

Wetland Bank Advisor Group Meeting

Meeting Minutes

June 13, 2007

WSDOT – Shaman Room

10:00 am to 3:00 pm

Attending

Mike Rundlett
Theresa Duscek
Sky Miller
Bill Leonard
Carol Smith
Joan Cabreza
Gail Terzi

Steve Erickson
Kate Thompson
Gretchen Lux
Lauren Driscoll
Yolanda Holder

Facilitator: Lauren Driscoll

Note taker: Kate Thompson

WELCOME AND INTRODUCTIONS

Welcome new members: Theresa Duscek, Steve Erickson and Yolanda Holder. Ecology is still looking for a representative from the County to sit on the Group.

REVIEW OF AGENDA

Addition of Comment Letter: Gene Derig submitted a letter via email and postal mail to Ecology and had asked that it was shared with the Advisor Group. Lauren handed out the letter to the group.

Discussion of Gene Derig Letter

Gail: Is his concern [the success/failure of wetland mitigation] referencing the 2005 ELI study? (Group thought so.)

Bill: The study showed that the banks met the Performance Standards but that the Performance Standards were poor.

Joan: The issue is not as black and white as the letter makes it sounds.

Gail: We are trying to take the lesson's learned nationwide views on banking and apply them here.

Joan: We are learning, it's a relatively new program.

Mike: But how are we sharing that story. This is not a new message. How do we let people know how well this program is doing and what the challenges are? We have talked about this before in our discussion of public outreach.

Lauren: Agrees that it is a piece we need to capture.

Carol: She suggested that Ecology should have a fact sheet that addresses these particular issues.

Joan: Oregon has a good book that shows pictures of their mitigation program. It might be useful to have pictures taken of our sites and with captions.

Lauren: We need to capture this in our public involvement and outreach. She asked if the group had any more comments on this.

OVERVIEW OF ADVISORS GROUP

Lauren gave an overview of the roles and responsibilities of the Advisor Group.

Lauren: The Advisors Group formed to assist Ecology in identifying rule changes. We plan on going to rule adoption in 2008. The primary responsibility of the Advisors group at this time is to provide specific recommendations on changes needed on the draft rule. The secondary responsibility to provide recommendations that will improve our program. This group has not spent a lot of time on looking at rule language yet, so our focus now will be on if and how certain areas of the rule need changing. Today we will begin with discussion of the draft language related to Prospectus requirements.

Carol: What is the timeline for rule adoption?

Lauren: We plan on filing in summer of 2008. We anticipate the Advisors Group wrapping up in early 2008. Between now and then we would like to look at the pieces of the rule that we can make changes to. Our critical timeline is getting the recommendations incorporated into revised language as needed prior to rule making in 2008. We will also be looking at secondary recommendations related to the program and writing those up.

We have added two new seats to the Advisors Group - Theresa Duscek from the City of Tacoma and Steve Erickson representing the environmental community (Whidby Island Action Network).

DISCUSSION OF THE PROSPECTUS

Prior to the meeting the Advisors Group was sent a comparison of the prospectus requirements found in the state draft rule and the proposed federal rule. In addition, a timeline of potential permits and the opportunity within this system for public participation was also sent to the group for review.

Gretchen explained the prospectus handouts and materials to the group. Some of those who work in banking may have more insight into this process due to experience.

Steve: Asked if they were to comment on the consistency between the federal and state rules?

Gretchen: The federal rule is proposed, so there may be changes to the language once it's finalized. In general we are looking for advice from the advisors on the state draft rule language. What should the draft rule say on this issue if the federal language is finalized?

Gail: The proposed federal rule was out in March 2006 and comments were accepted until June 2006. The Corps received 20,000 comments. Both the Seattle Corps District and Ecology submitted many pages of comments. Many comments were about banking and in-lieu fee programs. She has heard that HQ wants to finalize the rule by Dec 2007. HQ has said that they

will try to keep the rule as flexible as possible. The timelines are very prescriptive. Given the workload that the Corps has, the timelines outlined are impossible.

Steve: Locally in Island Co –we see consistency problems between a local wetland banking program and the state rule and the interface of the two. There are issues of consistency between what is being proposed for CAO updates and the state banking rule. There may be provisions in the ordinance that are inconsistent with the state.

