

American Rescue Plan Act (ARPA) planning

June 2, 2021

10:34 a.m.

Present: Commissioner Stamper, Commissioner Pollock, Commissioner Swope, Becky Butler, Richard DeBolt, Paul Jewell, Peter Dykstra, Bill Clarke, Amber Smith, Willie Painter, Lee Napier, Josh Metcalf

Guest: Nic Scott

Recorder: Rieva Lester

Becky Butler said there is talk at the federal level about using the second half of the American Rescue Plan Act (ARPA) for infrastructure instead of providing funding directly to the counties.

Washington State Association of Counties (WSAC) Policy Director Paul Jewell introduced himself and water bank attorneys Bill Clarke and Peter Dykstra.

Bill Clarke and Peter Dykstra discussed their efforts water banks.

Peter said water banks allow individuals and entities to take existing water rights and move them into the Trust Water Rights program.

Trust Water Rights Program

The group discussed the state Department of Ecology's Trust Water Rights Program, which allows the state to hold water rights for future uses without the risk of relinquishment. Water rights held in trust contribute to streamflows and groundwater recharge, while retaining their original priority date.

Peter said the Trust Water Rights Program allows participants the flexibility to:

- Bank — Ecology facilitates water banking to address water supply challenges.
- "Park" water rights — Individual water right holders can temporarily donate or "park" their water right when they are not using it, to avoid relinquishment.

Paul said the Trust Water Rights program can be used for municipalities, industrial use, commercial use and agricultural uses.

Bill Clarke noted that water rights not used consecutively for five years may be at risk of relinquishment. He said acquiring those rights and then placing them in the Trust Water Rights program protects the water rights from relinquishment and preserves them for future use.

Peter clarified that the program is for existing water rights only. He said the purchase / trust strategy allows the water rights to retain their seniority.

Bill Clarke said Lewis County, the EDC, the PUD or outside entities could buy up water rights. He said the benefits of having the county spearhead the effort include protecting rights from relinquishment, protecting them from leaving and never returning, and protecting them from being gobbled up by out-of-area interests.

Commissioner Swope left at 11:11 a.m.

Peter clarified that water rights are not interchangeable across the various basins. He said water rights cannot be “rehydrated,” meaning that once it is relinquished – partially or fully – it cannot be reinstated. He noted that, historically, most rights have had at least a small portion relinquished.

Paul described the steps Kittitas County followed:

- Citizens group asked Ecology to withdraw all groundwater.
- Ecology withdrew groundwater, cutting off a third of the county from drilling new wells.
- Required senior water rights to be re-appropriated to groundwater use (Commissioner Swope returned at 11:23 a.m.).
- Private water banks started cropping up.
- The Assessor dropped by half the valuation of half of the county’s property because those properties had been stripped of their water rights.
- County purchased senior water rights.
- County issued certificates.
- Private water banks would charge \$10,000 to \$20,000 per house.
- County stepped in and decreased that charge to \$3,000.

Paul outlined Department of Ecology grant funding available to help purchase water rights for water bank work. He said \$14 million is available, with \$2 million earmarked for the Methow Valley. Paul said the grant has not yet opened.

Richard DeBolt left at 11:45 a.m.

Commissioner Stamper left at 11:51 a.m.

The group continued discussing water rights.

Becky Butler outlined the next steps in planning.

Meeting adjourned at 11:59 a.m.