

July 14, 2016

To: Mike Hermanson – Spokane County Environmental Services

cc: Rob Lindsay – Spokane County Environmental Services

From: Carl Einberger, LHG, Aspect Consulting, LLC
Dan Haller, PE, Aspect Consulting, LLC

Re: **Summary of Policy Advisory Group Meeting #1 (4/6/16)**
Little Spokane Water Banking Feasibility Study – Phase II

Background

Spokane County (the County), in conjunction with Stevens and Pend Oreille Counties (WRIA 55 Tri-Counties), is establishing a water bank to address existing and potential regulatory constraints on existing and new water use, in Water Resource Inventory Area (WRIA) 55, the Little Spokane Watershed. Considerable uncertainty exists regarding the future legal, regulatory, and policy environment that regulation of water resources in WRIA 55 will be subject to. In response to this uncertainty, the WRIA 55 Tri-Counties are developing a water bank to provide more certainty to existing and new water uses in the basin.

As part of this process, the County has convened a Policy Advisory Group (PAG) to allow interagency and stakeholder coordination and evaluation of alternatives for water banking in the watershed. Aspect Consulting LLC (Aspect) has been engaged by the County to evaluate the feasibility of setting up a water bank (Phase I) and is now providing consulting services for implementing the water bank (Phase II), including coordinating and moderating ongoing PAG meetings for the County.

Overview of Meeting Agenda

The first PAG meeting for the water bank implementation phase occurred on April 6, 2016, at the Riverside Fire Station (Spokane Fire District 4). The following agenda was included in the meeting:

- Little Spokane Water Bank Phase II Project
 - Recap of Water Banking Feasibility Study
 - Phase II Scope of Work
 - Bureau of Reclamation Grant Application
- Bank Organization and Seeding
 - Review of Previous PAG Endorsements

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- Potential Bank Management Structures
- Funding for Water Bank Seeding
- Public Outreach
- Near Term PAG Decisions

Aspect prepared a PowerPoint presentation to guide the meeting discussion (attached).

PAG Attendees

A list of PAG members present at PAG Meeting #2 follows:

Nancy McLaughlin, Spokane County Commissioner
Karen Skoog, Pend Oreille County Commissioner
Wes McCart, Stevens County Commissioner
Mike Hermanson – Spokane County Environmental Services
Rob Lindsay – Spokane County Environmental Services
Nancy Voormans, Spokane County
Erik Johansen, Stevens County Land Services
Mike Lithgow, Pend Oreille County Community Development
Keith Stoffel, Department of Ecology
Ty Wick, Spokane County Water District #3
Susan McGeorge, Whitworth Water District
Charisse Willis, Stevens PUD
Ken Merrill, Kalispel Tribe Natural Resources Department

Dan Haller and Carl Einberger of Aspect attended in their roles as the County's consultants on this project. Dan served as the moderator of the meeting, and Dan and Carl led portions of the meeting discussion.

Meeting Summary

Key topics addressed in the discussion are summarized below, and additional information can be found in the attached presentation:

- The meeting opened with a preview of near term decisions that will require PAG input, including: funding for water right purchases, determining the schedule for public outreach (mailings, workshops, website), and deciding on fundamentals of the water bank structure.
- The scope of the Little Spokane Water Banking Feasibility Study completed in 2015 was reviewed for the PAG. Conclusions from the feasibility study reviewed included:
 - Water banking in WRIA 55 is feasible, but exempt well uncertainty remains an issue based on pending legal cases.
 - Significant water demand exists, with or without a regulatory mandate.
 - Water rights have been identified and ranked for follow up. Out-of-kind mitigation is not a viable option in the near-term based on recent legal decisions.

