



IWAC

Idaho Washington Aquifer Collaborative

November 13, 2012, 1:30 – 3:45 PM
Liberty Lake Sewer and Water District

Representatives Present

	Name	Organization	Email Address
√	Alan Miller	Hayden Lake Irrigation District	alan@haydenirrigation.com
√	Bill Rickard	City of Spokane Water Department	brickard@spokanecity.org
√	Bob Ashcraft	Consolidated Irrigation District No. 19	consolidatedirrigation@comcast.net
*	Brian Crossley	Spokane Tribe of Indians	crossley@spokanetribe.com
	Bryan St Clair	Modern Electric Water Company	bstclair@mewco.com
*	Gary Mallon	Greater Spokane Incorporated	gmallon@greaterspokane.org
	Laura Laumatia	Coeur d'Alene Tribe of Indians	llaumatia@cda-nsn.gov
√	Jim Markley	City of Coeur d'Alene	jimm@cdaid.org
	Ken Windram	Hayden Area Regional Sewer Board	ken@harsb.org
	Mike Coster	City of Spokane RPWRF	mcoster@spokanecity.org
	Mike Galante	North Kootenai Water & Sewer District	mikeg@nkwsd.com
	Mike Neher	City of Post Falls	mneher@postfallsidaho.org
	Rob Turnipseed	Bar Circle S Water Company	avondalecon@frontier.com
√	Rob Lindsay	Spokane Co. Water Resources	rlindsay@spokanecounty.org
*	Sandra Jarrard	Greater Spokane Incorporated	sjarrard@greaterspokane.org
√	Linda Kiefer	Avista	Linda.Kiefer@avistacorp.com
	Todd Henry	Vera Water and Power	thenry@verawaterandpower.com
√	Tonilee Hanson	SAJB Program Leader	sajbinfo@gmail.com
√	Ty Wick	Spokane County Water District No. 3	scwd3@comcast.net
Guests			
√	Rachel Johns	NIC Intern – Draft Minutes	shelteringtree14@yahoo.com
	Henry Allen	City of Spokane Valley	hallen@spokan valley.org

The IWAC Meeting began at 1:40 PM

Handouts - 10/9/12 Meeting Minutes, 11/13/12 Agenda, 11/13/12 Draft - IWAC Organizing Agreements, WSU WISDM Grant

AGENDA

Welcome & Introductions

Agenda Additions - Discussion of "In-stream flow," was added to the agenda
October 9, 2012 Meeting Minutes were approved as submitted

Old Business

IWAC Legal Structure Update – Alan Miller

Susan Weeks, HLID legal counsel, worked with the Idaho Attorney General and the lawyer for CDA and HARSB. Three possible scenarios are under consideration that may resolve legal concerns about ID public entities being members of a non-profit organization. While this has been a time consuming process the work of reaching an agreement continues. Alan Miller and Susan Week plan to meet on November 27, 2012, prior to the next IWAC meeting.

- **Non-Profit Organization – SRSP Example**

WA and ID dischargers involved in the Spokane River Stewardship Partners* (SRSP) have worked together on river issues for many years using a MOA rather than forming a legal entity. AVISTA has served as the fiscal agent and Idaho dischargers participate as members of SRSP, contributing funds to the SRSP budget based on the MOA.

* Spokane River Stewardship Partners: Spokane County, City of Spokane, Liberty Lake Sewer and Water District, City of Coeur d'Alene, City of Post Falls, Hayden Area Regional Sewer Board, Avista, Inland Empire Paper Company

- **Non-Profit Organization – Grant Issues**

Grant funding for non-profit organizations from the WA Department of Ecology is limited to Public Participation Grants (PPG). Ecology selects the focus of grants each cycle and for 2013, most are centered on contaminated site and waste management projects. The question for IWAC members to consider is, "Does the limited availability of grant funding for non-profits change the decision to organize IWAC as a non-profit? Should IWAC re-consider an alternate legal structure?"

- **Optional Fiscal Agent**

Spokane County, a lead agency in watershed planning, is willing to consider a role as lead agency in pursuing grants or as fiscal manager for IWAC. This is one option for continuing IWAC progress using an MOA, if a legal, non-profit structure is unable to include Idaho members. The County as a government entity is also eligible for grants, not open to non-profits, and could potentially give IWAC greater chances for grant funding from Washington.

- **Reasons to Pursue Legal Structure**

Members reviewed the decision to incorporate and what an independent legal structure could provide that might not be available with an MOA or informal committee?

- Organizational autonomy for member purveyors to address regional goals
- Hiring facilitation services – This was the original impetus for becoming a legal entity and the new administrative plan for co-chairs and subcommittees may make this a less significant reason for incorporating IWAC.
- Organizational sustainability seems more likely as a legal entity with established administrative and funding procedures
- Regional, bi-state, credibility with federal, state and local agencies may be enhanced by working through the existing barriers to becoming a legal entity.
- Taking the time now, however slowly it may be going, makes more sense than waiting for a regional water crisis and then trying to get organized.

IWAC Organizing Agreements and Background

The process and key decisions made on October 9, 2012, to include aspects of the “*Sample Administrative Roles Summary*” into the IWAC Organizing Agreements: Administrative Roles and Responsibilities (pages 8-10) were reviewed and discussed. Because it may take time to form IWAC as a legal entity it was agreed that the group would move forward and informally establish the administrative roles (co-chairs, subcommittee chairs, etc.) This action provides a structure to work on IWAC goals and identifies the circumstances under which facilitation might be beneficial to the group but reduces the need for one, full-time facilitator.

The following provides some of the discussion and changes made to sections of the IWAC Organizing Agreements. The final changes are reflected in the 12/11/12 version of the document.

