. Neither can accept a ton of water without a lot of work.

CB—Those are broad issues. By the way, when I suggested you get ahold of Jewell...

AH—I know. He needed to be updated. The other thing people say is “We don’t think the reservation should exist over there.” But the reservation was not set after the instream flow was set. It was set under an RCW. There are RCWs that speak to reservations of water. And it was set in conjunction as the interim flow, so it’s a water right that’s first in time to instream flow. And if you go through the WAC, you can figure out which other ones are. I think there’s only one other watershed that, when they wrote the instream flow rule that had a reserve with it. All the others, they tried to reserve water after the fact. Can’t do that.

CB—Yeah. Those are the complexities of Kittitas County. I’m not bothered with any of it. I’m more bothered that the conversation with Jewell is that the lobbying he’s doing right now—he knows what’s going to happen and what might happen... Any suggestions, like—don’t do a moratorium, just process the permits as they come in—something to talk about. My point is you just have that conversation with him to get a different perspective than you’re getting from the Methow and yourself. Jewell’s in the middle of several processes that may reflect on our decision.

AH—We didn’t have a discussion about that. All we talked about was the lay of the land, and if you need anything else, call me. There was the part about do you really need to put a moratorium on it. Well if you do, and you don’t have the code section correct, and somebody comes in for a billing permit...

CB—Here’s a thought. If somebody comes in and wants to submit a permit and you say—I can’t take your permit application—....

AH—You can’t do that. In my opinion, a permit application is just that—an application. If I were running planning, I’d say—do you want to submit the application or do you want a site analysis first? Because a site analysis is \$90 or whatever, and planning could tell you if you could do what you want, like put a B&B on my place.

CB—Let me complete that thought. You’re following me exactly right. You can say—I can take your application, but you can get a site analysis to decide what we have and don’t have which is always good. If you submit the application, there’s water adequacy that we have to determine. So what’s your source of water? Because the application isn’t complete if you don’t have a water source.

AH—The problem is, if somebody comes in and wants to apply for a building permit, you can’t just say no, we won’t take your money and you can’t apply. However, people need to understand that the permit fee is paying for the time it takes to determine if you can have the permit. It’s not like you’re paying for the piece of paper. You’re paying for the work it takes to see if the permit can be issued.

JD—Maybe the verbiage in permit application instructions should include this. Say at the top “Non-refundable”.

AH—I agree. But I think Planning should push the site analysis. CB is right that it tells you a lot of things that you don’t need to know but you don’t to get into where you’ve just got site analysis based on water, zoning, etc. You just have a site analysis that costs \$90 or whatever, and here’s what you can do on the property.

CB—The main thing, if you’re running the Planning Department, you can say when someone comes in with a permit application—I can take your application, but we’ve got issues about water so I wonder what your water source is.

AH—Yeah. That’s a valid question. What if I say—I have a water right. It’s different than if I say—I have mitigation.

22:00 ZK is on Zoom and the BOCC turns to the topic of the current session of the legislature.

ZK—First, did you guys get my email?

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AH—At 8:19 this morning? Yes.

ZK—That’s the one. I’ll just go over it real quick. This is a really interesting year. And the Steering Committee did a great job in outlining what’s going on. The legislators are in a huge hurry to get everything out of committee and get it onto the floor. But they tell us—don’t worry; we’re going to amend legislation on the floor.

ZK—So it’s new that we’re going to have to watch the floor closely for a couple of weeks until we get to the next cutoff in early March to see how these bills end up. Regional Health Districts is a good example and Jamie did a good job of running down what’s in the bill. They kind of squished both of Rotelli’s (?) bills together in terms of board composition and Regional Health Districts. All this is hearsay, but we think the smaller counties—most the eastern counties except Spokane—are going to be exempt from the regionalization.

ZK—Governor still leaning very heavily on the carbon initiative stuff. Hopefully, we can get in front of it because it impacts rural areas more than urban. But we’re in a holding pattern just watching the floor action. As the bills get into committees in opposite house we’ll have another opportunity to comment. Why I’m putting all the links in my email about how to comment. Republican legislators are saying the other side has a pretty good show of force from constituents and we need to help from rural areas.

