



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

Justice William E. Powers Building, Third Floor  
One Capitol Hill  
Providence, RI 02908  
(401) 574-8400 ♦ FAX: (401) 574-8401

**WATER RESOURCES PROTECTION & USE COMMITTEE MEETING**

(Formerly the Public Drinking Water Protection Committee)

**MINUTES OF MEETING**

January 9, 2008

**Members Present:**

Robert Griffith  
Liz Scott  
William Stamp, III  
Frank Perry  
Ian Morrison  
Harold Ward

**Members Absent:**

June Swallow

**Staff Present:**

Juan Mariscal  
William Riverso  
Beverly O'Keefe  
Kathleen Crawley  
Romeo Mendes

**Guests:**

Heidi Green  
Tim Brown  
Brendan Ennis  
Ken Booth  
Steve Corta  
Michael Clark  
Ken Muson

**I. CALL TO ORDER:**

Chairman Griffith opened the meeting at 10:07 p.m., and noted a quorum was present.

**II. APPROVAL OF MINUTES:**

With a **motion** by Ms. Scott, seconded by Mr. Perry, the minutes of the November 27, 2007 meeting were approved.

**III. ITEMS FOR ACTION:**

1. WATER SUPPLY SYSTEMS MANAGEMENT PLANS (WSSMP):

a) Town of Portsmouth Water District (PWD) – 30-Month Interim Report

Mr. Griffith introduced the item. Ms. O'Keefe reported comments were received from RIDEM. She stated review of the report found some information talking about improvements in the system most notable being the new interconnection constructed from the District to the Naval Station to provide improved infrastructure in the Melville area. In addition, their demand management work with Roger Williams University to support building expansion and with RI Nurseries' underground irrigation system which will reduce public water use. She recommended approval of the 30-month interim report with PWD five-year update to be submitted no later than October 25, 2009.

**Motion** to approve the staff recommendation was moved by Mr. Perry and seconded by Ms. Scott; the motion was approved unanimously.

b) Kent County Water Authority (KCWA) – Five-Year Update

Mr. Griffith introduced the item noting the recommendation by staff is for a finding of Non-Compliance.

Ms. O’Keefe reported the update was received on August 15, 2007 and distributed to the review agencies. She stated comments were received from all the agencies. She reported after a thorough review the staff recommendation is the submittal does not comply with the applicable laws and rules and procedures and that staff should meet with the supplier to discuss the findings and requirements. She added KCWA should revise and resubmit the Update no later than one year from the Board finding of non-compliance. Ms. O’Keefe spoke about her findings noting concerns of the sections of the plan that did not comply. The sections included: 1) Water Supply System Description; 2) Water Quality Protection Component; 3) Mapping Requirements; and 4) Implementation Schedule.

Mr. Ward noted he did not think a year is necessary for the supplier to respond with the requested information. Mr. Griffith stated we could grant the resubmittal timeline up to one-year and certainly encourage the revisions be submitted as soon as possible. His preference has been to allow the maximum time allowed but to encourage to get it done as quick as possible. Ms. Scott encouraged the emphasis on the protection of the resources in the Hunt Aquifer and suppliers of the area should continue to coordinate. Mr. Perry commented that we have to remember there are certain intricacies when it comes to coordinating with communities and their comprehensive plans especially for systems that cross boundaries and have no input with those communities. He stated we are reaching a point with these plans where we are going beyond the ability with the individual water companies to control some of these things. The control has to be imposed on a broader or higher basis and we may have to look to ourselves. We may be asking individual companies to be doing things they are not capable of doing noting many times they are not in control of certain uses. Mr. Griffith stated this is an emergent issue and part of the challenge is to resolve on how to correct it. Mr. Perry stated yes we have to look at consolidations but we have to look beyond the fact that there are many comprehensive community plans (CCP’s) out there that do not address the control issue and need to be changed. Mr. Griffith stated the Division of Planning is in the process of reviewing its’ own role of reviewing the CCP’s of when it would be appropriate for state agencies to have input into changes to CCP’s. He added we are spending more time looking at water supply elements in those plans. Discussion ensued on this point.

Mr. Ennis of Pare Corporation stated he echoed some of the sentiments mentioned. He stated he questions whether the WSSMP’s is the proper vehicle to regulate certain issues discussed. He proceeded to respond to and attempt to clarify certain deficiencies brought forward in the staff report. He stated he believes he has answered the requirements for certain sections found in non-compliance and reiterates a proper finding should be no more than a notice of deficiency. He continued with his argument stating he believes the plan is complete and we are only looking at providing clarifications.