- **Goal #2c** (page 2): “A strategy for handling water shortages” (new as of 10/9/12). The purpose of this goal was questioned because there already is a legal strategy in place called “water rights” which establishes senior and junior rights. Prior Appropriation, also called “first in time, first in right,” allocates water between competing users. In times of water scarcity, senior water rights are satisfied ahead of junior water rights. Other legal entities have jurisdiction over those water rights, and IWAC does not.

This goal intends to consider, given existing laws and water rights, how could IWAC purveyors support each other regionally in an emergency situation? SAJB members have developed interlocal and Inter-tie agreements between member purveyors to assist one another in a variety of circumstances and may provide a model.

Three types of water shortages are possible and each will require different responses.

1. Physical Infrastructure: e.g., a pump goes off-line, a well is contaminated
2. Resource Availability: e.g., changing climate trends, low snow pack, drought
3. Legal Shortage: e.g., in-stream flow rule making, adjudication, new water rights

In-stream Flow rulemaking by WA state could potentially create “legal” water shortages in the near future and may impact water purveyors in both ID and

WA. One concern is that such rule-making may put ID and WA into competition and test state water laws. IWAC is intended to develop bi-state collaboration and could play a vital role in creating a unified voice for water purveyors. Unfortunately the proposed time-lines do not allow for this collaborative approach.

- Goal 2c was revised to include "... (physical and/or legal)," at the end of the phrase.
- Questions to be resolved: How can this distinction be incorporated throughout all of IWAC's goals? Should it be added to other areas?

- **Advisory Committee** (page 6)

The Advisory Committee, added during the October 9, 2012 discussions, was reviewed. The Spokane Tribe of Indians and the Coeur d'Alene Tribe were placed in both the Member (voting) and Advisory Committee (non-voting) lists. No Tribal representatives were present at today's meeting and the consensus of the group was that the Tribes participation and input is valued and the decision to be members or advisors would be left to their choice. Avista, whose role in the regional water management is also considered vital for participation in IWAC, has chosen to be in an advisory role.

It was noted that some of these administrative structures may change when IWAC develops the legal organizing documents. Yet to be determined will be the non-profit Board of Directors composition. One or more Advisory Committee members may be asked to serve on the IWAC Board of Directors.

- Changes made to the document:
 - Changed from "Advisory (non-voting) Members" to "Advisory Members - Non-Voting."
 - City of Hayden Lake added to list of Ad Hoc Resource Network. Several other small edits were made for the sake of clarity.

- **Co-chairs** (page 8)

Co-chairs will decide how do to share the administrative roles. They will be asked to provide the Members with a written document detailing who is responsible for each role described on page 8 of the document. This can help in time-management and allow IWAC to work on multiple goals at one time. A next step is to select Co-chairs.

- Sub-Committees Co-Chairs Edit: on 3rd bullet point
 - Co-chairs will determine which roles they will take but they need to identify in writing the responsibilities of each chair.
- Bullet one was edited to delete "and pass around the sign-in sheet" The sign-in sheet will be place on a table by the door with the handouts.

- **Facilitation** (pages 9-10)

The existing version of the Organizing Agreements detailed the initial facilitation process provided by SAJB and the plan for hiring an external facilitator. Now that an administrative structure has been defined with co-chairs and sub-committee co-chairs, language describing the external facilitator was modified to include the following: an external "as-needed" facilitator, "facilitator or co-chair". The description of the beginning facilitation was deleted.

IWAC Goals in relation to the WSU WISDM Grant – Tabled for a future date**Spokane River Forum 2013 Conference and possible IWAC Involvement**

Andy Dunau, SRF Executive Director, requested time on the December 11th agenda to discuss the Spokane River Forum 2013 Conference draft agenda and possible roles for IWAC. This collaboration can support IWAC's education goals.

Proposed dates for the 2013 Spokane River Forum Conference are either March 25-26th or 26-27th. Feedback was requested on preferred dates. IWAC members present preferred the dates March 26-27, 2013. There was unanimous agreement that Mondays are needed for handling issues from the weekend and setting up for the week. In addition, the Spokane City Council meets at 6:00 pm on Mondays and City Staff, who need the day to prepare for the Council meeting, would not be able to attend the SRF Conference on a Monday.

New Business**Spokane River In-Stream Flow Developments - Alan Miller**

The Spokane River in-stream flow rule – making is reported to be moving forward. WA Department of Ecology has presented a plan that would set the summer low flow minimum required CFS as early as January 2013, with a 16 month implementation timeline. The in-stream flow setting has the potential to become a legal issue between WA and ID without the time needed to develop a collaborative solution.

Currently unfunded mitigation ideas to enhance in-stream flow include:

- Building a pipeline to pump water from Lake Pend Oreille into the Spokane River.
- Reclaimed water pumped to restore 600 acres of wetlands

This is a complicated issue. In-stream flow could cause law suits, reduced pumping and limit growth. Ty Wick volunteered to do some fact finding with Rusty at the Department of Ecology. In-stream flow setting has been attempted for many years but to date has not been established. Governor Gregoire, set a moratorium on rule-making in 2010 and extended the moratorium in 2011. It is unclear whether or not the newly elected WA Governor, Jay Inslee, will continue or lift the rule-making moratorium.

Meeting adjourned at 3:40**December 11, 2012 Meeting Agenda**

- **Susan Weeks - Update On IWAC Legal Entity and Draft By-laws**
- **Andy Dunau – SRF 2013 Conference, IWAC and the WSU WISDM Grant**
- **In-Stream Flow Developments**
- **Draft Agenda for January 8, 2013 meeting**