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The Henry's Fork: Finding Mutual Interest in the Watershed

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**Sustainable Use of the West's Water
Natural Resources Law Center
University of Colorado School of Law
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The Henry's Fork: Finding Mutual Interest in the Watershed

Janice M. Brown and Dale L. Swensen

I. Introduction

A. Summary

The Henry's Fork Watershed Council was formed voluntarily out of crisis. Five agencies (2 federal, 2 state, 1 local) and the Henry's Fork Foundation were appointed to a subcommittee to fashion some kind of watershed entity after fifteen agencies met in June 1993 to discuss the nature of resource problems and fragmentation of effort within the watershed. The resulting Council mission, structure and its co-facilitation arrangement were later recognized in a legislative charter passed unanimously by the Idaho Legislature in February 1994. The Charter identifies the mission and four major duties for the Henry's Fork Watershed Council:

"The Henry's Fork Watershed Council is a grassroots, community forum which uses a nonadversarial, consensus-based approach to problem solving and conflict resolution among citizens, scientists and agencies with varied perspectives. The Council is taking the initiative to better appreciate the complex watershed relationships in the Henry's Fork Basin, to restore and enhance watershed resources where needed, and to maintain a sustainable watershed resource base for future generations. In addressing social, economic and environmental concerns in the Basin, Council members will respectfully cooperate and coordinate with one another and abide by federal, state and local laws and regulations."

- a. Cooperate in resource studies and planning that transcend jurisdictional boundaries, still respecting the mission, roles, water and other rights of each entity.
- b. Review and critique proposed watershed projects and Basin Plan recommendations, suggesting priorities for their implementation by

appropriate agencies.

c. Identify and coordinate funding sources for research, planning and implementation and long-term monitoring programs, with financing derived from both public and private sectors.

d. Serve as an educational resource to the Legislature and the general public, communicating the Council's progress through regular reports, media forums and other presentations.

By design the HF Watershed Council is totally inclusive as to who participates. All 25 local, state and federal agencies with jurisdiction (management, regulatory or legal authority) are on the mailing list and most regularly send representatives. Every known commodity interest, environmental group, utility, economic development entity, and practicing scientist/researcher in the basin receives Council packets and most have chosen to participate. One Native American entity with hunting and fishing rights — the Shoshone-Bannock tribes — has periodically attended the meetings as well. Individual citizens may also participate as equals to all others in attendance as meetings are open to all and decisions are made by consensus. An average of 50-60 people attend each all-day meeting, which are anticipated 9-10 times per year.

The Council was formed because government agencies have failed to sufficiently protect the outstanding watershed resources of the Henry's Fork basin, in part because of institutional and jurisdictional fragmentation and in part because of resource specialization (no ecosystem approaches). In view of decreasing government funding and credibility, the independent sector (nonprofits and citizens) needs to fill the gap in embracing greater responsibility for resource decisionmaking. The Watershed Council is one manifestation of citizens reasserting their proper role in guiding and coordinating public agencies with their often conflicting mandates. Critical to assuming greater responsibility is the Council's willingness to work towards watershed health to benefit the entire community -- not just one agency or interest group. Thus we are using M. Scott Peck's community-building techniques to overcome adversarial behaviors, build trust and mutual respect among all parties, and begin managing the Henry's Fork basin for the common good.

II. DESCRIPTION OF THE HENRY'S FORK BASIN AND ITS PROBLEMS

The Henry's Fork Basin is located in Eastern Idaho and Western Wyoming, encompassing 1.7 million acres and over 3,000 miles of rivers, streams and irrigation canals. The basin includes the southwestern corner of Yellowstone National Park and the western slope of the Teton Mountains. This headwaters area features high mountain streams and abundant spring sources which provide nutrient-rich waters of constant flow and temperature. These conditions provide for healthy populations of fish and wildlife, including several threatened and endangered species, as well as high-quality recreational experiences for Idahoans and their guests.

There are three Idaho counties in the basin -- Fremont, Teton and Madison -- plus Teton County, Wyoming, with a combined population of 40,000. The basin was originally settled by Mormon and Lutheran homesteaders who built irrigation canals and storage reservoirs to augment the water supply. Canals divert water from the Henry's Fork, Fall River, Teton River and smaller tributaries, and dams built on Henry's Lake, Henry's Fork and the Fall River store irrigation water. Over 235,000 acres of farmland are irrigated from surface or groundwater sources in the basin, with potatoes and grains the primary crops. Other important sectors of the economy include recreation and tourism services, government and timber products.

As interests in the basin diversified over the years, the Henry's Fork sustained increasing pressure to satisfy irrigation demand, hydropower requirements and instream flow needs for fisheries and recreation.. These issues were the focal points of the *Henry's Fork Basin Plan*, passed by the 1993 Idaho Legislature. As a result of the Plan, new developments such as dams, diversions and hydroprojects were prohibited on 195 miles of the Henry's Fork and its tributaries. Recommendations in the Basin Plan also addressed water quality, fish & wildlife protection and irrigation water conservation. In order to implement the recommendations and achieve long-term goals in the basin, an innovative, consensus-building process was sought in order to include all parties with interests in the watershed.