Mr. Brown stated that when he was on the Board he put forward an issue to review this programs rules and regulations and there were supposed to be some meetings to that end. He related the rules are antiquated for some issues and encourages the Board to revisit them again.

Mr. Mariscal stated that KCWA has been continually highlighted as doing a good job in managing, planning and thinking in terms of water supply. But the WSSMP planning process however is a management plan not necessarily a supply plan. He explained that the plan is a sum of all of its components and not to comply materially and in substance for each section

unfortunately renders a plan to be in non-compliance even though most sections may be found in non-compliance. He agreed some sections may be difficult and complicated to produce a compliant product. He stated the reality is that it is the water suppliers who are delivering the water, so should they be held to a higher standard in meeting the plan requirements as a whole plan instead of arguing one part versus another part. He agreed our regulations are a bit antiquated, we are looking at them, we have some comments in from some Board members on how things should be changed and the legislation should be revised a little bit. Overall there is a good basis to go forward.

Mr. Stamp stated he believes KCWA has done a good job with the demands on them and the technical aspects of any ramifications may just need clarifications. can be h

Ms. Scott asked for clarification on the difference between a finding of Non-Compliance and a Notice of First Deficiency. The issue was discussed and consensus arrived.

Mr. Ward stated that a finding of Non-Compliance renders a non-discretionary duty to the Board to submit this to the PUC which he believes is not appropriate in KCWA's situation. Mr. Mariscal stated that findings of Non-Compliance for PUC regulated systems do render an action in a form of a complaint to be forwarded to the PUC.

Ms. Scott asked for clarification on what was deficient regarding the Wellhead protection issues. Mr. Ennis stated that what has been cited as not being in the plan is protection strategies.

**Motion** to site KCWA with a Notice of First Deficiency was moved by Mr. Stamp and seconded by Mr. Perry; the motion was approved. Ms. Scott voted Nay based around the fact that the source water assessment in the plan does not address protection requirements per the regulations.

#### c) City of East Providence (EP) - Five-Year Update

Mr. Griffith introduced the item noting the recommendation of "Non-Compliance". Ms. O'Keefe reported that review of the plan finds the sections of the plan that did not comply included: 1) Mapping Requirements; 2) Demand Management; 3) Drought Management; 4) Implementation Schedule; 5) Implementation Schedule; 6) Financial Management; and 7) Coordination. She reported in detail per the referenced sections, which included comments from the review agencies.

She recommended a finding of Non-compliance. She stated in general a large problem with the plans that are being submitted are repeats of the plan that were previously submitted in 1995 and 2000, with at times no new information provided except for numerical data. She stated therefore she can conclude there is no planning going forward. This is why there is increased emphasis on a completed implementation schedule that outlines each section of the rules and procedure requirements.

Chairman Griffith recognized Mr. Booth of EP. He stated he echoes the points made by KCWA earlier. He stated he is disappointed in the Non-compliance finding, adding he previously worked in the Regulatory sector and left it for a reason. He stated there is a lot of discretion between deficiency and non-compliance – it means a lot when a City Council view something that is in Non-compliance versus deficient. He stated he tries to be practical when addressing things. He asked if a map is missing just call me and I'll get it to you. He stated if the goal is to find all the suppliers in Non-compliance then you are achieving it. If the goal is to get the systems on the same page then there are better ways to do it. He asked for the same consideration for a finding of

first deficiency. He stated when he worked on the regulatory side, he was very careful on what you can require with what is practical. He proceeded to explain. He added there is frustration regarding the difference between non-compliance and deficient relating it is interpretive and most of the requirements can be done without any big issues. Ms. Scott stated this program has been in existence for over thirteen years and if plans are still being found to be deficient says to me then all aspects of this are not being taken serious. A good faith effort should be shown and if we are finding that these plans are just resubmittals of a document submitted back in 1995 then it is not acceptable. She stated the plans should be done properly and to completion. Discussion ensued regarding mapping requirements. Mr. Ennis consultant for EP stated these plans are updates and not brand new water supply management plans and there will not be vast changes and part of these plans shouldn't be updated. The data gets updated and other management aspects get updated and they should. These are updates of plans that were previously approved. Mr. Ward stated as he reads the law there is also in addition to those systems that are governed by the PUC there is a non discretionary duty on the part of the Board should it find Non-Compliance. He added he believes this is a strong argument for a finding of Notice of First Deficiency.