ZK—If there’s any bill on the list you’d like us to comment on, just let me know. Washington State Assoc. of counties (WSAC) has had many conversations that many individual counties aren’t agreeing with WSAC position and they said that’s OK. WSAC needs to stay at the table, so they need to take a softer approach to opposing legislation. So if commissioners see something they’d rather take a hard line on, they can, or tell me and I can.

CB—Just a suggestion. As you see things turning, and if you see bills that WSAC will be in conflict with what you think we’d be interested in, can you list those bills?

ZK—Absolutely. This week is going to bring a lot of that to the forefront. We assume that once the bills get through floor action, they’re in the form that they’re going to be what they are. We’ll then have a clear idea what we’ll do. I’ve told WSAC lobbyists that I can take a lot of heat that they can’t.

CB—Because for me, on the Legislative Steering Committee, I’m there to support the WSAC agenda and giving what we’re hearing... If you tell us what issues that might affect Okanogan County that they can’t take a position on.

ZK—Example is WSAC says they’ve had to sign in as “concerned” about some bills because if you’re “opposed” you’re not at the table anymore. I don’t have to worry about that, so I can at least put on the record that there are some counties opposed to a bill.

CB—So the other two commissioners can oppose WSAC agenda if we want. WSAC is serious about upholding its agenda items, and I agreed to it, but you don’t have to.

CB—Question. How’s Jim operating in the virtual environment?

ZK—Well, I get a lot of calls about how do it join the meeting? What’s my password? It’s been interesting and the same with the legislators. Few of them are younger. Some didn’t know about muting and unmuting and said stuff they shouldn’t have. It’s on YouTube.

ZK—Call anytime with questions, etc.

35:22—LJ—Before we go too much farther, there’s a small batch of vouchers. Payroll and \$11,000 grant payment to Oroville Housing Authority for its sewer project. We received the funds last week and I asked the Auditor to process the run to pay that.

LJ—We approved the A19, sent it to (Washington State’s Department of) Commerce. They approved the EFTs (Electronic Funds Transfer) paying the Housing Authority. I believe it’s for the system development fees. They haven’t started construction yet.

CB—The system development fees are the ones for Ecology.

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LJ—We're not going to process those. We're not handling those. We're going to pass through the \$194,000 for the Commerce grant and then we're going to pay out the \$68,000 for the homeless housing towards the end of the project.

LJ—Another portion of funds through the Housing Trust is also involved. We won't be handling any of those bills either. It's direct.

CB—OK

AH—I move to authorize payroll vouchers of \$1,028,565.15.

JD—I second.

CB—Any discussion? None. Passes 3-0.

LJ—Also the bid packet for county legal newspaper went out. Published this week and also in an email. Bid due March 17, bid opening on March.23 and awarded on March 30. We'll let the contract in first week of April.

LJ—Also proposed NEWC (Northeast Washington Counties) meeting for Feb 26. Proposed to move to March 31. Is AH alright with that date?

AH—to LJ—Have we gotten that letter Ecology, Office of the Columbia River from Tom Tebb asking about that Crown Columbia water right?

LJ—Any mail we received is scanned and sent to the board.

AH—Amanda Rowton, Clerk of the Board for Ferry County got the letter at 8:06AM today.

LJ—Yes. I have it.

AH—Commissioner DeTro is on it?

CB—We just received a letter from Crown Columbia this AM asking about consultation. Comments due March 19.

45:18—JD—What would you guys think about a letter of support to the Caribou about their fine? I understand she's essential and the people who live there.

AH—I was in total disagreement about shutting down restaurants to begin with

JD—Something we could give her.

AH—If we do that, then anybody else we do the exact same thing for.

JD—Fine.

CB—Letters of support for litigation? Just asking.

JD—I'll talk to Diana and see how they'd like it.

CB—Because if it's a letter of support, is it to the court? Acknowledging the situation.

AH—Acknowledging the fact that there were so many inconsistencies with the way this was rolled out, and given to them and taken away. And the hardships they've had. Not fair that L&I fine these people for doing that.

CB—They're being fined?

JD—Yes. Up to about \$600,000.

AH--\$600,000? I thought it was way less than that.

JD—I need to verify that.

AH—I heard \$10,000.

JD—That number came from a family member, but I haven't asked personally.

CB—My suggestion would be to try to identify who we should write the letter to.

JD—L & I. Just compare airlines to restaurants. They're at 100% capacity when you're on the plane, and you get off the plane and go to a little restaurant and they run you off because they're closed. And Walmart. They had a Covid outbreak in the food department. Nothing was said.

