

FINAL
Meeting Summary
WRIA 54 - Lower Spokane River Watershed
June 24, 2009

Location: Airway Heights Community Center, Airway Heights, WA.

Planning Unit members and guests in attendance / recorded on the sign-in sheet were:

Mike Hermanson, Spokane County	Sara Hunt, WA State Dept. of Ecology
Lloyd Brewer, City of Spokane	Bill Rickard, City of Spokane
Charisse Willis, Stevens County PUD#1	Larry Guenther, Stevens County Commissioner
Brian Crossley, Spokane Tribe	Jim DeGraffenreid, Lincoln County
Bryan St. Clair, City of Airway Heights	Charlie Kessler, Stevens County Conservation District
Hank Nelson, Avista	Charlie Peterson, Spokane County Conservation District
Linda McCollum, EWU Geology Dept	Mike McCollum, Citizen
Bart Haggin, Lands Council	Craig Volosing, Landowner and Palisades Neighborhood
Jennifer Murdock, Spokane Riverkeepers	Linda Kiefer, Stevens County Watershed Planning
John Rudders, GeoEngineers	
David Luders, Fairchild Airforce Base and Indian Village Estates Water Assoc.	
Jeanne Barnes, Spokane Association of Realtors and Lake Spokane Park Homeowners Association	

Call to Order

Mike Hermanson opened the meeting at 10:00 am. Attendees introduced themselves.

Review and Approve March 2009 Meeting Summary

The draft April 22, 2009 WRIA 54 Planning Unit meeting summary was reviewed and approved with no changes. The final summary will be posted on Spokane County's web site at <http://www.spokanecounty.org/wqmp/project54/asp/home.asp>.

Public Comment

- Sara Hunt noted that a 2-page fact sheet for the Spokane Area adjudication is now available. Copies were available at the meeting and can be found at the Ecology website www.ecy.wa.gov.
- Charlie Kessler reported that the Stevens County Conservation District received funding from the Centennial Clean Water Fund for their Chamokane Watershed Improvement Project. The project includes provisions for the creation of the Chamokane Creek watershed council, which will interact with the WRIA 54 Watershed.
- Mike McCollum asked Jim DeGraffenreid how funding for the Columbia Basin Groundwater Management Area (GWMA) will affect WRIA 54. Jim responded that WRIA 53 will more likely be involved and that they have not been guaranteed that any GWMA funds will be used north of Highway 2.

Plan Approval Update

Lloyd Brewer reported on the status of the WRIA 54 Watershed Plan approval by the Spokane City Council. The City Council did take action at the May 27 meeting. The City Council removed the first recommendation regarding adjudication and approved the Plan. The council would still like to consider the recommendation for adjudication and have scheduled a study session for July 16th. The mayor would like to see the adjudication recommendation included in the Plan and would like to wait until after the July 16th study session so the recommendation can be reconsidered by the City Council. At this point Lloyd said that he is not in a position to approve the Plan with the adjudication recommendation included. David Luders commented that the adjudication will occur whether or not the Plan supports it. Lloyd responded that this has been communicated to the City Council and mayor and that he is able to approve the Plan if the adjudication recommendation is removed. Sara Hunt noted that inclusion of the adjudication recommendation indicates public understanding

and support for the process. Lloyd said that given that the Spokane City administration would like the adjudication recommendation included he would like to see the Plan approval process be postponed until after the July 16th study session. Mike Hermanson reported that Spokane County was able to get a no cost time extension for the remaining grant funds to complete the Plan approval process after the end of the 2007-09 biennium (i.e., June 30, 2009).

Bart Haggin asked why the Spokane City Council opposes adjudication. Lloyd responded that the Council does not necessarily oppose it but that they are not comfortable that they understand the ramifications to the City and would need to know more before supporting inclusion of the adjudication recommendation in the Plan. Lloyd said the Council was unsure of the impacts to the City's inchoate water right and the relationship of adjudication to the current challenge to the municipal water bill.

Sara Hunt noted that Jay Manning, Director of Ecology, Ben Bonkowski, Ecology adjudication lead, and Alan Reichman from the attorney generals office would be attending the study session.

Bryan St. Clair reported on the status of Plan approval by the Airway Heights City Council. The Airway Heights City Council has not approved the plan. They are also concerned about the adjudication recommendation and will be in attendance at the July 16th study session. The Airway Heights City Council requested that the group consider some minor changes to the Plan and would like to include a statement in an appendix, possibly the Plan comments appendix, that communicates the Airway Heights City Council's position on the Plan. Bryan suggested emailing out the proposed changes to the planning unit. Mike Hermanson requested that the suggested changes be reviewed during the meeting so that questions could be raised and answered.

Change 1 – Page 3-10 – Insert a paragraph regarding the Airway Heights Water Reclamation project and the proposal to recharge the palaeochannel with reclaimed water.

Change 2 - Page 5-4 – Action to Consider WUE 5.2, last sentence “This is currently being implemented by the City of Spokane” include Airway Heights.

Change 3 – Page 6-7 – Recommendation WFN-1, change the last sentence to “This organization should encourage improvement of connectivity between water systems on the West Plains including Medical Lake, Four Lakes, and Airway Heights” Bryan said he was not sure if that should include Fairchild Airforce Base and David Luders responded that they are “on the hook” for 20 years to repay the cost of extending a line to the base from wells near the Spokane River. The 20 years began in 1993.