Gretchen: Donna Buntun is our CAO coordinator. She has language available for the different ways that jurisdictions can adopt language into their code so that they can consider banking as a mitigation option.

Theresa: There are several jurisdictions that have changed their codes. Some allow banking; some don't. Ecology has provided comments on how to insert banking into their code.

Steve: He is still concerned with inconsistencies between a local CAO and the State for Banking. There may be conflicts with GMA.

Lauren: Are you talking about the local's actually approving the set up of a bank or the approval to use a bank?

Steve: Could be both. There may be regulatory conflict between the rule and GMA.

Joan: The federal rule trumps a state rule. Would a state rule trump a local rule?

Gretchen: Not in this case, the state rule lays out the foundation. The locals have jurisdiction over CAO's. If there are inconsistencies between local and state, the local ordinances would apply at local level.

Theresa: The locals have the authority to decide whether a project can go to the bank. She reminded the group that after the state draft rule is adopted, the locals will be changing their codes again in about 7 years.

Gretchen redirected discussion back to the prospectus.

Lauren: We sent questions out to the group with the meeting materials. She read the questions to the group.

The questions related to the prospectus we would like you to consider before our June 13th meeting are:

1. What has worked and what has not with respect to the prospectus so far in this pilot?
2. Is the purpose clear?
3. Is the prospectus overly prescriptive or overly loose?
4. Is it clear what level of detail is required?
5. Should this simply be a checklist for use in determining if project is complete for public notice? What level of detail is needed for this public notice?
6. What do we need to add/say/do to help applicants get it right the first time?

Sky: We have a few general comments. We see the prospectus process as one of the items that have caused 3-4 private bankers to decide not to pursue banking further in this State. We see the prospectus as a threshold document, whose purpose is to initiate the conversations between the bankers and the agencies. We question whether the MBRT should form a group to review the prospectus. We want to know enough information about the property before we decide to purchase. Usually the property is tied up under different regulations – i.e. cultural resources,

hazardous material. We think the state draft guidelines were clear and appropriate. But it has turned into long drawn out process. In our case the prospectus review took over 3 years and we were required to include info that should be in the MBI. The purpose of the Prospectus should be to determine if the proposal is technically feasible, legal, and if the MBRT would form a group to review it, also are we in the ball park for SA and credits. We would like to keep what is in the rule and go back that.

Mike: He would like to hear more from the bankers. Is this a recommendation just coming from Sky or an issue among all the bankers and should the Advisor Group move this recommendation forward?

Sky: This is a recommendation from all the bankers

Carol: She can see Sky's point – there is a lot of technical information that may be better down the road. But there are other issues out there like Ag lands that need to be identified early to have a clear idea of what the big problems would be for a proposal. Maybe the prospectus should move toward identify the legal issues and potential conflicts.

Joan: If there is not enough information in the prospectus and down the road you discover that the project is not going to work, then a lot has been invested.

Carol: Need to find the balance. It would be good to identify the hot button issues first and get into technical details later.

Gail: We need a balance of information in the prospectus for the PN. We get feedback if there is not enough information. The Portland PN has very little information. Is that enough info?

Bill: Finding it hard to distinguish between the two agenda items. This is one place where the public has a chance to comment. How broadly or narrowly do we define this since there are other places where the public can comment? Need to put it into the whole perspective of public comment and decide how much needs to be in the prospectus.

Theresa: Her question for the group – as this goes through the process, what has the guidance been to date? How has this guidance changed? Maybe there needs to be an example of what it means to have a complete prospectus. She is not sure of the other notices or the public notice process.

Gail: It's a moving target.

Theresa: Exactly – when a requirement is put out by the Corps or Ecology and there is a need for PN comment, they need to be explicit on the process. The public needs to have information on the legality and feasibility of the bank as well as some technical aspects. There was some reference to the different studies. The public needs to know something about the property.

Steve: Looking at Section 173-700-222 in the draft rule, it seems to contradict later sections. 222(1) states that the prospectus is a conceptual plan. For the agencies to determine that a project is technically feasible, this is hard when the plan is conceptual. It would seem that more information is necessary and at the same time the bankers can not have the project completely flushed out. Not sure where to go with that. Need to clarify Section 222 in terms of the depth. This might be more productive then looking at contents of the prospectus.

Gretchen: Asked Steve if he means that it would be better to define what this section really means.