At least twenty-five federal, state and local agencies were found to have

management or regulatory jurisdiction in the Henry's Fork Basin, which was contributing to fragmented planning and decision making. Lack of agency coordination was hindering progress in addressing soil erosion, water delivery and water quality problems. In 1993, citizens and agency representatives began to craft a new approach to reconciling watershed issues in the Henry's Fork Basin. The various interests recognized the importance of working together, as a rural community, to resolve the ecological problems in the watershed and to work towards a sustainable future for all concerned.

III. WATERSHED COUNCIL STRUCTURE AND FACILITATION

The Council is comprised of citizens, scientists and agency representatives who reside, recreate, make a living and /or have legal responsibilities in the Basin, thus ensuring a more collaborative approach to resource decisionmaking. The Council is not limited in the number of participants, with members organized into the following three component groups:

a) Citizen's Group: Members of the public with commodity, conservation and/or community development interests have an integral role in Council affairs by being on equal footing with other participants. The Group reviews agency proposals and plans for their relevance to local needs and whether all interests are treated equitably.

b) Technical Team: The Team is composed of scientists and technicians from government, academia and the private sector. The Team's role is to serve as resource specialists for the Council, coordinating and monitoring research projects, launching needed studies and reviewing any ongoing work in the Basin. Duplication of research will be minimized through Technical Team guidance and results of research will be integrated into Council discussions.

c) Agency Roundtable: The Roundtable has representatives of all local, state and federal entities with rights or responsibilities in the Basin, including the Shoshone-Bannock Tribes. The agencies are working to align their policies and management to watershed resource concerns and needs. Discussions seek to ensure close coordination and problem-solving among agencies, as well as clarifying legal mandates of each entity.

d) Facilitation Team: Two representative citizen organizations from the Basin have been selected to co-facilitate the Council meetings: the Fremont-Madison Irrigation District and the Henry's Fork Foundation. The Facilitation Team is chartered to attend to administrative and logistical needs of the Council, coordinate its public information activities, and submit annual reports of its progress to the Legislature. The Henry's Fork Watershed Fund has been established by the State of Idaho to help fund projects in the Basin and to defray Council administrative expenses.

Jointly, the facilitators set agendas, make meeting arrangements, handle the funds, facilitate the sessions, report to the media and legislature, respond to inquiries, and produce meeting reports and summaries of project critiques. As the Council's administrators, we are maintaining a 130-member mailing list and are working to ensure that maximum communication and coordination occurs among all Council participants through the mail and at our monthly meetings. In addition, an annual "State of the Watershed" conference is being organized each fall for general public outreach. The extent to which agencies and groups are choosing to use the Council to share information, resolve conflicts and make decisions varies widely.

We also are successfully employing a review and evaluation procedure to ensure watershed integrity, a process which allows any group or agency project to receive Council endorsement and possible seed funding. The idea is to align all parties into watershed thinking and to satisfy ten major criteria areas for preserving or restoring watershed health. Because the criteria were developed by Council participants by consensus, there is strong ownership of the process and rigorous evaluation by their peers. The fact that such disparate interests can reach consensus and support certain projects affords those project sponsors terrific credibility.

We have developed this "Watershed Integrity Review and Evaluation" process to bring all agencies and groups in line with watershed thinking and planning without insisting on heavy-handed authority for the Council. One of the earliest concerns of our group was not to create a new bureaucracy, but rather provide a forum whereby coordination and performance could be improved. Thus, no one's authority is threatened as laws and mandates remain

intact for each agency, yet everyone is held accountable using the peer pressure developing within the Council itself. Most agencies are staying involved because their public constituents are also participating. State agencies are being held slightly more accountable because of the legislative charter, and because staff of our congressmen are beginning to attend, more federal agency staff will likely be present as well. Independent scientists and researchers have been the least likely to attend on a regular basis.

IV. PROGRESS AND EVALUATION TO DATE

The fact that former adversaries are co-facilitating the Council has made a significant difference in making the Council credible and neutral in its political image. We think the keys for our success up to this point are: 1) having the Council co-facilitated by credible citizen groups rather than a lead government agency, 2) taking it slowly with respect to developing the organization and spending lots of time in consensus-building processes (no voting) and self-education, and 3) using an inclusive, community-building philosophy in our meetings, emphasizing mutual respect, listening to all points of view and offering a "safe" forum for resource discussions.

We have embraced much of the philosophy and approach advocated by M. Scott Peck and his Foundation for Community Encouragement. His books, *A Different Drum* and *A World Waiting To Be Born*, further explore community building and peacemaking in families, business and nonprofit organizations. Also appealing to us is Dan Kemmis' philosophy espoused in his book *Community and the Politics of Place*. In both cases the authors encourage individuals to take far greater responsibility for decision making and in resolving conflicts on a local scale.

In the case of the Henry's Fork, it took twenty years of battling each other plus a crisis in agency mismanagement to bring everyone together to attempt a new approach. Many folks fear consensus for it mistakenly implies a drawn out process and a yielding of fundamental beliefs or philosophies. In our experience, the time involved in building consensus has been well used, and it has not resulted in win/lose solutions or compromising one's values. Rather, after being well heard and considering all sides, people who know consensus is required will fashion creative solutions acceptable to all, and retain their

dignity and mutual respect in the process.

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