Change 4 – Page 7-4 – Recommendation WS-2, change first sentence to read “Promote connectivity of the West Plains water systems so that water can be efficiently distributed where it is needed.”

Mike Hermanson asked Lloyd Brewer if the changes proposed by Airway Heights would require the Spokane City Council to reapprove the Plan. Lloyd responded that it did not sound like it would but he would have to see the changes before he could make a definitive judgment.

Mike Hermanson suggested that the July planning unit meeting be delayed by one week (to July 29) to allow for two Spokane City Council meetings prior to the next planning unit meeting and to add a tentative planning unit meeting on August 5th. The meetings would both be at the Airway Heights Community Center because Lakeside High School is not available during the summer.

Phase 4 Watershed Plan Implementation - MOA

Lloyd Brewer distributed the MOA for development of a DIP in WRIA 55/57 (attached) for review and consideration for use in WRIA 54. He called attention to 20 particular items:

1. *WHEREAS, The Little and Middle Spokane Watershed Management Plan (ver. 6/16/2005) has been adopted in joint session on January 31, 2006 by the Pend Oreille County Board of Commissioners, Spokane County Board of Commissioners, and the Stevens County Board of Commissioners. Lloyd noted that dates and participants would need to be changed.*
2. *This MOA is not an Interlocal Cooperation Agreement under ch. 39.34 RCW. Interlocal Cooperation Agreements pursuant to ch. 39.34 RCW are limited to Public Agencies to accomplish governmental purposes and such Interlocal Cooperation Agreements may result from the collaborative process supported in this MOA however. Lloyd noted that this MOA is not an Interlocal Cooperation Agreement. Those would be generated as needed.*
3. *“Consensus” means unanimous agreement. Lloyd noted that the definition of consensus has been a topic of discussion before and this MOA uses a simple, straight forward definition. Mike Hermanson asked if consensus meant those present at the meeting and Lloyd said that this issue is dealt with later in the MOA.*
4. *“Implementing Governments” are those governmental entities, including Indian Tribes, having a role in Plan implementation as described in the DIP, with legislative and regulatory authority, whose jurisdiction lies wholly or partly within the boundary of WRIAs 55 & 57, and who are signatories to this MOA. For the purposes of implementing the Plan, Ecology represents only itself. This shall not prevent other State Agencies from joining this MOA by written agreement. Implementing NGMs are non-governmental persons or entities entering into contractual relationships to implement elements as identified in the Plan. An implementing NGM need not be a Watershed Implementation Team member. Lloyd noted that in Phase IV the definition of Implementing Governments and Implementing NGMs is important.*
5. *“Planning Unit” was a committee formed pursuant to Chapter 90.82 RCW by the Initiating Governments to initiate the ch. 90.82 process, which resulted in the adopted The Little and Middle Spokane Watershed Management Plan (the Plan). For the purpose of developing the Detailed Implementation Plan, to implement The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005), the Planning Unit will be replaced by the Watershed Implementation Team (WIT) as further described below.
“Watershed Implementation Team” (WIT) is the successor of the Planning Unit, formed for the purpose of implementing The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005). WIT membership is listed in Appendix A. The list may be amended by its members as provided in Section 5. Lloyd noted that in Phase IV, the planning unit becomes the WIT.*
6. *Approval of the completed DIP shall be by the same formalities as this MOA; by written instrument duly executed in like manner as this MOA. Lloyd noted a similar approval process is used for the DIP as was used for the Watershed Plan.*
7. *Watershed Implementation Team (WIT): The WIT is composed of the parties signing this MOA and those members of the WRIAs 55 & 57 Planning Unit, when the Planning Unit approved The Little and Middle Spokane Watershed Management Plan during the Planning Unit meeting on June 16, 2005, all as listed in Appendix A. Future membership may be amended in accordance with this MOA. Lloyd noted that members involved at the time of Plan adoption are recognized immediately as WIT members and there is a mechanism to become a member.*
8. *The appointed Representatives of Implementing Governments shall be voting members of the WIT. With respect to NGMs, after a person desiring to participate in the WIT has attended three consecutive regular WIT monthly meetings, the WIT may accept such person as a voting member by a vote of the WIT members pursuant to sec. 6 of this MOA. In voting to accept a WIT candidate, the WIT shall be guided by considerations of assuring that water resource user interests and directly involved local-level interest groups have a fair and equitable opportunity to give input and direction to the process. [Cross reference, RCW 90.82.030 (1)] Lloyd called particular attention to the last sentence.*

