



**State of Rhode Island and Providence Plantations  
Water Resources Board**

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**RHODE ISLAND WATER RESOURCES BOARD**

**MINUTES OF BOARD MEETING # #470**

March 25, 2008

**Members Present:**

William Penn, Chairman  
Pamela Marchand, Vice Chairman  
Daniel W. Varin  
William Parsons\*  
Ian Morrison  
June Swallow\*  
Harold Ward  
Nancy Hess for Robert Griffith\*  
Mike Sullivan  
William Stamp, III  
Frank Perry

**Staff Present:**

Juan Mariscal, General Manager  
Kathleen Crawley  
Romeo Mendes  
Beverly O'Keefe  
William Rivero

\*Member designee

**Members Absent:**

Jesse Rodrigues, Jr.  
Richard Mignanelli

**Guests**

Rob Breault - USGS  
Emily Wild-USGS  
Alicia Good-DEM OWR  
Alisa Richardson - DEM  
Russ Chateauneuf - DEM  
Pasqual DeLise - BCWA  
Matt Wojcik – Governor's Office  
Heidi Green - QDC  
James DeCelles PWSB  
Tim Brown - KCWA  
Robert Boyer - KCWA  
Michael Clark – Brown University  
Eugenia Marks – Audubon Society  
Sue Licardi – No. Kingstown Water  
Carissa Richards – Prov Water  
Henry Meyer – RIWWA/KWD

**1. CALL TO ORDER**

Chairman Penn called the meeting to order at 12:07 p.m. noting that a quorum was present.

**2. PRESENTATION:**

- Rhode Island Department of Environmental Management:  
Stream flow & Groundwater Withdrawals

Mr. Penn introduced the item. Mr. Chateaufort reported this project has been under development for about a year. Ms. Richardson provided a detailed presentation.

### 3. DISCUSSION AND ACTION ITEM

Mr. Penn introduced the item noting the General Manager's recommendations is outlined in a memo to the Board on the issues and series of meetings that took place with the staffs of the WRB, DEM and USGS. He asked Mr. Mariscal to provide a briefing and then a discussion on the two recommendations would take place.

Mr. Mariscal noted that as directed by the Board WRB, DEM and USGS staff met during the previous week and to discuss the approach being taken on the development of the Big River Project and come back with some definitive recommendations. He stated we were able to accomplish this after meetings held on Monday through Thursday afternoons for about three hours each. He stated we looked at how we can move this project ahead as quickly as possible and, at the same time, address all of the permitting needs as well as and to provide answers to some of the basic questions associated with the development of this designated water source. He reviewed the funding mechanisms, product to be produced and a tentative schedule for the RFQ/P issuance and consultant hiring. He provided the two recommendations:

1. That the Water Resources Board approve a Joint Funding Agreement with the USGS for the completion of the work defined in its proposal "*Characterization of Ground-Water and Surface-Water Interactions in Selected Riparian Wetlands in the Big River Watershed, Rhode Island*" for a cost, not to exceed to the Water Resources Board of \$305,000, with all data, reports and other deliverables completed in accordance with the schedule contained in the proposal.
2. That the Water Resources Board approve the issuance, subject to the availability of funding and in accordance with state purchasing requirements, a Request for Qualifications and Proposals (RFQ/P) for "*Consultant Support Services to the Rhode Island Water Resources Board for the Development of a Public Groundwater Supply in the Big River Management Area*" as outlined in the attached but as finalized and approved by the Big River Groundwater Development Project Ad Hoc Committee.

Mr. Penn related his perspective for the two recommendations. He stated it is his perspective as a business person that recommendation #1 is not needed. He added that he did not think the WRB needs to do any more studies at this juncture – it is time we start taking action to develop this water supply and that it is inappropriate in this budgetary environment to commit state funds for a study which from a scientific standpoint is probably needed but, he asked, do we really need it right now? He stated in regards to the second recommendation we need to update the business plan that is ten years old and define a simple business approach for this project. He recommended that we focus on the next steps, i.e. completing an engineering study and upgrading the business plan. He added that he believes there are state contracts in place with

qualified engineering firms that can be tagged on to and we could prepare a scope of services within a week, get it out into the marketplace, get back proposals and have this project moving within thirty to sixty days.

Mr. Sullivan concurred with Mr. Penn's position and stated it is a clear possibility there is talent available through the pre-approval process of a state Master Price Agreement and that the short term needs should be focused on the assessment of the current infrastructure. Secondly, he noted, we need to look at what are the effective cost-efficient matters or paths needed to achieve some of the greater infrastructural improvement that may allow us to move water from Big River into an already established distribution system. Thirdly, he noted, an analysis is needed to focus on what is the legal, regulatory and capital barriers to begin moving Big River water through already established distribution systems and that is the priority tasks needed to be done. He supported what Mr. Penn expressed in moving forward.