Sky: He thought that bankers could use the one page process that the Portland Corps District has for the initial screening. Then a 30 pg prospectus that includes Section 223, this would give us enough information for us to go ahead and purchase the property

Joan: It seems that it would be helpful to the bankers if red flags were identified early in the process, before property was purchased.

Bill: Very similar to identifying fatal flaws like Ag Lands and cultural resources.

Gail: This section [173-700-223] was written in design to be more a broad brush in the technical elements. When do we dive into the technical elements of a bank?

Joan: She suggested inserting language for fatal flaws under Section 223. Something about obstacles to proper functions of a bank. It seems that it has happened in the past

Sky: He reiterated that the Bankers like how the rule is written but not how it was put into practice. They would like to go back to the rule language and requirements.

Lauren: What she has heard is that there were a lot of discussion and negotiations prior to submitting the prospectus.

Steve: He asked if that need for details was driven by this being a pilot program.

Gail: Not necessary. Not to pick on Sky's project but there were technical details we were concerned about and had to hash out early. Maybe we could have waited. But we didn't want a design out there that would generate a lot of comments.

Joan: A banker comes to us and asks us about the credits that can be generated but we can't answer that without a design. The good thing is that information developed for the prospectus can be used in the MBI.

Steve: What he has heard is that the issue is not the actual technical details but more about the timing of events.

Sky: We want to know quickly whether an idea is a go or no go.

Joan: But isn't that decision based on the amount of credit generated?

Sky: Not really. We need to know if there are any deal killers and one of them is whether their design is feasible

Carol: Maybe we add a third component to this section [173-700-222(3)]: Identification of critical issues. Need to know right away if there are hot biological or technical issues with the bank property

Gail: She asked Sky if it would have been better for the MBRT to have said that the design is a no and to come back to us with a different one.

Sky: Replied that yes that would have been better for them

Gail: Asked what could we do different to stream line the process. The MBRT tried to work with Sky to get a workable design.

Theresa: Currently 222(3) reads that it just says feedback. It doesn't say written or verbal. Maybe we could tighten up what the feedback is? Each of the items that are required – line items – and the MBRT can pinpoint the areas that are feasible. Gives the bankers some idea of what they need to work on. She knows it's not that simple, but by going through the pilot the agencies should know. The MBRT can provide specific feedback on each listed requirement, like a checklist

Gretchen: Asked the group if this is something for rule or guidance

Lauren: Asked what the rest of the group thought about the two suggestions by Carol and Theresa.

Joan: Why don't we insert "specific written feedback" into Section 222(3).

Steve: When do they provide the written feedback how long does the MBRT have to provide this feedback?

Bill: He feels that we can not close the loop on this until we discuss the public involvement.

Theresa: Section 223 seems really loose. It needs to be tightened up. This would help both the regulatory agencies and the bankers. By going through the checklist may help each group not miss things. I think it should be in the rule. The bankers need to provide enough data so that the agencies can provide specific feedback. The regulators will responded sufficiently to each item listed in the prospectus and let the banker know what they are missing.

Bill: This comes back to the intent. Is the prospectus the 20 foot view – looking at the fatal flaws? Then the next detail is at another level. Do we have enough information to move forward into technical issues? It doesn't mean that a bank will happen. It's not how we have done it in the past.

Gail: The Federal Rule is vague. The prospectus must provide a summary of the info in the mitigation plan at a sufficient level to inform public comment and the MBRT. Some of the comments received during a public comment period show that the public is not clearly informed about the project. The Corps has to address every comment we get, which can be enormous if there is too little information in the Prospectus. How many PN do we do? Do we go and submit another prospectus. Portland does it very brief. They say it's up to the banker to do the public information meetings.

Lauren: She has heard from both Bill and Gail that we do need to talk about the public notices to address the prospectus. We need to further address the purpose of the prospectus, suggested language; identifying the department's process is in working with the banker as to when they submit the prospectus. We can come back to this.

Questions from the public

A consultant in the audience said that he has heard from several clients that the perception is that WA State is not the place to do banking. Desert states have more banks than WA. The rules looks good but it appears the process is too hard. We are currently working on a submittal. Clients need predictability because there is a lot of risk. If information is being asked that should be for the final cut vs. first cut – that's tough. Need accountability on the regulatory side if banking is going to work.