MEMORANDUM

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- The water bank mitigation pricing range per residence for a publically run bank is likely to be reasonable.
- The PAGs preference for a publically run water bank is a feasible alternative
- Phase II water bank funding has been provided by a Watershed Planning Implementation and Flow Achievement Grant. Of the \$1,216,000 requested, \$275,000 was approved. Based on this, the following scope items are included in Phase II work:
 - Stakeholder collaboration, including PAG meetings
 - Public outreach (mailers, questionnaire, public meetings, webpage)
 - Water bank operational framework, including setting up an institutional management structure.
 - Water right acquisition outreach, including refining the potential portfolio for water right acquisitions, and pursuing purchases to fit the funding level and preferred bank extent.
 - Tributary basin bank management technical support, including evaluating existing data on groundwater surface water interaction and implement field studies focused on data gaps.
- Spokane County submitted an application under the Bureau of Reclamation's Drought Resiliency Project Grant Program. The application seeks to fund a coupled groundwater/surface water model for the basin to support the scientific management framework of bank. The requested amount totaled \$275,000, with a summer award timeframe.
- Key PAG endorsements made near the end of Phase I work were reviewed in the context of Phase II implementation, including:
 - A publically run, Tri-County bank management model is preferred, with a central bank accounting system.
 - Water bank applicants should work with individual county planning and building departments to obtain mitigation certificates as part of other associated building permits.
 - Initial implementation should be a voluntary process to provide time to allow this new process to be integrated with functions in each of the counties.
 - A water bank should adopt rules preventing speculation.
 - Potential impacts to county workloads and the general fund need to be quantified.
- Potential bank management structures were discussed in the context of PAG endorsements. Incremental development of the water bank is anticipated given current funding.

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- The water bank will need to establish structural and operational business rules, with topics including:
 - Establishing water pricing standards;
 - Defining the mitigation credit unit size;
 - Defining specific quantities to preserve or to develop incentives to access, such as price breaks;
 - Reserving tributary basin water for in-tributary basin use only or allowing portability for reverse-transfer of mitigation credits back to their point of origin;
 - Determining the degree to which administrative costs are discounted, if at all;
 - Creating trading zones divided up by county, tributaries, control points, or subwatersheds;
 - Establishing market longevity goals (i.e. perpetuity, short-term, long-term, etc.); and
 - Developing an oversight board with equal representation from each county to review policy issues.
- Water banking business rule considerations were discussed, including:
 - Terms of agreement with Ecology relative to basin management may influence the importance of tributary versus mainstem reservations.
 - How variable is rural demand, and can it be classified into one or two mitigation credit sizes that represent the super-majority (e.g. 90%) of homes?
 - Are administrative cost subsidies warranted, based on mitigation credit costs relative to standard connection fees for municipal systems, and relative to the overall cost of new home construction?
 - If the Counties are able to initiate a water bank without an initial regulatory imperative (e.g. growth moratorium for exempt wells), then it can afford to allow business rules to adapt over time, versus more stringent rules.
 - Regulatory effects on business rules were discussed, given the uncertainty regarding future regulation of exempt wells.
- Potential approaches for identifying and purchasing water rights was discussed. A review of the process for purchasing water rights and placing them into trust for mitigation use was conducted, including due diligence issues. A key consideration is the level of funding for water right purchases, as the existing Phase II grant did not provide any funding for purchases.

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- Public outreach options were reviewed, including mailings, workshops, websites, and appropriate timing for initiating this process.

- The meeting closed with a discussion of near term PAG decisions, including:
 - Funding for water right purchases.
 - Determine the schedule for public outreach (mailings, workshops, website).
 - Addressing the need to minimize speculation and inflated financial expectations by prospective water right sellers.
 - Decisions on the fundamentals of the water bank structure.

- Open discussion among the PAG was conducted over the course of the meeting. Key discussion points included:
 - Keith Stoffel noted that the competition for the Watershed Planning Improvement and Flow Achievement Grant far outstripped available funding, so every grant applicant was reduced, including this project.
 - Wes McCart notes some concerns about submittal of the Bureau of Reclamation Grant without PAG review. Mike Hermanson noted that the turnaround time was short, and there was a need to expedite the submittal. Future expedited measures will be addressed via phone as needed.
 - Nancy McLaughlin requested clarification on existing mandates that have led to water banks in Washington. Dan Haller noted that in the case of WRIA 55 there is no mandate but the counties have the goal of being ahead of any potential mandate. Mike Hermanson pointed out that in other counties such as Skagit and Kittitas, when the mandate occurred it happened suddenly.
 - Keith Stoffel noted that WRIA 55 has an older instream flow rule with some lack of clarity, and that all non-exempt water right applications are now denied by Ecology. Wes McCart stated that if the courts issue rulings with new interpretations, the situation could change, since counties have responsibilities for determining water availability.
 - Dan Haller reiterated that the bank would be voluntary, at least initially.
 - Wes McCart noted preference for a single bank with three different branches. He also noted that in Stevens County, providing water for business and agriculture are also important considerations. Dan noted that the business rules need to be clear on what uses the bank will serve.