Mr. Sullivan stated he would move to direct the staffs of both DEM and the WRB to collaborate on the details for an RFP to be completed in the very near future to be released either through a bid process or through the state master price agreement process to pre-qualified vendors and focus on the assessment of current existing water supply infrastructure, second to determine the effective and cost efficient paths and the needs to achieve some degree of infrastructural capacity from the existing and linking them to begin moving water from Big River into the currently established distribution and supply systems and thirdly to develop an analysis of needs focusing on legal, regulatory and other business aspects that are barriers to moving Big River water into the regional distribution systems as our priority.

Mr. Penn stated he would like to add a deadline or time-frame to the motion. He stated he believes a two week time-frame would be sufficient to finalize this draft scope of work. He would eliminate section B, look at section A and eliminate some of the extraneous information. Mr. Morrison stated he would like to add to the motion a report be forwarded to the legislature on the status of what we are doing with the view to getting support and information passed through to the legislature on the funding making sure there are no obstacles.

Mr. Stamp stated that he was intrigued by the USGS's presentation. He added that stream flow standards are highly politically motivated by various interests and these standards are a concern in the agricultural community, because of the need for their water for crop production. If a stream flow standard is desired there has to be a clear understanding that farmers should not have to bear the cost of that standard or they have to be paid for the harm that is done to their crops because of not being able to use their water. This concern being stated and weighing the communities need for water we must move forward in providing new supply.

Ms. Swallow asked for clarification on what would be left in the draft RFQ. Mr. Penn stated that, in referring to section A of the existing RFQ/P, he proposes to eliminate items 1, 6, 7 and 9 and include items 2, 3, 4, 5, 8, 10 and 11.

Mr. Perry asked for clarification on the time-frame for the results to come back. Mr. Penn stated, no more than 60 days so as to use 2008 dollars. Mr. Mariscal stated we can put a condition in the

RFP that the WRB has a requirement for completion in 60 days. Mr. Sullivan suggested that the respective staffs come to an agreement on tasks captured and report issued so the activity is billable entirely to this year.

Mr. Penn stated Sections B, C and D can be done at another time but now we need to focus on updating the business plan which is Section A.

Mr. Varin stated if we follow the process in the motion we will be at a point that will exceed the 60-day time period and at which time we will know where the beginning point for delivering water is and we know where the endpoint is but we have no authority to put any water into that system. Mr. Varin added that critics will say “why didn’t you do this environmental assessment while you were doing the infrastructure assessment?, Our answer will be, we lost the money. He stated he would favor carrying on the infrastructure and the environmental assessment tracks in parallel so that in some point in the future we have the hardware needed and we have the authority needed to put water into the hardware.

Mr. Penn stated the point is well taken but the question is what is that environmental assessment? He asked “Is it this \$700,000.00 proposal or is it some alternative to put be forth?” He noted he believed the WRB should explore an alternative.

Mr. Parsons stated although EDC does not have a vote but EDC supports the motion.

Ms. Hess stated although she cannot vote, Mr. Varin’s point is very well taken, so you may want to consider two proposals by staff making one move forward more quickly than the other. Mr. Penn asked do you mean having a second RFP, “doing the environmental assessment?” Ms. Hess said yes. Mr. Penn stated before we do that, we have to define what that assessment is. He added, he does not believe we need an environmental impact statement but we need to define what the environmental assessment would be and that may be another thing WRB and DEM staff could focus on to come up with a specific scope of service. He added that I did not think that is the scope of service being put forth by this USGS proposal.

Mr. Sullivan stated once this solicitation is perfected we may still have reaction time and resources left to take on the residual tasks with another solicitation but that needs to be subsequent to this. Mr. Penn concurred this needs to be our top priority.

Ms. Marchand stated the fact is we still need to know how much water is available to do a full and thorough business plan. She added that you really cannot design something based on a 5mgd average. You need to know what level you are going to be pumping at certain times of the year, such as the maximum, need to know the true size of the treatment plant, what is going to be operating at other times of the year. She stated that you need to know these details in order to be able to operate a treatment plant, you cannot just turn it on and off. It has to be able to operate at lower levels efficiently. It may need to be built in stages where you are using certain stages at different times of the year. You donot just raise the levels of flow. Mr Marchand added that it is critical to know what those numbers are going to be and what size we are going to building the system.