CB—Then we agree the letter would be to L&I explaining the situation from our perspective? I wasn't irritated because of what you said. I was irritated because you cut me off again.

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AH—Commissioner Branch, today in the conversation that we've had you've done that to me three times.

CB—Cut you off?

AH—Yes.

CB—I apologize.

AH—How should we proceed with this? I realize that I do that. I sometimes try to get to the point. So I'll try not to do it to you.

CB—So we're in agreement (*presumable about the letter*) To JD—would you like to write the letter?

JD—I'm willing to do it in conjunction with the (*can't hear clearly. Honors?*)

AH—If you're going to draft the letter, I'd like it not be specific to the Caribou. There were inequities throughout this whole process. Some stores are essential where more people than in the town of Winthrop can be in them. And then there are restaurants where they say ...

JD—Do you want to draft the letter?

AH—OK.

JD—From your perspective. I'm more caustic.

AH—Let's put it in a way where we say about the inequities L&I has put on them. Look at Gebbers. \$2,000,000 fine. I've been in contact with them. It's ridiculous because that company started the safety review in February last year. Very pro-active.

53:16—I just got off the phone with Leah McCormick (County Treasurer). Because she was out of the office last week, she's hoping she can come at ~2 PM today to talk about some tax title properties that she'd following up with you on. One parcel you've already talked to the young lady who'd like to purchase the property adjacent to hers. There's also two other properties others are interested in that she'd like to add to the discussion.

CB—That's when the hearing that's been rescheduled was supposed to be. What do you think?

AH—How about at 2 PM we tell people why we have to reschedule the hearing, then talk to Leah, then do the minutes. I just want to explain about the hearing. I didn't think we were rescheduling all that often, but the perception....

55:50—JD—This pest control discussion is just among us?

CB—Unless we want them to provide any information. They said to call any time we wanted.

AH—Were you on that call from TriCounty Pest?

CB—Yes. I was contacted by Commissioner Peters (?) and then there's something I'll bring up at that time as well.

AH—There's another thing I saw. The Forest ...

CB—Yeah. I was just approaching that earlier but we got off on Crown Columbia.

AH—So do you want someone to take that on? The Forest one.

CB—I can talk about it now if you'd want.

AH—Was you that wrote the reminder "I don't want to take this on?"

CB—Didn't necessarily want to take it on. I went to the meeting to find out about it.

AH—I'd be willing to take it.

CB—Since then there's been a couple more conversations, but I can tell you the results of the meeting. It's a tri-county group and they have expectation. We're participants because the Tonasket District is in part in the Colville Forest. And people from the Forest Health Collaborative encouraged me to go.

Diversity of folks at the table. I was worried if it was a tri-county group that didn't have people from, for example, the Forest Health Collaborative and others then I was reluctant to be a part of that. I'm more used to include everyone. My question is do we want to be a part of that group. I suggest we do.

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AH—I do, too. We'll be in two different forests.

CB—And one thing I acknowledged when I was there, was—by the way—Lloyd McGee is the guy who contacted me. He's from the Nature Conservancy and the co-chair of the Forest Health Collaborative. He knows a lot about what's going on.

AH—Don't they have a real specific name?

CB—Tri-county Forest Group? Maybe this is the group.

JD—So about Crown Columbia. This is from ECOG (?). Should we just forward the letter we wrote to Ecology?

AH—We wrote the letter to Ecology, I got on the phone to (*someone?*), the Interim Director because I heard we had to send \$50 to hear our complaint. Said we're a government entity. Why do we have to send the \$50? She checked it out and said we'd go through consultation. So this is our opportunity to make a formal comment to Ecology.

CB—I've contacted her, too. Wasn't worried about the \$50 but were sure we could make the deadline. My letter was a comment even though it's not the commenting method.

AH—So Lanie, as soon as we get the letter from DOE, can we have the discussion about it because we'll make a formal comment?

CB—The email from the 19th is the same as the letter.

CB to JD—One thing about the Forest Group it was different than I expected. But if you want the opportunity, too...

JD—No. I'm good. I know Lloyd and he's well respected.

CB—Yes. Coming from the Nature Conservancy, he talks a lot about increasing the pace of scale of forest treatment and he knows what it takes to run a sawmill. And I think McGee is on the Forest Health Collaborative, too.