**Motion** to find the East Providence plan submittal with a Notice of First Deficiency was moved by Mr. Ward and seconded by Mr. Stamp the motion was approved. Ms. Scott voted Nay.

Mr. Griffith asked staff to look into the issue of the implications of a motion of finding of Non-Compliance. In addition, to look into the relationship between the drought management plan for the City of Providence and East Providence.

#### d) City of Newport Water Division (CN) - Five-Year Update

Mr. Griffith introduced the item noting the recommendation of "Non-Compliance". Ms. O'Keefe reported that review of the plan finds the sections of the plan that did not comply included: 1) Water Quality Protection Component; 2) Mapping Requirements 3) Demand Management; 4) System Management 5) Drought Management; 6) Implementation Schedule; and 7) Coordination. She stated this plan is a complete replacement of the approved plan and has many unchanged sections. She reported in detail per the referenced sections, which included comments from the review agencies.

**Motion** to approve the staff recommendation for a finding of Non-Compliance was moved by Ms. Scott and seconded by Mr. Ward the motion was approved. Mr. Stamp voted Nay.

## IV. ITEMS FOR DISCUSSION:

### 1. Drought Management Program – Drought Condition Update

Ms. O'Keefe reported the Drought Steering Committee will meet tomorrow to review current conditions. She stated groundwater conditions have continued to deteriorate and surface water supplies are currently between 45 to 66% of capacity. She added the Drought Advisory status will be continued for regional sections with lower findings. She distributed handouts demonstrating resource tools and their location on the web. She reported the Providence Journal on December 21<sup>st</sup> put out a press release summarizing drought conditions at that time.

### 2. Water Supply Systems Management Plan Program - Update

Ms. O'Keefe reported we are reviewing the plan review process to make it more efficient.

3. RI Public Drinking Water Protection Program - Update

Mr. Riverso reported United Water Rhode Island had a December 31, 2007 deadline to submit a final reimbursement request but did not do so, thus forfeiting their remaining funds. He stated QDC's submitted project appraisal was reviewed and approved by Ms. Primiano and QDC will be meeting this week with the Homeowners Association with their proposal. He added hopefully their will be a Purchase and Sale agreement submitted by the January 31<sup>st</sup> deadline.

4. Groundwater Protection/Acquisition Program - Update

Mr. Riverso reported we are moving forward with the Heaton Orchard Road Project and that we will be meeting today with DEM legal dept. to assist in finalizing the project. Mr. Mariscal clarified we are meeting with the DEM chief legal counsel to outline what legal assistance we will need from them to finalize this sale. Mr. Riverso reported the Town of Richmond still owe us reports for their Richmond Commons wellsite project request. He added there is program wellsite in the Hope Valley area whereby we have recently been following up with the owner who is cooperating. A permission letter has been sent in order to further explore the site. He stated the owner has place the project on hold as he researches whether it will be feasible and practical for him to develop the supply himself and or produce bottled water.

5. Hunt River Sub basin - Interim Management Plan – Update

Ms. O'Keefe reported we plan to meet with the water suppliers on the Hunt River. She added the Hunt River Association as we knew it may be dissolved and a private group may be formed.

6. Water Conservation Program – Update

Mr. Mariscal reported he believes there will be substantive discussions over the next few months. He stated he has distributed an outline of information based on previous discussions and with staff as well. He stated there is a lot of opportunity here and a lot of things that can be done. Additional information in detail will be distributed at the next meeting. Discussion ensued as Mr. Mariscal reviewed his outline which included the following components: 1) Establish Basis for Needs and Goals; 2) Regulations and Ordinances and Enabling Legislation; 3) Public Information and Education; 4) Outdoor Water Restrictions; 5) Financial Incentives; 6) System Management; 7) Rain Water Harvesting and Ordinances; 8) Reuse and alternative Water Systems; 9) Plumbing Code/Local Code Changes; 10) Technical Assistance; 11) Enforcement of Program Requirements; and 12) Performance Measures. Ms. Scott stated we need to focus on the "Triggers".

**VI. OTHER BUSINESS**

**VII. ADJOURNMENT:** Mr. Griffith adjourned the meeting at 1:14 p.m.

Respectfully submitted,

William Riverso,  
WRB Programming Services Officer

*Note: The complete proceedings of this meeting are available on audiotape by request.*

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