Another consultant said that it seems that there is risk no matter what – either the first step is more quickly but then there is still risk in the next step where there may be more deal killers

Bill: The prospectus should identify the real deal breakers – Ag lands, cultural resources, is there hydrology present - to indicate that a bank can happen here.

Gail: Over time as we get more banks in the ground and the market responds and it does work for the bankers (economically and ecologically). Remember that the first banks in the pilot took longer. Having templates and the experience will help us move fwd.

Lauren: It's time to break for lunch. She suggested changing the agenda to talk about public involvement after the break then come back to the prospectus. Group was fine with the agenda change.

LUNCH

OPPORTUNITIES FOR PUBLIC COMMENT/PARTICIPATION

Gretchen explained the public comment timeline that she had drafted for the group. Its purpose was to highlight where the opportunities were for public comments within the permits an applicant would need to obtain and process currently used for bank certification. The gray boxes on the chart are public comment periods. It also identifies the early PN associated with Prospectus. Gretchen asked Gail what was the purpose of the PN from the Corps view.

Gail: The general purpose of PN is to get public comments. The Corps is very specific on what we need to do. We give the applicant a chance to respond to the comments. Then it's on the Corps to address those comments adequately and to work with the applicant in responding to those comments. We need to have a district engineer position on the comments.

Lauren: She pointed out PN requirements in the federal rule on pg 15441 (4).

Gail: The PN must include a summary of the prospectus and indicate that the prospectus is available. Comments received will be distributed to all other members of the IRT (i.e. MBRT).

Theresa: She asked if this means that when an individual 404 is issued, the prospectus can be waived

Steve: Does Ecology have the authority to issue a PN on the prospectus. Is it the Corps responsibility and if the Corps can waive it what does that mean?

Gail: If a construction of the bank requires an individual 404, the PN for the prospectus and the 404 for construction can happen all at the same time. If a NWP is issued then a PN can still be issued on the prospectus. The phrase "Standard permit process" means an individual permit. A NWP is not a standard permit.

Steve: What are the required non-discretionary permit requirements? Looking at Section 252 and 253, it does not say that if another agency does not issue a PN that Ecology can go ahead.

Lauren: The department must notify the public of a wetland bank. The PN on prospectus is not required.

Steve: The PN at prospectus stage also lets the people know in the affected area that this bank is being proposed vs. waiting until a permit is issued.

Gail: The Corps at a minimum has to issue a PN on the Prospectus. If a NWP is issued on a bank then Ecology will need to issue their own PN.

Steve: Wants assurance that a PN is required for a prospectus.

Bill: No one is suggesting that we need less public involvement. We advocate appropriate public involvement and want clarification on what stage should it occur and what does that consist of. We all see great value on the early PN on the prospectus. But we need to decide what needs to be in the PN.

Carol: There should be communication with local groups which includes the tribes. It would behoove the banker early on, during the prospectus stage, to do this. There would be an opportunity for response.

Steve: His concern is that the public is notified early vs. waiting until the permit is issued.

Gretchen: If a bank requires an individual permit. The public notice would come at permit time.

Steve: Then Section 252 needs to be clarified

Gretchen: The department needs to state that there will be a public notice on the prospectus. There is some broad flexibility in the federal rule that may be confusing as it's not firm in the state rule

Lauren: Is there dissent or consensus on this? Should the State clearly state that a PN will go out on the prospectus.

Gail: Then when is the next time the public has input.

Bill: What can be dangerous is not being clear on what we what the public to comment on.

Gail: Do we put out a NWP or another public notice? In the proposed federal rule it is clearly suggested that NWP be used to permit banks. Most banks will fit under NWP.

Mike: Could the Corps issue a second joint public notice for the certification. That would be the second step in the process.

Gail: That's what happened with the Springbrook mitigation bank.

Brooke Hamilton, WSDOT: We did issue a 401/404 public notice, and a JARAP public notice

Steve: At what point in the chart is there a certification PN?

Bill: Somewhere between submittal of a JARPA and JOINT PUBLIC NOTICE. It would be certified before the permits were issued.

Gail: If an individual permit is issued then a PN is not issued until the 401.

Mike: After JARPA can a PN be issued on the certification?

Bill: Up until now JARPA is a construction permit not a certification permit.

Gail: We have asked bankers to wait to submit a JARPA due to Ecology timelines.

Gretchen: There might be additions to the line after the JARPA, before PN on permits, just left of JARPA.