9. *An existing NGM representative may be removed from voting status if such person misses three consecutive regular WIT monthly meetings. A motion to remove is introduced at a regular WIT meeting. Thereafter, the Lead agency and/or a designee shall contact the party in question, no less than 10 business days before the next regular meeting. The majority of the WIT members in attendance at the next regular meeting may then terminate voting membership by majority vote. A removed NGM representative may join again as provided in 5.2.*
Where a voting Government representative on the WIT misses three consecutive regular monthly meetings, written notice may be given to said party of intent to remove voting status at least 10 business days before a regular monthly meeting where the question is to be considered. At such meeting, the removal must be approved by a majority of the WIT members in attendance and the appointing Government shall then be given written notice of such action. The removal does not become effective unless the appointing Government fails to appoint or reappoint a representative within sixty (60) days of being notified. The appointing Government can appoint a new representative or reappoint a removed representative with fully restored voting rights at any time thereafter.
10. *The WIT may adopt rules for operation, decision-making, and membership to supplement those presented in this MOA but not in conflict with the MOA. Sara noted that the WRIA 54 operating procedures define a quorum, but this does not and asked if we are able to keep the operating procedures in place. Lloyd said that the current operating procedures can most likely be utilized but that they must not conflict with the MOA.*
11. *In so far as possible, all decisions of a quorum of the WIT will be by consensus, but the Implementing Governments must reach Consensus, whether or not in attendance at a meeting. In addition, no decision may bind any Implementing Government to an obligation without written approval of its governing body, with the exception of state and federal agencies, whose representatives can agree to obligations. For the purposes of this MOA, "Obligation" is defined in sec. 6.3.4.*
12. *For the purposes of this MOA, the parties further state their intent that no Implementing Rule, as defined in RCW 90.82.020, shall bind an Implementing Government without its' written consent, approved in the manner described above.*
"Obligation" means any required action that imposes fiscal impact, a re-deployment of resources or a change of existing policy.
13. *All technical decisions will be based on best available science. For purposes of Watershed Planning in WRIAS 55 & 57, the WIT will use the criteria in WAC 365-195-905. For such elements that include implementation by Indian Tribal agencies, best available science criteria may be modified to include best available science determinations by tribal natural resource agencies or departments.*
14. *By signing this Agreement, the Implementing Governments intend to bind themselves to the Grant Authority to provide resources as shown in Attachment A to meet the "matching" portion of the grant for Phase Four. Such execution also satisfies the requirements of written consent of said signatory under this MOA as regards Attachment A.*
15. *Participation in the WIT and/or technical committees and/or focus groups by all participants, including officials and staff, shall be contributed time not eligible for reimbursement from grant funding unless expressly approved by Implementing Governments, consistent with the provisions of Chapter 90.82 RCW.*
16. *This MOA becomes effective on the date as provided in section 11 and terminates 18 months after such date.*
17. *Notwithstanding 8.1, by written agreement signed by all parties to this MOA, this MOA may be extended an additional period as agreed, not to exceed two (2) years.*
18. *Any WIT Member may withdraw from this MOA and the planning process at any time. If any member withdraws, that member shall not be deemed a party to any plan elements or agreement produced. Withdrawal must be by written notice to the Lead Agency, effective thirty (30) days after receipt of notice by the Lead Agency. Upon receipt of notice, the Lead Agency shall communicate the same in writing to all signatories within ten (10) days. A withdrawing party shall not be entitled to any refund or withdrawal of funds or resources obligated under this MOU absent consent of the affected signatories. Unobligated funds or resources shall be released to the withdrawing party.*

19. *The parties acknowledge that Chapter 90.82 RCW provides that the planning process shall not result in provisions which conflict with federally reserved tribal rights. They agree that tribal participation in this process shall not constitute an admission or agreement by the participating tribe that any estimate of federally reserved tribal rights are binding on it, unless the affected tribe expressly so agrees in writing at the conclusion of the process, and such tribal agreement is approved in writing by the appropriate agency of the United States Government (e.g. Bureau of Indian Affairs).*
20. *Effective Date: This MOA shall become effective and commence upon execution by all parties as listed hereinafter. In the event the Lead Agency determines, after a reasonable effort, that it is not possible to obtain the signatures of all parties listed, it shall communicate the same to the remaining parties in writing. Any group of remaining parties may then agree to continue. After the Lead Agency obtains the written consent of such group, which may be give by the chief executive of a participant, it gives written notice to all the remaining participants. The date of such notice is the commencement date. The deadline for giving this notice is October 1, 2006 unless extended by consent of the participants.*

Lloyd noted that the operating procedures for WRIA 54 were developed at about the same time as the WRIA 55/57 DIP MOA and are similar in many aspects.

Mike McCollum noted that the “best available science” standard can be difficult to work under and that many of the studies utilized by the Planning Unit are merely opinion. Lloyd said that we are proposing to use the standard defined in statute.

The group agreed by consensus that the MOA presented by Lloyd is the direction the planning unit should move in. Lloyd agreed to make changes to the MOA to adapt it for WRIA 54.

Scope of Work (Detailed Implementation Plan and Year 1)

Mike Hermanson said that the County would like to move forward with selecting a consultant to assist with Phase IV concurrently with the Plan approval and adoption process. Mike asked for any volunteers to serve on the consultant selection committee. The selection committee is: Mike Hermanson, Sara Hunt, Dave Luders, Craig Volosing, and Bill Rickard.

Mike Hermanson reviewed the Phase IV scope of work (attached) that was distributed at the meeting.

Charlie Kessler inquired about how the budgeting was done. Mike Hermanson responded that it was based on past experience in Watershed Planning in WRIA 54 and WRIA 55/57.

Lloyd Brewer asked about entities identified as supporting in the implementation matrix of the Watershed Plan. Mike Hermanson responded that the idea is that the lead entity would gather all interested parties to a project to participate in the development and implementation of the project.

The group agreed by consensus that the proposed scope of work was suitable for use in the RFP for the Phase IV consultant.

Charlie Kessler asked if a local facilitator had been considered such as Spokane County. Mike Hermanson responded that at this time the Spokane County Water Resources group does not have the resources for that time commitment. Bill Rickard also noted that having a third party facilitator has advantages.

