Department of Ecology – Water Quality Financial Assistance Council Meeting

October 6, 2016

In Attendance: Don Gatchalian, Bruce Lund, Dan Kaplan, Ruby Irving-Hewey, Randy Freeby, Shelly McMurry, Jeff Nejedly, Daniel Thompson, Kim Wagar, Ty Meyer, Jim Kelley, Heather Bartlet, David Dunn, Paula Sweden, Rob Amine, David Carcia, Kahle Jennings, Robin Zukoski

Welcome and Introductions, Shelly McMurry

FMS Update, Jeff Nejedly

- Ecology has been working on the 17-19 Biennial Budget request for OFM
- Eliza Keeley Arnold was hired for outcomes reporting and Clean Water Needs Survey work.
- Pat Brommer is hiring for NEP grant project manager. Ecology was awarded Stormwater funding from EPA. The money was split between other agencies including the Puget Sound Partnership. Ecology will have an Engineer and Planner working on the program. It is anticipated there will be a new program established but what agencies and how much will be divvied up is unknown. Ecology will receive $5M this year.

Legislative and Budget Update, Kim Wagar

- Please see meeting materials for a “Focus on Solving the MTCA revenue shortfall”
    - $72M shortfall due to low price of oil.
- Please see meeting materials for a “Ecology Stormwater and Cleanup Projects to begin in the 2017-19 Biennium” explaining the budget request for Stormwater.
- Ecology is requesting bond money to backfills for stormwater projects that got cut last budget. The total request is $113.2M which includes funds for restored projects, delayed projects and new projects in 2017-19.
- What is being done to look at the account and a long term solution? OFM is doing a study now to look at the MTCA account and look at revenue options for Ecology.
- Washington Water Infrastructure group is meeting with Local Governments to assess water infrastructure needs. This effort is for Legislators to see how they can provide funding for these big water infrastructure needs in the future. This includes Water Resources, Flood Plains and Stormwater Infrastructure.
- How do we decide how much we request for SRF? Ecology uses a cash flow model to determine the maximum funds available that keeps the cash balance low without going into the red.

SRF and Centennial potential rule revisions WAC, Daniel Thompson

Please see the meeting materials "Potential Revisions to the CWSRF and Centennial Rules—FAC Meeting 10.06.16". The group continued discussing the following items that we ran out of time to discuss in our previous meeting. The following notes are comments FAC members made during these discussions.

Bid Overruns and Change Orders

- Whether or not we should revise caps?
  - Keep the limits but include language that allows flexibility. If it goes over, have a process for justification and approval.
  - DOH removed limits but they vet the increases only if funds are available. If justified and funds available, they will authorize the increase.
  - Holding 10% over engineer's estimate is problematic in this bidding environment. Contractors are bidding high because it's hard to find contractors.
  - Suggestion to increase change orders to 10%. There was support for that idea.
  - There was also support for adding flexibility to allow providing funding for change orders >10% if justified and approved by Ecology.
  - There was not strong support for adding such flexibility for bid overruns—particularly since the group already supported clarifying that the 10% bid overrun allowance is based on the engineer's estimate in the bid documents rather than the estimate in the funding application. In addition, it was recognized that engineers generally already include "contingencies" in bid documents, so there's already funding buffers in place.

Hardship

- Should we keep the 25,000 population cap for hardship? It is based on size of the rate payers paying for the project.
- If we increase the population cap, there would be limited funds available to meet the need of more communities who qualify for hardship.
- The population has grown so the suggestion was to increase it or tie it to state population. If the population grew by 1% add 1% to 25,000.
- FAC would like to see what communities would be added to eligibility if it was increased.

Publicly-owned Industrial Facilities

- We can only fund public bodies and can't fund projects for Industrial facilities. What about publicly-owned industrial facilities? Currently we will only fund projects if they process residential and some industrial but not 100% industrial.
- It is an industry, it's part of doing business. The industries should be paying for it. We have limited dollars, why open up competition to other entities? This would put more stress on limited resources.
- Are we meeting the mission of the program by protecting Water Quality? Is this in the best interest of the community? Is it preserving capacity?
- What will this do to funds for nonpoint funds? Allowing another use of SRF funding when we are already oversubscribed. We have a 20% set aside for nonpoint for SRF so this wouldn't take away funds for those projects

- It's the responsibility of business to dealing with their discharge. There was no support for opening up to publicly-owned industrial facilities.

Repayment Dates

- Currently the repayment date is set on a year after the project completion or initiation of operation, whichever comes first.
- King County asked if there was a way they could set repayment dates so that multiple loans are on the same schedule.
- Ecology thinks that the repayment date can be set at final amendment as long as it is no later than one year from the project completion or initiation of operation, whichever comes first.
- Ecology needs to check with Fiscal on impact on the current ELTS system. Ecology is working on replacing their loan tracking system and are hoping for more flexibility and less restrictions than the current system.