Bill: That JARPA is for construction. Call it public notice for certification.

Gail: If there are no jurisdictional elements – do we still do a full blown PN?

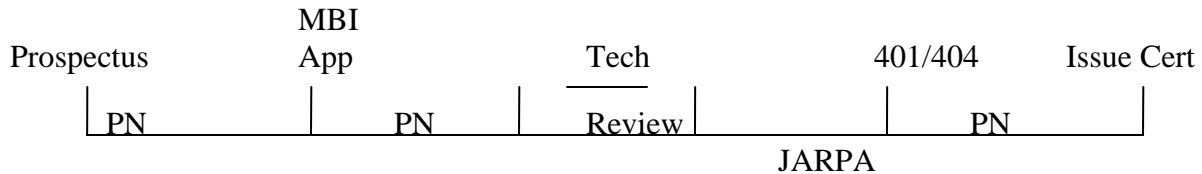
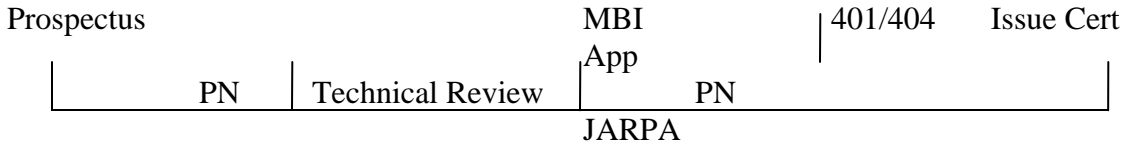
Group says yes

Gretchen: Amending a PN for certification on a draft MBI gets us out of the issue if there is no permit to issue.

Bill: Does this mean we have 3 PN?

Gail: No. Usually by the time you have draft MBI then you should know your 401/404 permits.

Lauren drew a schematic of the two options on the board



The Group discussed the issue of permit interactions between local and state levels. Is there an appeal process for bank certification?

Theresa: The local jurisdiction will have their own reviews. Tacoma can issues exemptions – review them under SEPA process. Even after approval a project still needs to come to us so we can make sure no changes are made. There is a requirement that locals needs to sign. It may be difficult process since each jurisdiction has a different process and legal authority. The local jurisdiction needs to be involved at the prospectus stage, maybe the long-term planning division, so they can provide input on the way to get approval from their jurisdiction. The pre-application process for SEPA may be too late

Steve: Is it built into the bank approval process to have the local jurisdiction involved or is it on the banker?

Bill: Our intent is to lay out the required public comment periods. The local jurisdiction involvement is really the burden of the banker.

Lauren: She has also heard that it’s the Departments responsibility to engage with the locals.

Gretchen: We currently hold a pre-application meeting with the locals to make them aware of a proposed project and engage them in the process.

Theresa: This works if the locals are the lead on SEPA. It is different if Ecology is lead, then it is your responsibility to make sure the locals have a copy of the application. The majority of the time the SEPA lead is not with the long term planning. The locals may have no clue that they need to be a signatory on the instrument. This is up to the banker. Sky do you have concerns with this – what if people change at the local level – how does this affect the banker?

Sky: We meet with the long range planners even before we look at purchasing property and we apprise the MBRT of the contacts made with locals. In Mt. Vernon we have two agreements from the Mayor that we have approval for the bank.

Theresa: When the public notice is issued for the prospectus, are the locals getting this information on the bank.

Gretchen: We develop a contact list that we send out our meeting information and minutes. We have an early coordination meeting prior to prospectus.

Gail: It is difficult to get all the necessary players to the table.

Theresa: The local jurisdictions need to have a sense of the time commitment the MBRT expects from them. For example she needed to justify the timeline that was required of her to participate on this Group. Maybe Ecology can provide the locals with a clear understanding of their time commitment and what is expected of them. This will help get locals to the table.

Gail: She does not see the Corps agreeing to issue three public notices in the bank certification process.

Steve: He is trying to pin down at what points are there public notices and when are the opportunities for appeals. If a government agency issues an approval/certification then there must be a legal action.

Bill: When the banks are created, they are really restoration projects that may be used for mitigation down the road. It's difficult to assess the impacts of a project when you don't know what they will be.

Mike: We are looking to accommodate appropriate public comment. There needs to be 2 points of public notice:

1. Prospectus PN and PN prior to certification

1. Prospectus PN and 401/402 permit process PN. There are two different tracks – NWP vs. Individual Permit pathway.

Steve: Can they be bundled – certification and permit PN?