Public Comment

Hank Nelson reported that Avista received a 50 year FERC License for the Spokane River operations.

Lloyd Brewer reported that the City of Spokane is now offering \$100 for removal of 1000 sq ft of lawn and replacement with low water landscaping. They are currently working on 6 of those rebates. The indoor water conservation program will begin August 1st.

Bryan Crossley reported that the water quality model for the Lower Spokane River has been calibrated with 2006 data that the tribe collected. The tribe is also beginning to work on a non point source project for land within the reservation boundary.

Next Meeting Date and Adjourn

The next WRIA 54 Planning Unit meeting is scheduled for Wednesday July 29, 2009, 1:30 – 3:30 pm, Airway Heights Community Center. Mike Hermanson adjourned the meeting at 11:30 am.

Attachments

(v16)

[space reserved for file number]:_____

Attachments:

A, Resource Obligations for Grant Matching

MEMORANDUM OF AGREEMENT:
TOWARDS DEVELOPING A DETAILED IMPLEMENTATION PLAN FOR WRIAS
55 & 57
THE LITTLE AND MIDDLE SPOKANE WATERSHEDS

WHEREAS, Chapter 90.82 RCW concerning Watershed Planning, provides a collaborative process for participating governmental entities, non-governmental organizations, and other interested parties to have input into the local watershed planning process and

WHEREAS, this Memorandum of Agreement (MOA) seeks to further that statutory process with respect to watershed planning for The Little and Middle Spokane Water Resources Inventory Areas (WRIAs) 57 & 57; and

WHEREAS, the process in ch. 90.82 RCW and this MOA is not intended to formally determine or resolve any legal dispute about water rights under state or federal law. Rather, the process provides an alternative, voluntary process for cooperative planning and managing the use of Washington's water resources; and

WHEREAS, effective watershed planning cannot take place without full participation of government entities, non-governmental organizations, and other interested parties within the WRIA; and

WHEREAS, The Little and Middle Spokane Watershed Management Plan (ver. 6/16/2005) has been adopted in joint session on January 31, 2006 by the Pend Oreille County Board of Commissioners, Spokane County Board of Commissioners, and the Stevens County Board of Commissioners.

NOW, THEREFORE, the parties agree as follows:

1.0 Purpose: The purpose of this MOA is to take steps as possible and appropriate under RCW 90.82.030 to involve local water resource users and local interest groups to give input and direction into the watershed planning process. The goal of this collaboration is to reach a collective understanding on the development of a Detailed Implementation Plan identified in RCW 90.82.043 and RCW 90.82.048. REFERENCE: The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005).

This MOA is not an Interlocal Cooperation Agreement under ch. 39.34 RCW. Interlocal Cooperation Agreements pursuant to ch. 39.34 RCW are limited to Public Agencies to accomplish governmental purposes and such Interlocal Cooperation Agreements may result from the collaborative process supported in this MOA however.

2.0 Definitions:

“Consensus” means unanimous agreement.

“Detailed Implementation Plan” or “DIP” has the same meaning as used in RCW 90.82.043 and RCW 90.82.048, as the document with the strategies implementing the Plan. [For references to “Plan,” see the Little and Middle Spokane Watershed Management Plan below.]

“Implementing Party” is any entity, including but not limited to an Indian Tribe, agreeing to participate and having legal authority to contract to implement elements in the DIP. An Implementing Party may be either an Implementing Government or an Implementing Non-Governmental Member (NGM). These groups are further described:

“Implementing Governments” are those governmental entities, including Indian Tribes, having a role in Plan implementation as described in the DIP, with legislative and regulatory authority, whose jurisdiction lies wholly or partly within the boundary of WRIAS 55 & 57, and who are signatories to this MOA. For the purposes of implementing the Plan, Ecology represents only itself. This shall not prevent other State Agencies from joining this MOA by written agreement.

Implementing NGMs are non-governmental persons or entities entering into contractual relationships to implement elements as identified in the Plan. An implementing NGM need not be a Watershed Implementation Team member.

“Implementation Matrix” is a document showing all recommended elements of an approved WRIA Plan as the final step in plan development and recommendations, as further explained in Section 6.3.

“Implementing rules” has the definition in RCW 90.82.020 (2), which are the rules needed to give force and effect to parts of the Plan that create rights or binds any party, including a state agency, or that establish water management policy.

“Initiating Governments” are those local governments initiating the Watershed planning process as identified in RCW 90.82.060(2) for the area designated by the Washington State Department of Ecology as WRIAS 55 & 57, also known

as The Little and Middle Spokane Watersheds. They continue as Implementing Governments and signatories to this MOA, to wit: Pend Oreille County, Stevens County, Spokane County, Vera Water & Power, Whitworth Water District #2 and, the City of Spokane.

“Lead agency” is that entity that shall convene the Watershed Implementation Team (WIT) and administer the Phase Four Watershed Planning Grant Funds [Ref. RCW 90.82.040(2)]. The Lead agency contracts for services, using funds available under ch. 90.82 RCW or contributed through other sources. The Lead agency has no power to bind another Government without its expressed written consent, through its governing body. The Lead agency shall likewise be responsible for application and management of grant funds for purpose of this MOA. Designation of a Lead agency does not limit the option of another Government to apply for and manage grant funds for plan implementation. [Cross reference, RCW 90.82.060 (6)]

“Minimum instream flow” has the definition of RCW 90.82.020 (3).