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- Dan Haller noted that the first county resolution for setting up the bank should empower staff to begin setting up the water bank and negotiate more detailed agreements for bank operation.
- Karen Skoog noted that many in Pend Oreille County question the need for water banking, as they are in the headwaters and do not currently have any issues. Wes McCart noted that Stevens County have been dealing in limitations on water rights for much longer, and that more public outreach in Pend Oreille County could inform the residents on the potential risk for future issues. Keith Stoffel noted that if exempt well limitations become mandated, they will affect Pend Oreille County along with Stevens and Spokane Counties.
- Dan Haller noted that business rules could limit water rights in the bank to the county of origin, or allow some imbalance in the short to medium term with the goal of balancing transactions among counties. Full portability of water could also be allowed.
- Nancy McLaughlin asked if there are other tri-county models for water banking. Dan Haller noted this would be the first.
- Karen Skoog noted it may be easier to just have individual county banks. Wes McCart noted that the bank will maintain more options if it is shared among the three counties. Dan Haller noted the advantage of a joint bank is having shared rules.
- Nancy McLaughlin questioned how prices can be correctly established. Carl Einberger noted that public banks are demonstrably less expensive for the customer.
- Keith Stoffel noted the risk of downstream out of basin transfers by third parties, and that without statutory changes, downstream moves cannot be restricted.
- Wes McCart noted the possibility of leasing water in addition to purchases of water.
- Mike Hermanson noted that interlocal or other agreements need to be formalized to allow joint funding of water right purchases.
- Mike Lithgow asked how the Bureau of Reclamation grant, if approved, would benefit the water bank. Mike Hermanson noted that it will support development of suitability maps delineating where mitigation certificates can be used from the water bank.

Attachments:

Attachment 1 – Phase II PAG Meeting #1 PowerPoint Presentation

S:\Little Spokane Water Bank Phase II - 160006\PAG\LSWB PAG Phase II Meeting 1 summary.docx



WRIA 55, Phase II PAG Meeting #1

Little Spokane River Basin Water Bank Feasibility Study

April 6, 2016

Presented by



PAG Meeting #1 Agenda

- Recap of Water Banking Feasibility Study
- Phase II Scope of Work
- Bureau of Reclamation grant application
- Review of previous PAG endorsements
- Potential management structures
- Funding for water bank seeding
- Public Outreach
- Near Term PAG decisions, including
 - Funding for water right purchases/bank seeding
 - Timing of Public Outreach

Near Term PAG Decisions

- **Funding for water right purchases (requesting June 1 PAG input)**
 - Water right evaluations in progress.
 - Ability to move quickly on purchase opportunities is important
 - Preference is to have county decisions on funding prior to 2nd PAG meeting.
- **Determine schedule for public outreach (mailings, workshops, website) (requesting June 1 PAG input)**
 - Recognize the need to minimize speculation and inflated financial expectations by prospective water right sellers
- **Decide on fundamentals of water bank structure (i.e. Will it be a three county bank) – (requesting June 1 PAG input)**
- **Set date for next PAG meeting (mid to late June)**

Little Spokane Water Banking Feasibility Study

■ **Legal, Regulatory, and Policy Framework**

- Water banking is feasible - exempt well uncertainty remains an issue (Hirst case, etc).

■ **Future Water Demand Evaluation**

- Significant demand exists, with or without a regulatory mandate.

■ **Potential Availability of Water Rights for Bank Seeding**

- Water right have been identified and ranked for follow up. Out-of-kind mitigation 'off table' for now.

■ **Water Market Evaluation**

- Pricing range per residence for publically run bank likely to be reasonable.

■ **Evaluation of Pend Oreille Source for Bank Seeding and Habitat Improvement**

- Use of a Pend Oreille surface or groundwater source is likely feasible, at reasonable cost.

■ **Bank Structure and Water Transfer Framework**

- The PAGs preference for a publically run water bank is a feasible alternative.