Theresa: We can bundle PN's at any point. Issuance of certification is a requirement for SEPA

Gretchen: This is an action for the state and we need to have further discussion

Theresa: When the public reviews the prospectus it should have the complete information. Still need public comment on the technical pieces. Let the public know that they will have an opportunity to comment on the technical aspects of the project at a later time. Does the Corps have to address comments that are not related to the prospectus?

Steve: There are detailed construction permits (shoreline, grading, etc) that are separate with the local jurisdiction. Don't see this being combined with the state and the Corps. They will always be separate. Unless a local has adopted a banking ordinance that is similar to Ecology then they will have separate process.

Theresa: The locals have it written into their codes that fish and wildlife enhancement restoration projects programs are exempt. No other agency permits are needed. The SEPA determination is in the jurisdiction of the state agencies and no other actions or fees are needed for that action.

Gail: Rereading the prospectus requirements in the proposed federal rule– the only requirement is that the prospectus goes out and the MBRT needs to review the MBI.

Lauren: There seems to be agreement with having a PN after the prospectus. The prospectus should include the technical feasibility of the project, red flags, and additional information the agencies should ask for. Agencies going through technical review – develop the draft bank instrument. Sponsor submits draft – will need a 401/404 permit and will go out on public notice (A summary of it with a link to the MBI). That would be two opportunities for input.

Gail: There are opportunities to have public meetings sponsored by the banker and the local jurisdiction. Even before the PN on the prospectus is issued it would be important to have a local meeting.

Steve: Who is the lead agency when a JARPA is submitted? Until Ecology makes up its mind about how to get SEPA review, you can't see the whole picture.

Gretchen: We are working on who is the lead – currently the locals have been the lead.

ACTION: Gretchen: She will revise the public comment worksheet with today's comments and prepare the SEPA conversation for next time. Bill asked if she could send out file as a pdf.

Public Comment

It seems that the more combing and simplifying the PN is better for everyone. Would like to see the bigger picture at one time vs. separate pieces.

Break

Steve: He had a request about the notification process for the PN. It currently states that property owners within 300 feet of the [bank] are notified. Need to insert language that it needs to be 300 ft from the contiguous property boundary.

Lauren: If anyone has good suggestions for language please let us know.

Gretchen: When the PN went out for the Clark County Mitigation Partners Bank we received comments from folks that they were unclear on the intent of the public notice.

Gail: Maybe we need to plain talk the front page of PN

Back to Prospectus Conversation

Lauren: We need to touch base on the recommendations on the prospectus. Do we see any major conflicts between the federal and state rule. Although the feds are hoping to finalize in winter of 07, Ecology is still moving forward with certification.

Gretchen captured the purpose of the prospectus: a) is it legal, b) is it feasible (address policy issues, legal) in section 223(3), and c) whether or not MBT would form to review the prospectus.

Sky: He was fine with the list.

Steve: Is this preliminary review more of an interactive feedback or should it be a complete application for review.

Gail: The items listed under Section 223 are pretty general stuff that a banker would have. It's pretty broad

Lauren: It doesn't have to be a complete application. It needs to be consistent with local rules/issues out there. We are looking at the boarder issues, enough information to provide feedback (a checklist) to the application. Be able to point out the red flags.

Steve: We should add language about identifying critical issues that will need to be address in the MBI

Theresa: We need an area that states whether there are red flags and that the prospectus is denied.

Steve: It doesn't seem you can really turn down a prospectus under this.

Gretchen: We want to articulate more clearly about what items need to be in the prospectus. Should this be under Section 223?

Carol: Currently Section 223 list mostly ecological and biological items and she was referring to more policy/legal related issues. These might be better under Section 222.

Gail: Need to put in language in Section 222 that the banker needs to identify red flags.

Lauren: Should the prospectus have anything in their about the agency denying the prospectus.

Theresa: Currently the section just refers to feedback not about having enough to go out on public notice. There is nothing in Section 223 about how the proposal will meet federal, state, and local guidelines.

Brooke Hamilton: What is the intent of the prospectus? At this stage can the Department deny the prospectus?