“Planning Unit” was a committee formed pursuant to Chapter 90.82 RCW by the Initiating Governments to initiate the ch. 90.82 process, which resulted in the adopted The Little and Middle Spokane Watershed Management Plan (the Plan). For the purpose of developing the Detailed Implementation Plan, to implement The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005), the Planning Unit will be replaced by the Watershed Implementation Team (WIT) as further described below.

“The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005)”, sometimes also referenced as the “Plan” is defined in RCW 90.82.020 (6) with respect to WRIAS 55 & 57. It includes any rules adopted in conjunction with the product of the Planning Unit.

“Watershed Implementation Team” (WIT) is the successor of the Planning Unit, formed for the purpose of implementing The Little and Middle Spokane Watershed Management Plan (ver. 06/16/2005). WIT membership is listed in Appendix A. The list may be amended by its members as provided in Section 5.

“WRIA” is a water resource inventory area, as provided for under RCW 90.82.020 (4). This MOA concerns WRIAs 55 & 57.

3.0 Governments Scope: Watershed Planning for WRIAs 55 & 57 includes an opportunity to receive state grant funding, when local match funding can be met, for Phase Four, Detailed Implementation Plan (DIP) development, as provided for in Chapter 90.82 RCW and RCW 90.82.040.

- 3.1 The main focus of Phase Four will be planning: 1) who will implement that Plan, 2) how the Plan will be implemented, and 3) the commitment of resources by those implementing entities.
- 3.2 Approval of the completed DIP shall be by the same formalities as this MOA; by written instrument duly executed in like manner as this MOA.

4.0 Lead Agency: Spokane County is the Lead agency under this MOA. The Lead agency shall administer the grant funds and contract for services to support development of the detailed implementation plan. Project budgets and utilization of consultants shall be agreed upon by the WIT per the process described in section 6.0 of this agreement.

5.0 Watershed Implementation Team (WIT): The WIT is composed of the parties signing this MOA and those members of the WRIAs 55 & 57 Planning Unit, when the Planning Unit approved The Little and Middle Spokane Watershed Management Plan during the Planning Unit meeting on June 16, 2005, all as listed in Appendix A. Future membership may be amended in accordance with this MOA.

5.1 Parties in Exhibit A have appointed a representative or representatives to the WIT. New non-governmental representation in the WIT may be developed as outlined in Section 5.3. Each member of the WIT is responsible to appoint one primary representative and as many alternates as desired. Alternates may serve in lieu of the primary contact.

5.2 The appointed Representatives of Implementing Governments shall be voting members of the WIT. With respect to NGMs, after a person desiring to participate in the WIT has attended three consecutive regular WIT monthly meetings, the WIT may accept such person as a voting member by a vote of the WIT members pursuant to sec. 6 of this MOA. In voting to accept a WIT candidate, the WIT shall be guided by considerations of assuring that water resource user interests and directly involved local-level interest groups have a fair and equitable opportunity to give input and direction to the process. [Cross reference, RCW 90.82.030 (1)]

5.2.1 An existing NGM representative may be removed from voting status if such person misses three consecutive regular WIT monthly meetings. A motion to remove is introduced at a regular WIT meeting. Thereafter, the Lead agency and/or a designee shall contact the party in question, no less than 10 business days before the next regular meeting. The majority of the WIT members in attendance at the next regular meeting may then terminate voting membership by majority vote. A removed NGM representative may join again as provided in 5.2.

5.2.2 Where a voting Government representative on the WIT misses three consecutive regular monthly meetings, written notice may be given to said party of intent to remove voting status at least 10 business days before a regular monthly meeting where the question is to be considered. At such meeting, the removal must be approved by a majority of the WIT members in attendance and the appointing Government shall then be given written notice of such action. The removal does not become effective unless the appointing Government fails to appoint or reappoint a representative within sixty (60) days of being notified. The appointing Government can appoint a new representative or reappoint a removed representative with fully restored voting rights at any time thereafter.

5.2.3 Government withdrawal: see section 8.3.

5.3 The WIT may adopt rules for operation, decision-making, and membership to supplement those presented in this MOA but not in conflict with the MOA.

6.0 Process:

6.1 In so far as possible, all decisions of a quorum of the WIT will be by consensus, but the Implementing Governments must reach Consensus, whether or not in attendance at a meeting. In addition, no decision may bind any Implementing Government to an obligation without written approval of its governing body, with the exception of state and federal agencies, whose representatives can agree to obligations. For the purposes of this MOA, "Obligation" is defined in sec. 6.3.4.

6.2 Where Consensus has been reached among Implementing Government representatives, whether or not in attendance, but a consensus cannot be reached among other WIT members after a reasonable amount of time, approval for purposes of participation of such non-government members shall be by majority vote among those non-government members in attendance at a meeting and shall decide the issue for such members. A 'reasonable amount of time' as used in this paragraph is determined by majority vote of all those WIT members in attendance at the meeting, except that a reasonable amount of time shall not be less than deferring a vote until the next regular meeting following the meeting with the call to vote.

6.3 Implementation Matrix. The Plan included an Implementation Matrix which sets forth Issues and Recommendations. The Detailed Implementation Plan (DIP) shall identify items creating an obligation

on the part of any of the Implementing Entities (Governments and NGOs), including their status as lead or cooperating (supporting), as well as level of effort (including cost as available or reasonable estimate).