Ecology Grant Application vs. Authorization

- Watershed Planning Implementation and Flow Achievement Grant
 - Application filed in May 2015
 - Partial funding approved in January 2016
 - \$1,216,000 requested
 - \$ 275,000 approved
 - Key unfunded tasks:
 - Water right purchases
 - Pend Oreille diversion tasks
 - Basin-wide tributary evaluations

Water Banking Tasks Requested vs. Approved

- Water Right Procurement (not funded)
- Pend Oreille Source Investigations, Permitting, and Design (not funded)
- Stakeholder Collaboration (50% funded)
- Public Outreach (50% funded)
- Water Bank Operational Framework (45% funded)
- Water Right Acquisition Outreach (80% funded)
- Tributary Basin Bank Management Technical Support (50% funded)

Phase II Scope of Work

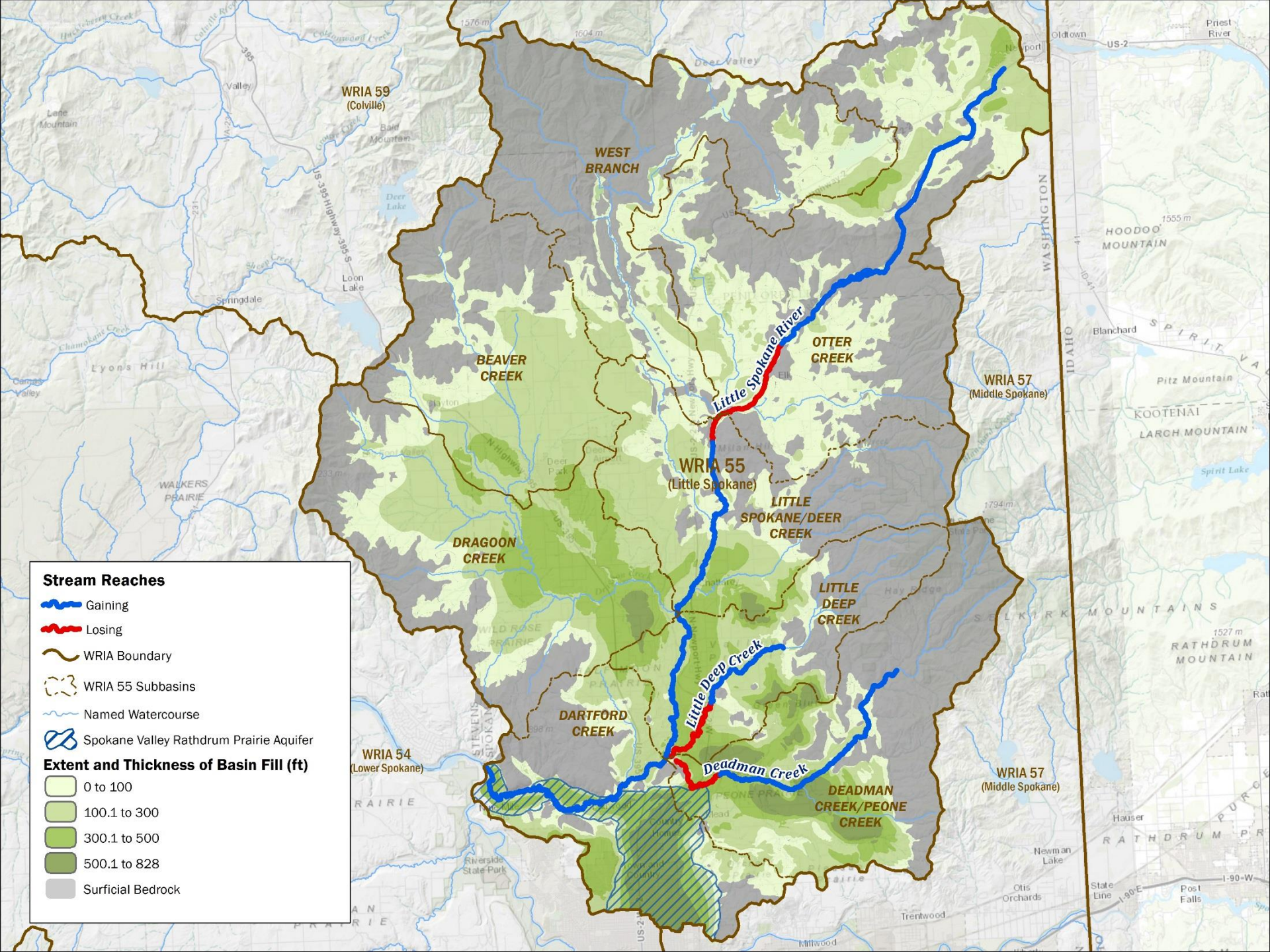
- Stakeholder Collaboration
 - PAG meetings (4 to 6)
- Public Outreach
 - Mailers, questionnaire, 2 public meetings, webpage.
- Water Bank Operational Framework
 - Set up institutional management structure.
- Water Right Acquisition Outreach
 - Refine potential portfolio for water right acquisitions, and pursue purchases to fit funding level and preferred bank extent.
- Tributary Basin Bank Management Technical Support
 - Evaluate existing data on groundwater surface water interaction and implement field studies focused on data gaps.