JD—He's not on the Wildland Fire Advisory Committee, because he was moved up to another position where the Commissioner of Public Lands wanted him.

CB—You don't know about the bill she put through about the fire control resources? The bill they're putting through right now, there's no funding source. It's a budget issue.

JD—Yes. Loren Torkelson (?) is one of the lead guys working in conjunction with this. I take the minutes of the Wildfire Advisory Committee and disburse them to all the county commissioners in eastern Washington. (To LJ)—Do we also give them to Andy and Chris?

LJ—I think I missed them. Sorry.

CB—These forest health discussions are important knowing what's happening in all these groups.

1:10:15—So we haven't addressed the Pest District yet. So where are we with the appointments? We'd withheld one.

JD—Clay Gebbers pulled out. Others have more experience.

LJ—There are two more appointments to be made. Rick DeLappe from Mallot sent a letter of interest. And one from Michael Vonno (?) from Omak. And an email from Clay Gebbers suggesting Trey Dezelum (?) is a better fit instead of him for the south county. We have two members appointed: Brent VanBuskirk from Oroville, and Roland Smith from Pateros.

AH—So we've got two people who've submitted letters and two positions?

LJ—Yes. I'll look in the junk mail folder and see if any got into there.

AH—The other thing is we have to set the public meeting—not hearing—for input on the Pest Control District and subsequent parcel tax.

CB—The last time we talked about this, I think we agreed to (*mumble mumble*) Chelan and Douglas Counties. So that's what I told them in the meeting.

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AH—OK.

CB—Understanding is they don't care how we get the money to do it. They're just interested in moving forward.

AH—So we have enough money in budget this year to cover \$130,000 this year. Can't raise the tax this year.

CB—Yeah. Contract is out to Dave (Gecas?) He made a few changes. Did you get a copy of the agreement?

AH—Don't think so.

LJ—Doesn't look like I forwarded.

CB—I can forward. It's very straight forward. One thing Dave clarified is the part that says each county deals with its own enforcement costs. Dan did a lot of enforcement work, and in our own county we're responsible.

AH—So what's the point of it?

CB—Depends on what you count as enforcement. Probably have the prosecutor involved. We can clarify that. As soon as I pull it up...

LJ—I found the draft and I forwarded it just now. So the Pest Control Board is who the Pest agent would be selected with a contract put into place under 15.09. Under 17.12 is when the commissioners hire someone. Discussion of various options for this employee.

AH—Let's clean this agreement up.

Discussion about assessment options. AH asks LJ to research the options. Everything (hearings, etc.) has to be done by August. Classify the lands so they can be assessed properly.

LJ—As to appointments, should I put it for tomorrow or next week?

AH—Can you email the letters of interest to us again so they'll be right on top?

Computers are acting up so LJ calls IT and leaves a message.

AH—to CB—FYI, I was talking to Planning about the work load. Asked about shared planner and it seems like it's stalled out. I think we should budget the money for another planner.

CB—I was hoping you would say that.

AH—We've already got it half budgeted.

JD—Hope you get somebody with experience in subdivision.

AH—Me too. Try to get another senior planner.

CB—And would get someone to do things outside of Oroville. If you've got a part-time planner and a contract planner, there's going to be trouble.

AB—they had the opportunity to get a 50% planner and they waffled on it. We need somebody now.

CB—Great. There was a time where the roles were reversed and they were pushing.

CB—The cannabis farms—I suggest we look at moratorium on multiple leases on a property. The size of the farms is growing and I think it's because of multiple leases.

AH—What's going on now is completely different is different than what we thought would be the limit on the number of farms.

CB—I've talked to some producers and some aren't doing it and then the competition is getting great. So I'm glad there are some supporters of the concept.

AH—I'm on board with this is you want to write something up.

CB—It's pretty straightforward. Can we do it? Can't answer until I get into the middle of the issue.

1:34:30—AH—Anything else before we adjourn for lunch?

CB—Talk about the pest agreement.

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LJ—One more thing I'd like to bring up. We received meeting minutes from the Watershed Council requesting the BOCC acknowledge several IGs (?) for the council positions 1, 2 & 4. They'd recommend Greg Knott, Mike Fort and Alyssia Jumars. So Sarah (Lane, Admin. Asst. for the council) requested that the Board acknowledge the appointments. I can put them on for acknowledge this week or next, whatever you prefer.