6.3.1 For the purposes of this MOA, the parties further state their intent that no Implementing Rule, as defined in RCW 90.82.020, shall bind an Implementing Government without its' written consent, approved in the manner described above.

6.3.2 An Implementing Government which accepts and completes an obligation as specified in the DIP shall be regarded as having fulfilled it's responsibilities for these issues, recommendations, and/or strategies under the Watershed Management Plan or other related regulatory requirements during the finite terms specified under the DIP.

6.3.3 NGMs may consent to element(s) of the actions that impose an obligation on such NGMs by written approval of their governing bodies, with the exception of state and federal agencies, whose representatives can agree to obligations. This shall not preclude any requirement for a contractual agreement for NGM Implementers to utilize funding from an Implementing Government.

6.3.4 "Obligation" means any required action that imposes fiscal impact, a re-deployment of resources or a change of existing policy.

6.4 All technical decisions will be based on best available science. For purposes of Watershed Planning in WRIAS 55 & 57, the WIT will use the criteria in WAC 365-195-905. For such elements that include implementation by Indian Tribal agencies, best available science criteria may be modified to include best available science determinations by tribal natural resource agencies or departments.

6.5 Technical advisory group(s) and/or work group(s) may be established by the WIT to provide reports and recommendations on specific issues.

7.0 Funding:

7.1 By signing this Agreement, the Implementing Governments intend to bind themselves to the Grant Authority to provide resources as shown in Attachment A to meet the "matching" portion of the grant

for Phase Four. Such execution also satisfies the requirements of written consent of said signatory under this MOA as regards Attachment A.

7.2 Grant funds, match and staff or other contributed resources may be used for any purpose approved by the Grant Authority and the contributing entities, including the preparation of technical reports for review by the WIT and/or technical committees and/or focus groups as approved by the WIT. The initial budget for Phase Four will also be reviewed and approved by the WIT.

7.3 Participation in the WIT and/or technical committees and/or focus groups by all participants, including officials and staff, shall be contributed time not eligible for reimbursement from grant funding unless expressly approved by Implementing Governments, consistent with the provisions of Chapter 90.82 RCW.

7.4 The Implementing Governments recognize the financial burden watershed planning places on smaller units of government and support their effort to secure outside sources of funding to ensure effective participation by these entities.

8.0 Duration:

8.1 This MOA becomes effective on the date as provided in section 11 and terminates 18 months after such date.

8.1.1 In accordance with RCW 90.82.040(2)(e), a Detailed Implementation Plan shall be approved by the WIT within one year from the date on which Phase Four funds are accepted and utilized by the Lead Agency. Said Detailed Implementation Plan shall then require approval by the governing body of each signatory agency of this agreement, with the exception of state and federal agencies, whose representatives can agree to obligations.

8.1.2 In the event that the WIT has developed and approved a Detailed Implementation Plan, the WIT may continue to operate pending ratification by governing bodies as per 8.1.1, above.

8.2 Notwithstanding 8.1, by written agreement signed by all parties to this MOA, this MOA may be extended an additional period as agreed, not to exceed two (2) years.

8.3 Any WIT Member may withdraw from this MOA and the planning process at any time. If any member withdraws, that member shall not be deemed a party to any plan elements or agreement produced. Withdrawal must be by written notice to the Lead Agency, effective thirty (30) days after receipt of notice by the Lead Agency. Upon receipt of notice, the Lead Agency shall communicate the same in writing to all signatories within ten (10) days. A withdrawing party shall not be entitled to any refund or withdrawal of funds or resources obligated under this MOU absent consent of the affected signatories. Unobligated funds or resources shall be released to the withdrawing party.

9.0 Modification: This MOA may be modified or amended only by a subsequent written document, signed by all participating parties.

10.0 Preservation of Rights:

10.1 The parties acknowledge that Chapter 90.82 RCW provides that the planning process shall not result in provisions which conflict with federally reserved tribal rights. They agree that tribal participation in this process shall not constitute an admission or agreement by the participating tribe that any estimate of federally reserved tribal rights are binding on it, unless the affected tribe expressly so agrees in writing at the conclusion of the process, and such tribal agreement is approved in writing by the appropriate agency of the United States Government (e.g. Bureau of Indian Affairs).

10.2 Reports and data from original studies conducted by or on behalf of the WIT are public records pursuant to 40.14.010 RCW (preservation statute).

11.0 Effective Date: This MOA shall become effective and commence upon execution by all parties as listed hereinafter. In the event the Lead Agency determines, after a reasonable effort, that it is not possible to obtain the signatures of all parties listed, it shall communicate the same to the remaining parties in writing. Any group of remaining parties may then agree to continue. After the Lead Agency obtains the written consent of such group, which may be give by the chief executive of a participant, it gives written notice to all the remaining participants. The date of such notice is the commencement date. The deadline for giving this notice is October 1, 2006 unless extended by consent of the participants.

IN WITNESS WHEREOF, we the undersigned have executed this MOA as of the date as indicated.