Proposed Schedule







- PAG meetings (April, June, Fall of 2016, Spring 2017)
- Public Outreach (To be determined- PAG input)
 - Questionnaire, 2 public meetings, targeted outreach
- Water Bank Institutional Framework
 - PAG decisions on preferred details of structure (June 1)
 - Initial institutional framework documents (mid-June)
 - Final institutional framework documents (March 2017)
- Water Right Acquisition
 - County decisions on funding for water right purchases (June 1)
 - Memorandum on acquisition/outreach efforts and outcomes (December)
- Scientific Framework/Tributary Studies
 - Initial framework materials to Ecology (August)
 - Memorandum supporting scientific framework for water bank management (March 2017)

Scientific Framework/Tributary Studies






- Goal is to improve understanding of groundwater/surface water interaction and support resolution of bank management areas.
- Assess existing data and identify data gaps.
- Address spatial and temporal effects of water bank seeding versus water bank withdrawals.
- Field work and analysis to be prioritized according to PAG and Ecology input and the location of bank seeding opportunities.
 - Likely to focus only on specific subbasins.



Stream Reaches

-  Gaining
-  Losing
-  WRIA Boundary
-  WRIA 55 Subbasins
-  Named Watercourse
-  Spokane Valley Rathdrum Prairie Aquifer

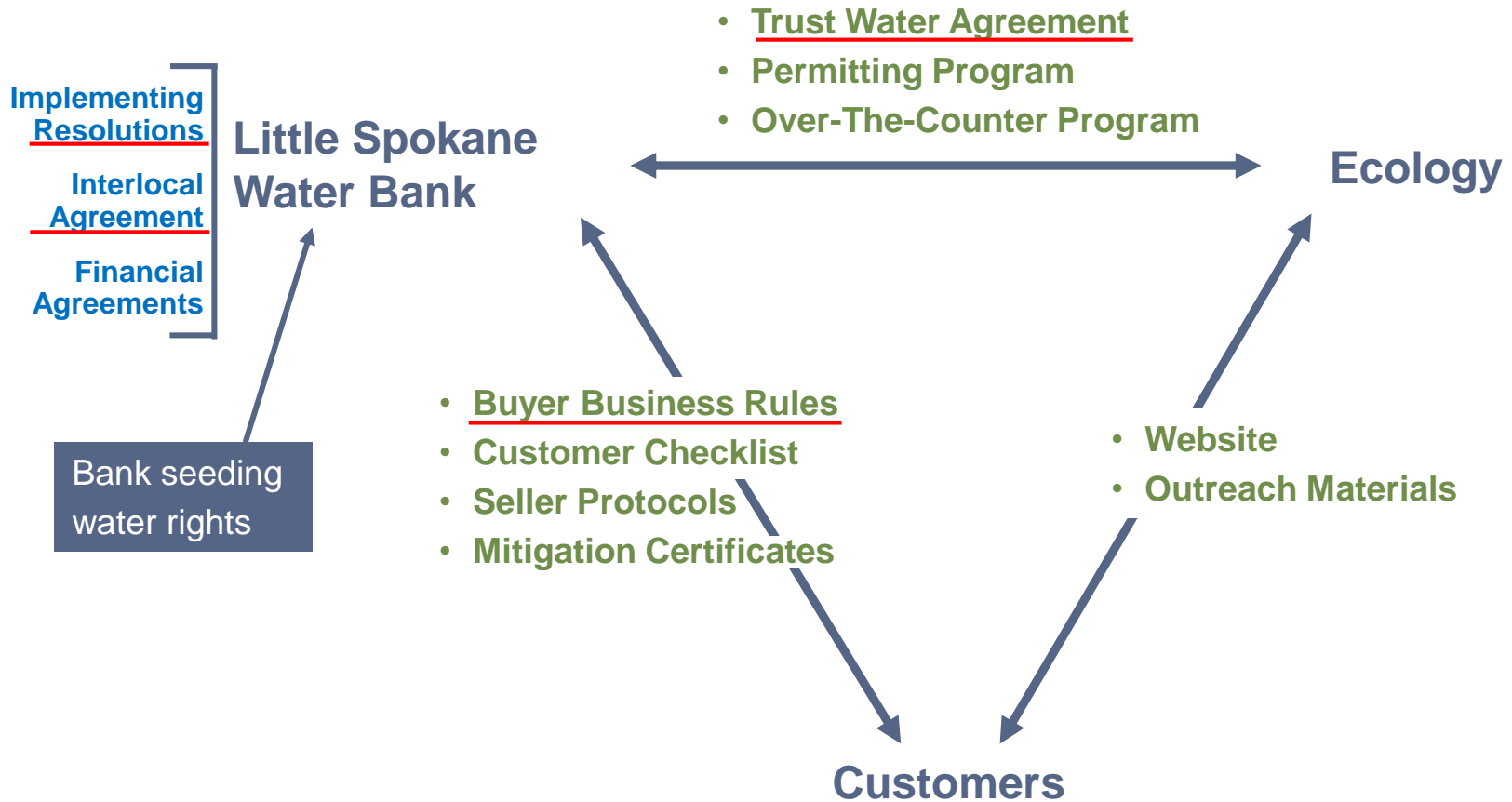
Extent and Thickness of Basin Fill (ft)