AH—I was at the meeting, so I feel there was the opportunity for the public to apply.

1:36:50—CB—OK, I printed out the pest agreement.

AH—My computer isn't working again.

CB—This agreement is basically the agreement between the other counties. I can refer to Dave's comments. A couple of things are typos/misspellings.

AH—Can I point out items as I go through it? Item 2.02 Pest agent shall operate under control of Chelan County. What does that pertain to?

CB—Refers to personnel and management to personnel. Like if Maurice (Goodall) worked for something like this. Dave never said anything about it.

CB—Another point I made during the conversation. You could deal with anyone of us commissioners. Not necessarily me.

AH—2.03 discussing disbursing capital expenditures back to Chelan and Douglas. Which I suppose makes sense.

LJ—Okanogan Pest Control has a truck and a chain saw and maybe a pole saw.

AH—Surplus these items and money goes back into the account.

CB—That's what they're doing.

AH—Legal services and insurance (3.01). Chelan will do everything except for legal services and insurance.

CB—Ask Tanya (Craig, Risk Manager) about this. I imagine it's about the risk pool.

AH—Can LJ call Dan and see what kind of stuff we might need.

AH—3.02 Chelan Co maintains all books and records. I want to make sure we get copies.

JD—9.02 mentions records.

AH—contradicts what they said in 3.02. Oh, we have to maintain our records of payments. 3.02 is just minutes, etc.

AH—3.05. Skeptical about "consult". Counties have to consult each other about hiring. Can they hire a lot of new people and then our payment goes up?

CB—But budget gets reviewed and approved each year by each county.

AH—4.04 about accounting method.

CB—10.04 about attorneys' fees under the dispute section.

CB—3.03. Have you (AH) noted that? Chapters 15.08 and 15.09? AH—Yes.

AH—6.03 I think we should look at that. Termination procedures. We should make a county liable for the whole year if the agreement is terminated during that year.

AH—We're responsible for 1/3 deductible payments to the risk pool. We'll have to ask Tanya.

CB—7.01 more insurance issues.

AH—I'll ask Tanya what do we already pay for insurance for our Pest Board. Maybe we can just switch the payment over.

LJ—Maybe you already talked about this in Section 4. You have to pay 1/3 of the budget, but it doesn't say what that is.

CB—There's a provision that we determine the budget annually, so we know what it is.

LJ—When it talks about the Pest Board, which are they talking about?

CB—The Joint Pest Board under 5.01.

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LJ—OK. Fourteen members.

CB—Each of the questions we have are usually answered in another part of the agreement.

CB—Will our Pest Board no longer sit after we have the tri-county pest board? I think after we join, Okanogan County doesn't have a pest board anymore.

AH—It's like how health boards are created.

CB—I don't know for sure, but it doesn't sound like there would still be individual pest boards.

AH—I don't see the taxation part as being an issue. We get to approve the budget.

2:06:27—*The very loud buzzing is the note taker's fault, not the county's.*

LJ—there are still some things the individual counties do—assessment and enforcement.

CB—We need clarification.

AH—I can write an email with all my questions and send it around. Is that OK?

CB—Sure. Let's try to get these questions answered and make a decision next week or the week after?

AH—Can we shoot for the week after...If we can get Dan and Will in here next week to answer our questions, that's good. Who should I send the questions to in the other counties?

CB—Will, and then Bob Bugert (Chelan County Commissioner). Mark's the other one.

AH—So I'll send them to Will, Mark and Bob. I'll see them on Thursday.

2:11:00—AH—OK. Anything else?

CB—A couple of things. Back to the report on the Forest Group. Someone called from Stevens County I think, about a law suit. They have environmentalists at the table and he (from the Cattlemen's Assoc.) brought up the idea that the whole thing was to get the cattle completely out of the forest. They were going to send out details of the suit. Just wanted you to know. In the Forest Collaborative sometimes I've asked if they include cattle grazing as a forest management technique. Sometimes it's sidestepped. But I bring it up quite a bit because well-managed cattle can do quite a bit for the forest.

AH—Knowing how busy you are, one of us would be willing to sit on that.

CB—I talked to Jim about it because it's his district, and he seems confident that it'll be OK. My concern is that if the conversation becomes completely one sided and that's the only people at the table, I'm off the table. If you don't have disagreement at the table, it becomes an "us vs. them" thing. But if you have a screaming desire to do it.