PEND OREILLE COUNTY:

By: _____ Date: _____
Kenneth Oliver, Chair

SPOKANE COUNTY:

By: _____ Date: _____
Todd Mielke, Chair

STEVENS COUNTY:

By: _____ Date: _____
Merrill J. Ott, Chair

CITY OF SPOKANE:

By: _____ Date: _____
Dennis Hession, Mayor

WHITWORTH WATER DISTRICT #2:

By: _____ Date: _____
Chris Johnson, President

VERA WATER & POWER:

By: _____ Date: _____
David Peterson, Chair

SPOKANE AQUIFER JOINT BOARD:

By: _____ Date: _____
Ty Wick, President

WASHINGTON STATE DEPT. OF ECOLOGY:

By: _____ Date: _____
Grant Pfeifer, Regional Director

CITY OF SPOKANE VALLEY:

By: _____ Date: _____
Diana Wilhite, Mayor

CITY OF LIBERTY LAKE:

By: _____ Date: _____
Steve Peterson, Mayor

CITY OF DEER PARK:

By: _____ Date: _____
Robert Whisman, Mayor

TOWN OF MILLWOOD:

By: _____ Date: _____
Daniel N. Mork, Mayor

SPOKANE COUNTY CONSERVATION DISTRICT:

By: _____ Date: _____
Gerald Scheele, Chair

<p>Approved as to form:</p> <p>_____</p> <p>Robert G. Beaumier, Jr., Assistant City Attorney City of Spokane</p>	<p>Approved as to form:</p> <p>_____</p> <p>Ron Arkills, Deputy Prosecuting Attorney Spokane County</p>
<p>Attest:</p> <p>_____</p> <p>Terri Pfister City Clerk City of Spokane</p>	<p>Attest:</p> <p>_____</p> <p>Daniela Erickson Clerk of the Board Spokane County</p>
<p>Approved as to form:</p> <p>_____</p>	<p>Approved as to form:</p> <p>_____</p>
<p>Attest:</p> <p>_____</p>	<p>Attest:</p> <p>_____</p>
<p>Approved as to form:</p> <p>_____</p>	<p>Approved as to form:</p> <p>_____</p>
<p>Attest:</p> <p>_____</p>	<p>Attest:</p> <p>_____</p>

Attachment A

Implementing Governments agree to provide no less than the following resources for the duration of this MOA to meet the requirement that the Little and Middle Spokane (WRIAS 55 & 57) WIT provide the 10% match required for Phase Four Grant funding. (cross reference RCW 90.82.040 & 90.82.040 (2)(e))

<i>Implementing Government</i>	<i>Resource description (hours * \$ rate)</i>	<i>Resource value (\$)</i>
City of Spokane	(s) 60 * \$ 49	2940.00
	(c) \$0	0
City of Spokane Valley	(s) 60 * \$42	2520.00
	(c) \$0	0
Spokane County	(s) 60 * \$44	2640.00
	(s) 60 * \$50	3000.00
	(c) \$0	0
Pend Oreille County	(s) 60 * \$31	1860.00
	(c) \$0	0
Whitworth Water District	(s) 60 * \$66	3960.00
	(s) 60 * \$20	1200.00
	(c) \$0	0
Spokane Aquifer Joint Board	(s) 60 * \$67	4020.00
	(c) \$0	0
Vera Water & Power	(s) 36 * \$66	2376.00
	(c) \$0	0
City of Liberty Lake	(s) \$0	0
	(c) \$0	0
City of Deer Park	(s) \$0	0
	(c) \$0	0
Town of Millwood	(s) \$0	0
	(c) \$0	0
Spokane County Conservation District	(s) \$0	0
	(c) \$0	0
Wash. Dept. of Ecology	**	* *

Resource description codes:

- (s) - staff participation: specify hours per annum and rate of compensation
- (c) – direct funding: cash paid to the Lead Agency for WRIA WIT activities

Resource Rates are based on base salary, benefits, and a 25% mark up for overhead.

* * State funding not eligible for grant matching

WRIA 54 PHASE IV SCOPE OF WORK

Project Description:

This project consists of developing a Detailed Implementation Plan (DIP) for Watershed Planning in the Lower Spokane River Watershed (WRIA 54) in accordance with Revised Code of Washington (RCW) 90.82.043 and 90.82.048.

There are two primary project objectives:

1. Develop an organizational framework for implementation that promotes efficiency and recognizes the diverse jurisdictional and physiographic nature of WRIA 54, and
2. Develop an easy to use straight forward blue print for implementing the obligations and recommendations of the WRIA 54 Watershed Plan that clearly defines project priorities, objectives, strategies, milestones, schedules, cost estimates, and funding mechanisms.

RCW 90.82 allows for the provision of up to \$100,000 in grant funding for the development of a DIP, and up to \$300,000 for implementation of projects outlined in the approved DIP. RCW 90.82.043 and 90.82.048 require that the following elements are included in the DIP to receive subsequent Phase IV grant funding:

- Strategies to provide sufficient water for: (a) production agriculture; (b) commercial, industrial, and residential use; and (c) instream flows.
- Timelines to achieve these strategies and interim milestones to measure progress.
- Identification of coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms.
- Identification of the planned future use of existing water rights for municipal water supply purposes, as defined in RCW 90.03.015, that are inchoate, including how these rights will be used to meet the projected future needs identified in the watershed plan, and how the use of these rights will be addressed when implementing instream flow strategies identified in the watershed plan.