-  0 to 100
-  100.1 to 300
-  300.1 to 500
-  500.1 to 828
-  Surficial Bedrock

Bureau of Reclamation Grant Application

- Spokane County is submitting an application under the Bureau's Drought Resiliency Project Grant Program.
- Application seeks to fund a coupled groundwater/surface water model for the basin to support scientific management framework of bank. Requested amount = \$275,000. June award date.
- Funding is competitively awarded to assist projects that build resiliency to drought by:
 - Increasing the amount/reliability of water supplies
 - Improving water management
 - Facilitating the sale, transfer, or exchange of water
 - Providing benefits for fish and wildlife and the environment

Bank Implementation



Key PAG Endorsements for Water Banking

- Publically run, Tri-County bank management model preferred, with a central bank accounting system.
 - PAG decisions include: water bank business rules, Tri-County coordination decisions
- Water bank applicants should work with individual county planning and building departments to obtain mitigation certificates as part of other associated building permits.
- Initial implementation should be a voluntary process to provide time to allow this new process to be integrated with functions in each of the counties.
- A water bank should adopt rules preventing speculation.
 - PAG decisions include: timing for public outreach, water right acquisition approaches
- Potential impacts to county workloads and the general fund need to be quantified. A key factor in final bank funding, seeding, and management will be to address and mitigate fiscal liabilities and workload burden on county staff, with one option being an enterprise funding mechanism.

Potential Bank Management Structures

- From the PAG Endorsements:
 - Move forward with water bank development for WRIA 55.
 - Publically run, Tri-County bank management model preferred.
 - Water bank applicants should work with individual county planning and building departments to obtain mitigation certificates as part of other associated building permits.
 - A central bank accounting system is preferred.
- Incremental development of the water bank is anticipated given current funding

Proposed Elements of a Interlocal Agreement

- Permitting responsibilities
- Shared benefits
- Shared risks
- Shared financing
- Coordinated outreach
- Portability of water within bank
- Common business rules

Water Banking Business Rules May Include:

- Establishing water pricing standards;
- Defining mitigation credit unit size;
- Defining specific quantities to preserve or to develop incentives to access, such as price breaks;
- Reserving tributary basin water for in-tributary basin use only or allowing portability for reverse-transfer of mitigation credits back to their point of origin;
- Determining the degree to which administrative costs are discounted, if at all;
- Creating trading zones divided up by county, tributaries, control points, or subwatersheds;
- Establishing market longevity goals (i.e. perpetuity, short-term, long-term, etc.); and
- Develop an oversight Board with equal representation from each county to review policy issues.

Water Banking Business Rule Considerations

- If more water is available, it is less important to adopt stringent business rules promote bank longevity.
- Terms of agreement with Ecology relative to basin management may influence the importance of tributary versus mainstem reservations.
- How variable is rural demand? Can it be classified into one or two mitigation credit sizes that represent the super-majority (e.g. 90%) of homes.
- Are administrative cost subsidies warranted, based on mitigation credit costs relative to standard connection fees for municipal systems, and relative to the overall cost of new home construction?
- If the Counties are able to initiate a water bank without an initial regulatory imperative (e.g. growth moratorium for exempt wells), then it can afford to do some “learning” and allow business rules to adapt over time, versus more stringent rules.