AH—I'm OK with you going forward with that.

2:15:20—CB—There's legislation now you (AH) is more familiar with. Water banking. I don't know where you are with it but there's an effort of (Mike) Steele and (Keith) Goehner, (both 12th legislative district representatives), primarily Goehner, to provide capital funds to support development for water banking for ag water rights in the watersheds of Okanogan County. Request by Lorah Super and Mary McCray who've been working on this—I think you've (AH) been in conversation with them—and apparently Goehner is going to work on this. Maybe you can tell us more.

AH—So we made the request for \$500,000 for planning, out of the capital budget. Goehner went through the motions and worked hard to get it out of (*too rapid to record*), but it was opposed by Yakima Nation and (*another group*). It's opposed by things I've been saying for a long time. Why would they support it when it just puts water in the stream? They have no reason to support what they're trying to do. We've heard from everyone that this county needs a water bank to do this sort of thing. They're talking about the Conservation District doing it. How do you guys feel about it? Don't have to answer right now, but it's a question to think about.

CB—I agree with the draft letter and I agree that the Conservation District is a longtime local organization with a history of providing technical assistance to land managers, farmers and ranchers in Okanogan County. I agree but I don't know the down side.

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JD—I'd be hesitant because I personally know some who are totally totally anti-agricultural water.

CB—In the Conservation District?

JD—Yes. I think it's the NRCS (National Resource Conservation Service).

AH—NRCS is different. A federal agency.

JD—I'll have to double check.

AH—My thoughts are to Kittitas County because they did set up water banks. They were private, for profit and charged a lot. I'd be concerned about the price-setting for water.

CB—They wouldn't be for profit.

AH—How do you price water? I don't know.

CB—I'm proposing cost recovery. There's administrative costs and purchase price of the water.

AH—I agree some but also disagree. Where do you get the capital to buy more water? We need to discuss this.

CB—It's proposed to be a revolving fund and you might have a reserve for that. Conceptually, you'd get the money issues taken care of in the first place. Ecology is talking to us to allow us to buy the water back into the region. They're willing to do that. I only have experience with one water banking situation. We made payments on the water.

JD—I haven't heard anything lately about the experimental water bank in Walla Walla. Have you guys heard anything?

CB—Municipal water system. Paid the whole thing back. Maybe you could bond to buy another water right. But it turns out to be successful thing. But at least you have a place to go buy water. (Long discussion about CB's experience with water banking, including Veranda Beach.)

AH—OTID (Oroville-Tonasket Irrigation District) has a water bank. They have water to sell. I don't see anyone clamoring for the water.

CB—They're leasing water, not selling. And that's how they keep it (*too faint to hear*). Relinquishment.

AH—It's possible. I'd be curious to know how many people are actually.....

CB—If they leased it, they'd hold the water for agriculture and wouldn't hold it for relinquishment. They can sit on it.

AH—I think that can be challenged.

CB—I've never seen a method for mitigation in the Methow that was easily identifiable that you can hang your hat on.

AH—Here's one that I think is valid: if I owned two pieces of property. One pre-2002, one post-2002. I can drill a well of the pre-2002 property right now. But if I like the post-2002 property better and it's downstream from the other. I could put a restricting on the first one saying there can be no exempt well use on this property. And I'll move it to my post-2002 property. Doesn't that seem like valid mitigation?

CB—Can't you do that right now?

AH—I doubt it because there's no mechanism for it.

CB—Mechanism would be transfer of water right.

AH—Good point. Exempt well you can get a right off one. They're just exempt from permitting. How do you transfer the exempt well use?

AH—If I have a right to drill a well...

CB—I see what you're saying, but nobody has tried it. Establishment of the single family exempt is by drilling the well and using it.

AH—Yes, because there isn't a permitting process. If I were to get a permit, I'd say to Ecology that I want to drill the well.

CB—It's like first in, first right.

CB—Single family doesn't play into it.

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AH—The only part that plays into it is the fact that single family and stock water, because of poorly written language, are the only two uses that have priority.

CB—I think that option would be approachable. And I think that water law appropriately because there's not something there that says we've allocated 2 csf per reach and the way you get that water is that you have an absolute right to use it without the domestic exempt process. Goes back to how to establish a water right under domestic exempt. You don't need to apply for a permit. You don't need to apply for a water right. You get it when you start using it.