Ms Marchand also stated that it seemed to her the whole purpose of last week was for WRB staff to get together with DEM and USGS to figure out what is the best thing to do right away as far as the analysis of the watershed area. She added that it looked to her that they came up with a good plan as to what USGS could address immediately and that those funds are available right now. USGS is ready to go and they can catch the spring and summer and fall for field work, if given the go ahead now. If we wait we are waiting until next spring of next year before starting the study. She noted that it is critical to catch the time and if you lose this funding you are likely not to get it back. WRB will have to fight hard and long to get this funding in the future.

Ms Marchand stated she believes it is really worth while to go ahead with what staff came up with, let's get USGS moving, get them doing the things that we need up front and then you can take the rest of the plan through those outer years and get permission right away and we are getting \$290,000.00 worth of studies done that Rhode Island will need in the future. She agreed with staff's recommendation.

Mr. Penn pointed out that this year and next year's budget for ecological and environmental assessment falls short of the \$305,000.00 by \$25,000.00 – we do not have the money to execute the contract.

Mr. Ward agreed with Ms. Marchand, we charged the staff to go and work out an agreement on the work to be done, they did that. He stated it was his understanding we are going to need a lot of that information before any water is going to come out and he does not have any confidence of getting the funding next year. He added, it appears if we cut the price back a little bit the downside for not getting work done is substantial. He stated that it makes sense to run both tasks as recommended on parallel tracks then to lose a year.

Ms. Swallow stated we need to proceed concurrently, funding for this ecology study is in the Governor's budget. She added that the funding was never cut while other cuts took place in other budgets this year. This is a project for which the money is still there so evidently it is still a priority even in this current budget climate. She stated that she believes we will not get the funds back if we lose them. She noted she would support moving ahead with the staff recommendation to pursue the USGS study and possibly separating the motions here, one to deal with the USGS study and one to deal with the business part.

Mr. Penn stated there is point of order, the motion on the table to deal with the RFP for the business plan and that is where the discussion should be focused on and until we resolve that issue we can come back to the other study.

Mr. Perry stated he has strong reservations about cutting the proposed RFQ/P scope of work down. He noted we are redoing something we already have a basis for and we are still going to have to do all this work later if we can get the money. With all these "if's", He stated that we are stalling. He added, he believes we should move ahead with the staff recommendation and while it may take a little longer to get it out and approved, doing so would make the statement we are seriously committed to getting water out of Big River. He also stated that we are not again studying to see if we could get some water out of there but what we can do with it – we know

there is water that can come out of there and we know we have uses for it. We need to move ahead and start doing that.

Mr. Penn agreed with Mr. Perry. He stated this particular focus of the scope of services is filling the gap between we know the water is there, we know it is needed - how do we get it. He added a simple update of a business plan in terms of infrastructure capital costs is that gap. Then the other things can be filtered in – there are public policy and financing questions to be addressed. He stated we need to know what the infrastructure needs are and what the capital costs are.

Mr. Morrison stated let us get the staff to tailor what we have drafted to what funds we have and move forward. Mr. Perry stated he believes that is what the staff has done and that is what we should do. Mr. Morrison stated that is why he would like to see this motion approved. Mr. Perry stated that this motion does not do that and he stated the Board should approve what was originally prepared and recommended by staff.

Ms. Marchand stated she believes what is being said here is let us get out a short RFP for which we already have engineers on board with the state we can use so we do not have to go through a formal bid process – get them on board, get the basis started with this RFP and then put out the additional RFP to a bid like process to do a more expensive study because we do have funds until June and at least get this started.

Mr. Sullivan stated that is exactly what the intention is to bifurcate the two to do the pure engineering and then the broader. He added he would support the second motion which is to formulate the balance in the second RFP, which is actually a contractual piece with USGS that can be ready for presentation at the next meeting.

Mr. Varin stated he has no problem in splitting into pieces. We should proceed on both pieces as rapidly as possible. I would not, at this stage, assert there will be money available, if we can proceed expeditiously on both of these, I have no objection to doing them in a priority area. If we are in a position of determining what the infrastructure needs are for water we do not have any real authority to use that water– that’s where I believe we are wasting money.

Mr. Mariscal stated for clarification in regards to the contracts – all state contract proceed based on the availability of funds, i.e that if an agency contracts for work and there are no longer funds available, the contract would be cancelled. He stated a preliminary draft report by USGS would be submitted within this calendar year and 50% of this field work for their project would be done. If funds are no longer available for the USGS study, then the contract would be cancelled. He noted that the Joint Funding Agreements are prepared under that condition. For the comprehensive RFQ/P that is proposed,, he added that this proposal could be constructed in parts indicating that the project could be ended at any one of those parts dependent on funding or other conditions set by the board. He noted that the board could moving ahead with the whole project but the opportunity would be there to shut the project down if the funds are not available.