How should the counties adopt water banking business rules?

- Citizen informed
- Citizen advised
- Citizen created

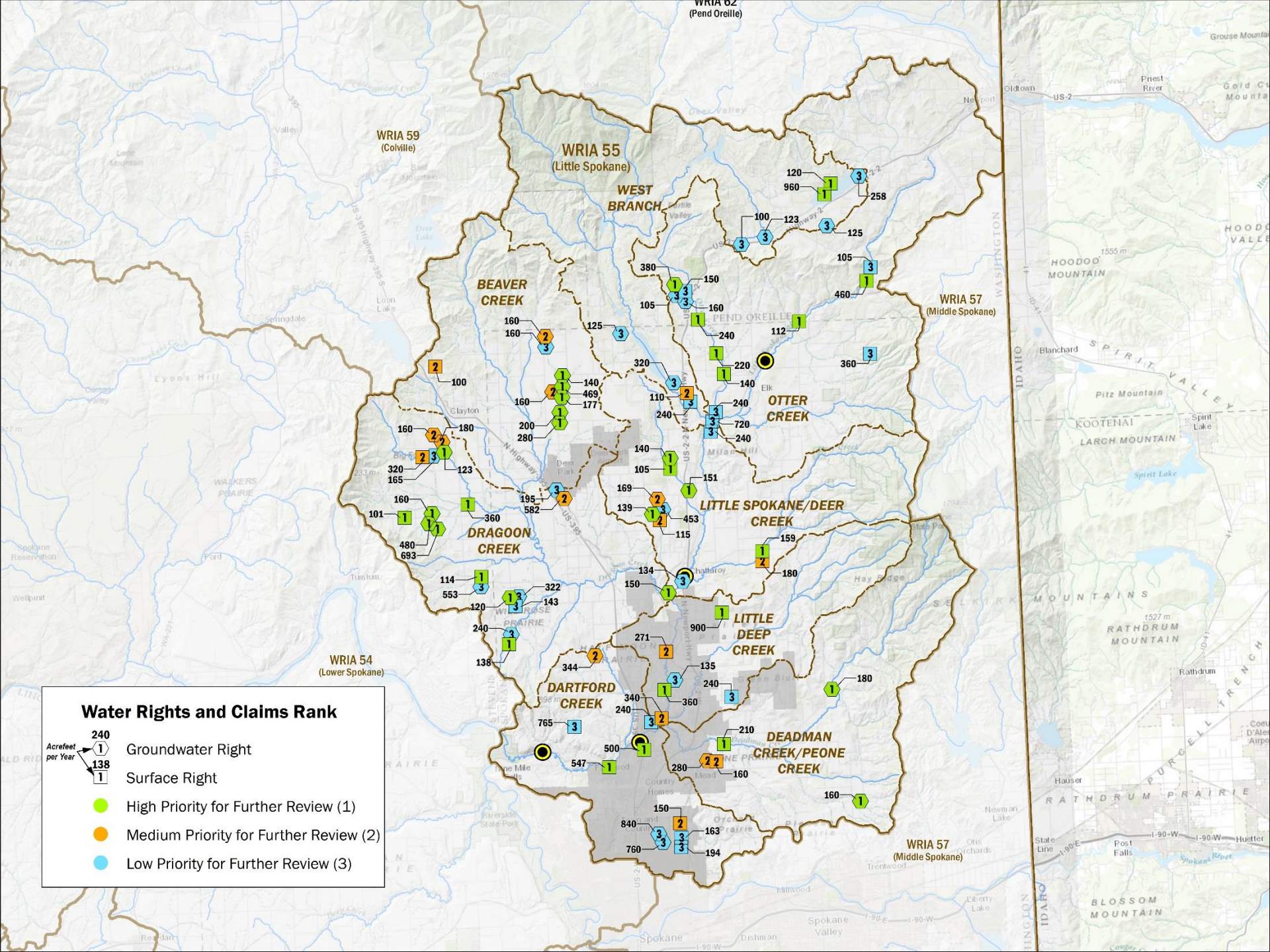
Regulatory Setting Effects on Business Rules

- **No regulatory mandate (proposed bank design).**
 - Public informed about the availability of the water bank through public outreach.
 - The current building permit application forms for each county are not modified.
 - Mitigation certificates issued by the water banking entity are recorded and attached to the property deed under a voluntary program.