AH—The water right was already established, in 1976.

CB—What does it say?

AH—I'll read it.

CB—I've read the rule and I don't remember seeing that in there.

AH—I'll find where it says when you drill against the 2cfs you have the 1976 date. Otherwise, you couldn't have any water use.

CB—The only difference I see in that is because the Methow Valley has a special rule and limited water.

AH—Limited physical or limited on paper.

CB—(Both?) Why is the Methow Rule in place?

AH—Why?

CB—I didn't want to get into that part of it. They allocated to 2 csf and the only way you can get it is first in, first right. The only difference I see with this and domestic exempt wells is I get to use domestic exempt until it runs out.

AH—Totally different. That's why people can't grasp the concepts of what's going on. Over here, the reason why we had to go through basin planning is...

CB—We should leave basin planning out of it.

AH—But you brought it up.

CB—Basin planning wasn't going on in 1976.

AH—I understand. I'm talking about well drilling. Why is it that we were so concerned about well drilling? We were infringing on the instream flow. People were drilling wells with no reservations, so it's first in time, first in right. The instream flow value was set in 1976 or 77 here. So every time you drilled a well and that water was below its own water right, you're causing a reduction. So over here, there only way we could drill wells was you had to find a water offset to drill. My right, you're correct, it was the date of the well punch and the use...

CB—sets your priority.

AH—sets my priority. Over there, that's not the case. Other than if I'm too close to the cone of influence.

CB—In order to access any of that water, I have to drill a well and use it.

AH—Correct. But if I own a parcel, I have a right to use water on it.

CB—So do I over here. And I did before Hirst came along and made the streamflow (restoration?).

AH—You do. Over here you have the right to use it on every parcel. Over there, right now, not necessarily. If I have a parcel that I have a right to use water on, can I transfer that right to a different parcel if I put a title restriction on the first one?

CB—I hear what you're saying. And I don't know where the mechanism is to make that happen.

AH—We need to make the mechanism. There's no state mechanism.

CB—I see no way to so that today, but conceptually,....

AH—Right. So those are things we need to have discussion with planning, as a Board. Here are the types of planning to mitigation that could come through your door. You could put a cistern in and buy water from Culligan. Ask them is they'd be willing to fill my cistern in the Methow.

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CB—We could talk to Planning about it, but if someone proposes it what do we do? There's no mechanism in place under law.

AH—I know that. So that's why I'm saying we should begin that process.

CB—I agree with you. The other thing that comes into play—there's water purveyors around and people are hauling water from the purveyors. They have a water right that's got a place of use.

AH—Not necessarily.

CB—I've never seen a water right that doesn't have a place of use.

AH—Well, bottled water doesn't have a place of use.

CB—I'm just telling you this so that it doesn't get too big of a deal. You have to think about what hasn't been challenged. That's it.

AH—I understand. I think we want the same thing. If you don't think outside of the box....Bottled water suppliers have been doing it for years and years.

CB—And they may have a water right that says they can do that.

AH—I know.

CB—That's a purpose and place of use. So when I go to get a water right, say on my place and I'm (surveying?) agriculture. And then I go to sell water. And so I do. And it's a commercial activity. Has anyone challenged that commercial activity? No. So when we create systems to mitigate that brings it up to another level of consideration and challenge. Why?

AH—Because everybody wants to challenge everything.

CB—Not necessarily.

AH—All I can say is the things that I've seen going on in other places in the state to mitigate water, I know these things can be done. They are being done?

CB—Where?

AH—Walla Walla, Kittitas, I'll find out all the different places.

CB—Somebody's got a water right and is selling it to cisterns?

AH—Absolutely. In Kittitas. In Walla Walla, they're doing the hydro(*something?*) injection. They're bringing water from somewhere else.

CB—Columbia River.

AH—OK. So there are places where they are moving water around.

CB—Big agreements come with that. Columbia River water is being transferred through the Columbia Basin Project.

AH—Let's just move to where I say

CB—But if you bring me... Oh I can look myself. I'll investigate that to see what kind of prospects we have to do that. It's being done now, but not being talked about much. If I buy it from a municipality and take it somewhere else, they do absolutely have a (?) place to use a water right.

CB—Adjourned for lunch!