In addition to statutory requirements the WRIA 54 Watershed Plan recommends the following for inclusion into the DIP:

- A framework for the future structure of the WRIA 54 Planning Unit to guide Watershed Plan implementation and water resources management during and beyond Phase IV
- A memorandum of understanding or agreement between implementing entities and the Washington Department of Ecology.

Project Approach:

Implementation of the WRIA 54 Watershed Plan involves three main components:

1. Establishment of an efficient and effective organizational structure;
2. Prioritization of recommendations that reflects the goals and objectives of the participating entities; and

3. Development of detailed plans to implement top priority recommendations.

- **Organizational Structure:**

To date several potential organizational structures have been discussed by the Planning Unit. In the interest of making the most efficient use of Planning Unit meetings, this project component will involve forming a subcommittee to discuss and develop options which can be presented to the Planning Unit for consideration. Once a structure has been agreed to, this project component will involve developing all inter local agreements, MOAs, etc. needed to establish the organizational structure.

- **Prioritization:**

The WRIA 54 Watershed Plan includes 53 obligations and recommendations with varying support, benefits, probability of success, etc. Effective prioritization will enable the Planning Unit to focus efforts both in the development of the DIP and determine funding allocation for remaining implementation funds and supplemental grant opportunities. This component will involve the development of prioritization criteria, working with the Planning Unit to establish an agreed upon prioritization process, and working with the Planning Unit to conduct the process and then conducting the prioritization exercise.

- **Plan Development:**

Successful implementation of an obligation/recommendation depends on the development of a complete project plan including strategy, schedule, milestones, deliverables, and cost estimates. The WRIA 54 Watershed Plan identifies 17 different lead entities for the 53 obligations/recommendations. Each lead entity will prepare a project plan for projects they intend to implement. These project plans will form the core of the DIP. Funding from the Phase IV year one grant can be made available to entities to develop a project plan.

Project Tasks:

Task 1: Project Administration

- 1.1 – Facilitate retention of consultant for DIP development either through retention of existing consultant team or new RFP,
- 1.2 – Develop and negotiate consultant contract;
- 1.3 – Ongoing consultant management;
- 1.4 – Grant Agreement development
- 1.5 – Preparation and submission of grant payment requests; and
- 1.6 – Communication with Planning Unit (or other appropriate entity) including schedule notification, document distribution, and website maintenance.

Responsibilities:

Lead Agency – Consultant selection, contract negotiation, and management. Develop scope of work. Grant agreement development and management. Communication with Planning Unit

Planning Unit – Participate in consultant selection. Review and comment on scope of work and grant agreement.

Consultant – Scope of work development, ongoing communication with Lead Agency and Planning Unit

Cost Estimate: \$14,000

Task 2: Meeting Facilitation

- 2.1 – Develop meeting agendas with input from Planning Unit;

- 2.2 – Facilitate meetings; and
- 2.3 – Prepare meeting summaries.

Responsibilities:

Lead Agency – Arrange and schedule meeting space. Participate in agenda development.

Planning Unit – Participate in agenda development.

Consultant – Develop agendas, facilitate meetings, prepare meeting summaries.

Cost Estimate: \$20,000

Task 3: Develop organizational structure

- 3.1 – Prepare a list of options;
- 3.2 – Identify preferred option; and
- 3.3 – Prepare a document describing the organizational structure including descriptions of all necessary inter local agreements and/or memoranda of agreement/understanding.

Responsibilities:

Lead Agency – Facilitate subcommittee meetings.

Subcommittee – Develop and discuss options.

Planning Unit – Determine best option.

Consultant – Assist subcommittee in development and documentation of options, inclusion of best option in DIP.

Cost Estimate: \$5,000

Task 4: Prioritization

- 4.1 – Develop criteria and prioritization process; and
- 4.2 – Conduct prioritization.

Responsibilities:

Lead Agency – Facilitate prioritization exercise

Planning Unit – determine criteria and participate in prioritization exercise.

Consultant – Development of prioritization exercise and processing results.

Cost Estimate: \$10,000

Task 5: Plan Development

- 5.1 – Develop project strategy for top priority recommendations;
- 5.2 – Develop project schedule for top priority recommendations including mile stones;
- 5.3 – Develop cost estimates and funding mechanisms; and
- 5.4 – Identify project sponsors, cooperating entities, and necessary agreements.

Responsibilities:

Lead Agency – Manage pass through of grant funding to entities developing project plans.

Planning Unit – Develop project plans (Lead Entities) and provide comments and suggestions on project plans.

Consultant – Assist in development of project plans.

Cost Estimate: \$30,000

Task 6: RCW 90.82.043 & 90.82.048 Requirements

- 6.1 – Analyze WRIA 54 municipal inchoate water rights; and

6.2 – Identify and document strategies included in the DIP to provide sufficient water for: (a) production agriculture; (b) commercial, industrial, and residential use; and (c) instream flows.

Responsibilities:

Lead Agency – Research and analyze inchoate water rights

Planning Unit – Participating purveyors work with lead agency on inchoate water rights analysis.

Consultant – Inclusion of inchoate water rights analysis in DIP. Analysis and documentation of how the DIP meets statutory requirements.

Cost Estimate: \$6,000

Task 7: DIP Preparation

Responsibilities:

Lead Agency – Management of deliverable requirements specified in the grant agreement and consultant contract.

Planning Unit – Participate in development of plan format and contents, provide timely comments on DIP.

Consultant – Preparation of DIP

Cost Estimate: \$15,000