Lauren: From a banker's perspective – a prospectus is submitted – they have met the requirements listed under Section 223. The prospectus goes out on public notice but this does not guarantee that the project will move forward toward certification. Or would the bankers rather have a safety net in that the Department tells the applicant that they don't have enough at the prospectus stage.

Sky: The original intent of prospectus was not to take it to a public notice. In other areas we submit a prospectus there is not a PN.

Steve: The public needs to know what we are doing early on. In WA we use the pre-application to determine the feasibility, legality of the project. This information would be useful to before purchasing the property. Need initial feedback on agency concerns on SA, design concept.

Gretchen: That's what not in the language now

Steve: Maybe instead we publish a notice of application. The down side of this is how far along in the process is this?

Gail: By default we have these pre-app meetings.

Bill: He has heard from Mike that there needs to be early notice to the public. For DOT they way we have been doing it has been fine. We don't need an earlier prospectus. But he can see that it's important to give information early to the public.

Joan: Maybe we are not getting the prospectus out early enough. Maybe we have been spending too much time on the details before issuing the PN.

Gail: She doesn't think that it is a good idea for a banker to purchase property before talking with the MBRT.

Sky: The prospectus is a good time for PN but it doesn't need to be super detailed.

Gretchen: If we look at Section 222 and Section 223 – do we leave language as is? Do we add more specific information?

Bill: We need to add the language in 222 (3).

Gail: The purpose of the prospectus is to identify these fatal flaws.

Steve: We should move in that direction – Section 222 must contain the info in 223 (biological) and Section 224 could become more the policy.

Lauren: If we have language in Section 222(3) then we need to mention it in the contents of the prospectus, Section 223.

Theresa: She pointed out that the language that is in Section 202(3) is confusing with Section 222

Gail: Agreed that there is some disconnect with the two sections.

Brooke: Is it Ecology's intent to have a prospectus template for the bankers and a checklist for the agency. You can refer to it in the rule that the banker needs to follow the template.

Gail: We don't have a template – just a list. This is important to have this guidance.

Public: If many bankers have a kick off meeting to the public – At the beginning of the prospectus period also have a workshop where the public can answer questions. Maybe can get away from a detailed document

Lauren: We will work on the language for Section 223(3). A new subsection for the “contents of the prospectus” that will help identify red flags – state and local regulatory requirements.

Steve: Technical feasibility could be one heading

Lauren: We could list the headings as “ecological considerations” and “other considerations”. Or we may need to list it all under one heading

Theresa: She liked how Sky laid it out under Section 222.

Lauren: Language that specifically requires that the MBRT would notify in writing whether the banker has met all of the requirements.

Steve: Is there a timeline for the feedback?

Lauren: 30 to 45 days would be my recommendation.

Steve: Under Section 222 (a) add the number of days in which to provide comments back.

Lauren summarized the conclusions she heard from this meeting:

1. The department should go out on public notice once we determine that the prospectus is complete – is this a recommendation from the group. I heard 2 PN – one at prospectus and one at Draft MBI (bundled with permits).
2. The bankers should work with the locals – it's the responsibility for the banker to work with them on regulations. It is Ecology responsibly to engage the locals and keep them involved in process
3. Ecology needs to work on our timeline for local government participation in the process.
4. Add to the public notification section that outlines who should be notified
5. Address the conflict between Sections 202 and 222.
6. Draft and Issue guidance and templates on prospectus.

Sky: It seems that we have added more stuff to the prospectus and the recommendation from the bankers does not reflect that. The bankers are fine with the prospectus as is. It has been the implementation of it was not the same.

Lauren: She thought we tried to clarify in 223 that it is a conceptual document and does not include all the level of detail.

Sky: It should be implemented the way it's written. He is fine with the changes as long as it does no add more requirements from the bankers.

Bulletin Board Items:

1. Prospectus Needs
2. Is the application legal? (regulatory and critical issues)
3. Is the application feasible? (Section 222(3) should also address the policy and legal issues)
4. When should the MBRT form to review the prospectus
5. We need to provide enough information for the public to comment
6. The bankers need to provide enough technical information to support a decision to show if the project is feasible.
7. We need to add specific language that requires the department to go out to public notice at the prospectus stage.

Future meeting topics:

1. Credit release schedule
2. Potential conflicts between local CAO's, GMA and the State Banking Rule.
3. Should Ecology be lead agency for SEPA on banks?

Next Meeting: July 13, 2007 at Seattle Corps