Repayment Period

- Should we consider beginning repayment based on 1st disbursement? This would rotate funds into the account faster.
- Ecology's current loan tracking system can't accommodate this.
- The Public Works Assistance Account will reduce the rate if an entity is willing to take a reduced term.
- This would counteract the benefit of the deferred repayment.
- Existing waste water systems have a revenue source and can make payments sooner but new systems need the year to start collecting from rate payers. This wouldn't work for them.
- This could cause a cash flow impact for local governments. They would be making payments to contractors and repayments to loans at the same time.
- The system is working and this would make it more complicated.

Reserve Account

- For loans secured by a fee-system, there is a current requirement that recipients have a reserve account as part of the loan agreement, it must equal at least 1 year of repayments.
- The suggestion is to eliminate unless there is a good reason to have a reserve account based on Financial Capability Assessment.
- Could we make it retroactive to apply to existing loans?
- It originally came from bond council to recommend to increase the security of the loan. Clean Water Act there is vague about having safeguards.
- DWSRF and Public Works Assistance Account only requires on a case by case basis.
- Bond council's and rating agencies are backing away from reserve accounts.
- The default rate is low for water/sewer bonds.
- Drop and allow on a case by case basis and make more consistent with PWAA and DWSRF.
- Can we make this retroactive? Would we be able to without amending all agreements? Ecology will explore.

Step 4 Projects-Maximum Amount

- For Design/Construction project, cap of $5M. Should we increase or eliminate?
- This is about readiness to proceed. Smaller design construct projects are more likely to be finished in the 5 year project completion timeframe.
- Maybe instead of a limit, put a condition that the design must be complete in 1 year or the loan is converted to a Design only loan.
- Increase the current cap based on the *Engineering News-Record* “Building Cost Index” for the City of Seattle since the last rule update in 2011.

Step Process

- Facility projects go through a “Step Process”. Step 1-planning, Step 2-design, Step 3-construction, Step 4-design/construction. Applicants must obtain Ecology approval of documents before application of Steps 2-4. We have been applying this to wastewater facility projects and not stormwater projects.
- Should we have more flexibility?
  - Don’t want to be arbitrary and on a case by case basis.
  - Consider giving more points to people who do have approvals.
  - Maybe they have to have it done by the draft list so there is still time to adjust the list.
  - Recipients should be done with planning and have it approved before they apply for design funds.
- People like the TIB model to allow an application for multiple phases.
- We need to look at what will provide flexibility on the recipient side but still meet our needs to not impact our readiness to proceed.
- Combine step 1 and 2 and allow more flexibility and for projects with construction steps there must be approved plans before application.
- Focus on the main problem of projects that take too long and tying up money. Reward people who are doing good.
- Make it clear it applies to wastewater only.
- Allow SERP during Design.

The group also discussed the following new items that were proposed since the last FAC meeting on 07/21/16. The following notes are comments FAC members made during the discussions.

Land Acquisition 2

- Should we allow land acquisition for wetland habitat preservation, riparian area preservation, or drinking water source protection under Centennial grant?
- May not want to allow because people aren’t managing land. If grants are allowed, more people will apply and there isn’t enough incentive for them to properly manage the land.
- Want more definition around watershed protection. The Washington Land Council sent a letter that talks about more data is showing that larger plots of land are more effective than many smaller riparian protection projects.
- Would we allow purchase of easements? Yes, we would apply a land use restrictions.
- Critical area ordinances should be protecting these lands, why should we be using grant and loan funds to purchase the land?
- There would still have a max of $500,000 limit on nonpoint projects.
- Makes more sense to do an easement program, get more protection.

- Not a lot of support. Should be loan only.

Funding Allocation 2

- It's possible for 2 projects or even 1 combined-funded project to take all the available funds under the GPR, Facility and Activity categories.
- The multiple year project could be split up.
- We did this with Spokane County with a memorandum of understanding that we would do $20M/year. We could do that without any rule language. We can address it through existing options.
- We may be able to address in the guidelines and not the rule.

Perpetuity: 30 year loans, forgivable loans, interest subsidy, David Dunn

Please see the meeting materials "FAC SRF Fund Subsidy and 30 year Term Analysis.pdf"

- How much subsidy should the SRF provide?
- How should we provide this subsidy?
- Would like to see some of the models that change the base rate and the cap grants go away.
- Want to see how the different scenarios reflect back to the $555M. That seems to be a good benchmark to use to ensure the funds is keeping up with the costs of construction. The scenarios would have to stay above a 46% reduction to keep up with the construction cost index.
- Dan Kaplan did analysis on the bond buyer index. If you did 75% of the bond buyer it would be a win/win for borrowers and the fund.
- Is there a working group of our colleagues in other states? What are their takes on cash flow modeling and subsidy?
- Look at it within a 20 year timeframe, what the fund would look like if we kept up with the cost of construction (Construction cost index). Average 2.7% CPI (Consumer Price Index). Set a goal.

Future FAC Meetings (Tentative):

November, 10, 2016

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