



## Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan

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### Conversions Working Group Meeting

#### Draft Meeting Summary November 19, 2009 Teleconference

#### **OVERVIEW**

The Conversions Working Group (WG) discussed the draft Memorandum of Agreement (MOA) between the State of Idaho/IWRB and owners of conversions projects at the November 19, 2009 teleconference:

#### **MEMORANDUM OF AGREEMENT (MOA)**

Cynthia Bridge Clark, IWRB Staff, reviewed the components of the draft MOA between the State of Idaho/IWRB and owners of conversions projects to be developed to support the ESPA CAMP process.

#### *General Comments*

Cynthia mentioned that the MOA was drafted with 2009 AWEP projects in mind. There were 15 AWEP projects applications for conversions projects which total approximately 5,300 acres. As many as half of these projects appear to have access to surface water sources that are not IWRB/ESPA water sources. Ten of these projects are seemingly viable options. IWRB staff is ramping up with NRCS to work on contractual agreements with these applicants, and a number of the property owners would like to get these projects up and running as soon as possible.

#### *Specific Components*

##### Recitals

The recitals provide an overview of the background of ESPA conversions projects and provide context to the purpose of the agreements.

##### Definitions

The definitions serve to clarify specific terms used throughout the agreement.

##### Designation of the Contract Manager and the Statement of Purpose

The designation and statement outline the objectives of the MOA.

##### Tasks

The Tasks, which outline the responsibilities of the Sponsor (property owner) and the IWRB, is a key section for WG members to provide input and make suggestions/edits. The following is an overview of the suggestions made by WG members:

- The State does not have enough additional water supply to meet the needs of conversions projects and the ESPA Plan annual goal of 100KAF for conversions projects, as only 7,800 af has been identified.
- When looking at specific projects, which property owners will get the 7,800 af of water available at Palisades and Black Canyon Exchange?

- The incentive structure in regards to water supply needs to reflect the reality that most of the water supply is going to come from other sources, not State water supply. Therefore, the WG should focus on how we address “other water”.
- Others recommended that the water should be turned over to the water bank into the rental pool for all conversions projects. Then, the state does not have to involve itself in the decisions regarding who gets what water for these projects. The water districts will deal with it.
- A great deal of concern was expressed by WG members regarding the percentage discount rate off the annual cost of in-basin rental pool water as an incentive structure. The cost of water varies greatly when considering some private contracts and the incentive could mean \$6/af, which is a significant and expensive incentive. Additionally, the draft incentive structure could encourage artificially inflated pricing. Suggestions included: 1) using a flat-rate structure, similar to the one suggested for conveyance fee rebates and 2) tying the structure to the BOR Rainbow Chart.
- The group supports the notion that longer-term agreements are provided additional incentives.
- There should be clarity around when it is acceptable for a property owner to begin using well water again.

### Associated Costs

- *Conveyance Fees*
  - The WG indicated that it is best to incentive only the new projects when it comes to conveyance fees.
  - The fees will be paid annually.
  - One WG member asked whether the fees will be funded after the fact and will be distributed for as long as the project is operational and if the rebate will be reviewed annually. The intention was to lump it together with the water discount and complete this process on an annual basis.
  - Several WG members expressed concern that the conveyance fees might be providing too much incentive, essentially be making it so cheap to get the conversions water. Others indicated that this might be necessary for some projects, and too much for others.
- *Operation and Maintenance Fees*
  - The WG supports the approach of the Sponsor paying all operations and maintenance costs, and this may be reevaluated once ESPA Plan dollars are collected and distributed amongst all the Working Groups.
- *Monitoring Equipment*
  - If there are excessive monitoring plan-related costs, IWRB will negotiate with the Sponsor.
  - Some WG expressed concern about the amount of administrative time that the Sponsor will need to dedicate to reporting. Another WG member indicated that with the incentives for cheaper SW water, the least that a Sponsor can do is report back on their GW pumping. This is a viable way of assessing the ESPA Plan goals as it relates to conversions.

IWRB provides discounted rental pool water that the IWRB owns.

Term

### Early Termination and Reimbursement

- A general concern about this component of the agreement is that this may frighten potential Sponsors away. ESPA Plan wants to keep them involved long-term, but doesn't want to frighten them away.

- The favored approach, if either is selected, is Approach One, in which the Sponsor must reimburse all discounts and rebates up to the date of termination.
- Some WG members indicated support for the NRCS contract being the driving force behind any penalties, since the Federal penalties are fairly significant already. NRCS penalties are dominantly concerned with the construction, but are also applicable to non-use of the equipment. This is something to explore.

Rights to NRCS data

Since it was difficult to access this information, this element of the MOA gives IWRB staff more access to the data.

Successors and Assigns Obligated

This element attempts to bind the project to land, although this may be more difficult to include as an attachment to the land and not the individual Sponsor.

General Terms and Conditions

This is a standard attachment to all State/IWRB contracts.

Waiver, Modification or Amendment

This provides the Sponsor or IWRB the opportunity to amend the MOA.

Signatory page

This is the signature page for the Sponsor and the IWRB.

Attachment A

These are the general provisions of the MOA.

Exhibit A

A map of the project area

Exhibit B

Annual conversion project water use reporting form.

***Moving Forward with the MOA***

The WG discussed the possibility of expediting this MOA to use for 2009 AWEF projects. The WG supports this effort. Therefore, Cynthia and Joan will send an edited version of the MOA for final comments. Then, the MOA will move through the Implementation Committee process for approval and implementation.

**NEXT STEPS**

<b>Action</b>	<b>Responsible</b>
Re-circulate the next draft of the MOA for feedback	Cynthia Bridge Clark and Joan Sabott
Provide feedback on the next draft of the MOA	WG members
Continue discussion with property owners regarding potential conversions projects that could benefit the aquifer	All WG Members

Continue assembling analysis on identified project sites	Cynthia Bridge Clark/Brian Patton
Continue coordination with BOR on Milner Gooding costs and working through rental pool	Rich Rigby
Potential projects that meet criteria will be identified/listed (AWEP and identified project sites)	Next WG meetings
Edit the administrative mechanism to reflect WG suggestions	Cynthia Bridge Clark
Develop a conversions FAQ document to be circulated as part of the education strategy	Joan Sabott

**NEXT MEETING**

- Wednesday, December 9<sup>th</sup> from 1:00pm – 3:00pm

**MEETING ATTENDEES**

**Conversions Working Group Members**

- |    |       |           |                                |
|----|-------|-----------|--------------------------------|
| 1. | Randy | Bingham   | Surface Water Users            |
| 2. | Linda | Lemmon    | Spring Water Users             |
| 3. | Dean  | Stevenson | Groundwater Users              |
| 4. | Dan   | Temple    | Mixed-Use                      |
| 5. | Will  | Whelan    | Environmental and Conservation |

**Ex Officio Members and Other Attendees**

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|-----|---------|--------------|---------------------------------------|
| 6.  | Cynthia | Bridge Clark | IDWR                                  |
| 7.  | Stephen | Goodson      | Governor’s Office                     |
| 8.  | Brian   | Patton       | IDWR                                  |
| 9.  | Chuck   | Pentzer      | Idaho Soil Conservation Commission    |
| 10. | Joan    | Sabott       | CDR Associates                        |
| 11. | Lynn    | Tominaga     | Idaho Ground Water Appropriators, Inc |