- **Regulatory mandate (potential future bank design).**
 - Public informed about the availability of the water bank through public outreach.
 - The public is informed about the requirements for mitigation at the Site Analysis application stage (Stevens and Pend Oreille County) or the Building Permit application stage (Spokane County).
 - Legal and physical water availability are evaluated by county staff as part of approval of building permits
 - Mitigation certificates issued by the water banking entity are recorded and attached to the property deed.

Water Bank Seeding

- In-Kind (water for water)
 - Acquisition of pre-rule water rights (non-interruptible) that have proven extent and validity
 - Storage (reservoirs, SAR, ASR)
 - Conservation
- Out-of-Kind (habitat focused – off the table at this time based on Foster decision)



Water Rights and Claims Rank

240	1	Groundwater Right
138	1	Surface Right
	●	High Priority for Further Review (1)
	●	Medium Priority for Further Review (2)
	●	Low Priority for Further Review (3)

WRIA 59
(Colville)

WRIA 55
(Little Spokane)

WRIA 62
(Pend Oreille)

WRIA 57
(Middle Spokane)

WRIA 54
(Lower Spokane)

WEST BRANCH

BEAVER CREEK

OTTER CREEK

DRAGON CREEK

LITTLE SPOKANE/DEER CREEK

LITTLE DEEP CREEK

DARTFORD CREEK

DEADMAN CREEK/PEONE CREEK

WRIA 57
(Middle Spokane)

Spokane

Spokane Valley

Liberty Lake

BLOSSOM MOUNTAIN

RATHDRUM MOUNTAIN

RATHDRUM MOUNTAIN

LARCH MOUNTAIN

HOODOO MOUNTAIN

HOODOO VALLEY

Grouse Mountain

Gold Co. Mountain

IDAHO

WASHINGTON

BLANDFORD

BLANDFORD

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Water Market Influences on Scope of Work

- How robust is the water market?
- Auction vs. targeted acquisitions?
- Influence of other criteria:
 - Population pressure
 - Scientific knowledge
 - Instream flow benefits

How would a county buy a water right?

- Right Identified For Sale/Price Negotiated
- Purchase and Sale Agreement Executed
- Due Diligence Period Tied to Earnest Money
- Conservancy Board (or Ecology) Change (9 months)
- Ecology approval (45 days), Appeal Period (30 days)
- Closing (Payment less Earnest Money Due to Escrow)
- Escrow Agent Transfers Money to Seller and Deed to Buyer
- Trust Water Agreement Negotiated With Ecology (Deed Transferred)

Water Right Acquisition

- Contact water right holders directly
- Inform water right holders and public through workshops on water banking project
- Monitor real estate listings
- Auction mechanisms
- 3rd Party Brokers
- Network with purveyors, conservation districts, and notify conservancy board

Estimated Investment Benefits From Water Right Purchases

Investment	Range of Ac-ft	Range of New Houses
\$100,000	30 to 70	203 to 473
\$250,000	70 to 170	473 to 1,149
\$500,000	150 to 250	1,013 to 1,689

County Funding of Water Right Purchases

- What is the ability and interest of Spokane, Stevens, and Pend Oreille Counties in providing funding for water right purchase?
- How quickly can the Counties commit funding if purchase opportunity arises?

Public Outreach

- Mailings/Questionnaire: Inform public of project goals and gauge interest in participating
 - Inform general public
 - Targeted contacts: water right acquisition, field work access
- Workshops
 - First meeting (date TBD) to inform public on water banking process and rationale for implementation
 - Second meeting (Spring 2017) to provide more details on bank structure and opportunities to participate
- Timing decisions:
 - Can affect water market pricing

Near Term PAG Decisions

- **Funding for water right purchases (requesting June 1 PAG input)**
 - Water right evaluations in progress.
 - Ability to move quickly on purchase opportunities is important
 - Preference is to have county decisions on funding prior to 2nd PAG meeting.
- **Determine schedule for public outreach (mailings, workshops, website) (requesting June 1 PAG input)**
 - Recognize the need to minimize speculation and inflated financial expectations by prospective water right sellers
- **Decide on fundamentals of water bank structure (i.e. Will it be a three county bank) – (requesting June 1 PAG input)**
- **Set date for next PAG meeting (mid to late June)**

Open Discussion