Mr. Penn stated until we get proposal we do not know how much it will cost and we do not know the timing. At this juncture we have to focus and prioritize and let things happen in increments rather than going out and doing the whole thing at once.

Mr. Mariscal asked for the motion to be restated.

**Motion** by Mr. Sullivan, second by Mr. Morrison;

- to direct the staffs of both DEM and the WRB to collaborate on the details for an RFP to be completed in the very near future to be released either through a bid process or through the state master price agreement process to pre-qualified vendors and focus on the assessment of current existing water supply infrastructure;
- To be included in the RFP scope of services:
  - referring to section A of the existing RFQ/P, eliminate items 1, 6, 7 and 9 and include items 2, 3, 4, 5, 8, 10 and 11.
  - to determine the effective and cost efficient paths and the needs to achieve some degree of infrastructural capacity from the existing systems and linking them to begin moving water from Big River into the currently established distribution and supply systems and
  - to develop an analysis of needs focusing on legal, regulatory and other business aspects that are barriers to moving Big River water into the regional distribution systems as our priority.
  
- That the RFP be completed in a two week time-frame

Mr. Penn called the motion on the floor to a vote.

A roll call was taken as follows:

- Mr. Stamp – Yes
- Ms. Swallow – Yes
- Mr. Perry – No
- Mr. Varin – No
- Mr. Sullivan – Yes
- Mr. Morrison – Yes
- Ms. Marchand – No
- Mr. Ward – No

And the Chairman, Mr. Penn voted Yes breaking the tie vote in favor of the motion. The motion carried.

**Motion:** Mr. Sullivan offered a subsequent motion, seconded by Mr. Stamp to:

- ask staff to reconfigure the balance of the work in the RFQ/P and
- have it prepared for action at our next meeting.

The vote in favor was unanimous and the motion carried.

Mr. Mariscal clarified the revision of the RFP, i.e. that it be segmented addressing the items the Chairman enumerated and have it ready to go for approval at the next meeting (Note: *this is included in the above statement of the motion*). Ms. Marchand asked if we can have the staff discuss this with the State as to if the funding is available to do the first part. Mr. Mariscal stated he would work on getting all those administrative questions answered.

Mr. Penn reviewed the other staff recommendation – the Joint Agreement with USGS for the work defined in its proposal as the “*Characterization of Ground-Water and Surface-Water Interactions in Selected Riparian Wetlands in the Big River Watershed, Rhode Island*”.

Mr. Penn recommended we do not move forward with this at this juncture, especially as we are going to have the environmental assessment put out to bid.

Mr. Varin stated that this work goes into that environmental assessment and he would recommend approval of the USGS proposal.

Mr. Perry stated the USGS work is a necessary step and action as it will provide new data to go along with existing data that we have been working for all along and we need to continue with the program.

Mr. Penn asked the motion makers for a modification on the motion to add “if the \$305,000.00 is available”. Mr. Varin stated yes and Mr. Perry stated yes.

**Motion** by Mr. Varin, seconded by Mr. Perry to approve staff recommendation #1 for a Joint Funding Agreement with USGS for \$305,000, if funding is available. The vote was taken. There was a unanimous vote of the motion. The Chairman Penn noted he wish to be recorded as voting nay. The motion carried.

#### **4. NEW BUSINESS**

Mr. Penn recommended that the packages be sent out by e-mail and will be recommending a change of date for the monthly meetings. These items will be discussed at the next board meeting.

Mr. Perry stated we should all give some thought to the length of our meetings. We should begin to think about a longer meeting, possibly taking administrative work into the subcommittees. Thus policy can be given a full and thorough discussion.

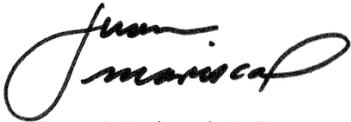
#### **5. OTHER BUSINESS**

Mr. Perry wanted to call to the members attention that the City Council of Providence is thinking of selling the Providence Water Supply Board and if they are seriously considering this we as a Board Corporate should think seriously about it.

**6. ADJOURNMENT:**

**Motion** by Mr. Varin second by Mr. Stamp to adjourn. The vote in favor was unanimous. The motion carried. The Board meeting ended at 2:04 pm.

Respectfully Submitted,

A handwritten signature in black ink that reads "Juan Mariscal". The signature is written in a cursive, flowing style.

Juan Mariscal, P.E.  
General Manager