



Eastern Snake Plain Aquifer (ESPA) Implementation Committee

Funding Working Group - Meeting Summary November 23, 2009

The Funding Working Group reviewed the third iteration of the ESPA funding legislation entitled the “Comprehensive Aquifer Management Plan Funding Act”, prepared by Phil Rassier. The Working Group also made observations regarding overall ESPA funding strategies. Specific comments were captured on the legislation and suggested modifications will be reviewed on Thursday, December 3. The draft legislation will be presented and discussed with the Interim Legislative Committee, sometime in mid December (prior to the December Implementation Committee meeting).

Summary

The Working Group discussed the enforcement mechanism for those who do not pay a tax bill. Tony Poneli noted that in order to include the fee on the county tax bill the ESPA Plan enforcement mechanism must be consistent, i.e. lien against property. If the ESPA Plan fee legislation utilizes a civil enforcement approach, as has been previously discussed, it would likely need to be collected differently. Idaho Code 63-902(10) was referenced in this regard.

The critical issue of whether to tie the fee to a water right versus the property (for purposes of enforcement) was highlighted. Phil noted that if the fee is tied to the property it may cross the line between a tax and a fee. Phil will consult with Clive Strong and Ted Spangle and report back at the next meeting.

It was noted that the Legislative Findings and Intent section needs to be strengthened to justify the unequal distribution of the fee. Suggested ways to strengthen included reference to the collaborative Advisory Committee process and tying it back to previous legislation, HB264. Phil will follow up with Clive Strong and Ted Spangler for ideas to strengthen the bill.

Kerry Ellen Elliott reiterated her concern about the additional dollar amount that would be added to the county tax bill. It was mentioned that if the county receives only partial payment, the funds received must be apportioned out among the entire tax district, potentially risking other programs. Brian Patton and Phil Rassier noted that this concern was raised at the presentation to the Idaho Association of County Assessors. It was clarified that while each county will be different, most increases due to the ESPA Plan will be less than 25 percent.

The collection mechanism for municipalities, spring users and industrial commercial users was discussed and suggestions incorporated into the next legislative draft.

Municipalities – The concept of collecting the ESPA Plan fees for municipalities based on the number of hook-ups was discussed. Lance Clow suggested that a total water

diversion approach would work more effectively, if it were proportioned between municipalities and then calculated to reach the \$700,000 target. This approach would also allow the municipalities to determine their internal billing and simplify the task of the Water Board. A 5 year average was suggested, which would provide predictability in costs while encouraging conservation, i.e. less water diverted = less ESPA fees. Hal Anderson will discuss concept with Association of Idaho Cities, board and committee meetings on December 3 and 4.

The issue of domestic well participation was discussed and its relative fairness with regards to municipal users; language was suggested to be included in the legislation clarifying that the state contribution covers domestic uses. Others cautioned about calling too much attention to this item in the legislation given the political sensitivity.

Industrial and Commercial Users – use a total volume diverted with a 5 year average as the approach to collect the \$150,000.

Spring Users (aquaculture) – use a cumulative discharge calculation with a 5 year average to collect the \$200,000. A ‘baseline’ will be established that will ensure that fees will not increase for individual spring users if the discharges decline.

Next Meeting

The next Funding Working Group meeting will be - Thursday, December 3 at 9 am via teleconference.

Attendees:

Debbie Kaufman
Barb Fry
Janice Lawes
Donna Peterson
Kerry Ellen Elliott
Tony Ponelli
Lance Clow
Brian Patton
Hal Anderson
Jeff Raybould
Randy MacMillan
Lynn Tominaga
Wendy Murphy
Lyle Swank
Wendy Murphy
Phil Rassier
Jonathan Bartsch