



**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

April 29, 2008

| | | | |
|-------------------------|------------------------|-----------------------|----------------|
| Members Present: | Members Absent: | Staff Present: | Guests: |
| Robert Griffith | Ian Morrison | Juan Mariscal | Heidi Green |
| Liz Scott | | William Riverso | Henry Meyer |
| William Stamp, III | | Beverly O'Keefe | Tim Brown |
| June Swallow | | Kathleen Crawley | Tom Tilas |
| Frank Perry | | Romeo Mendes | Doug Gove |
| Harold Ward | | | |

I. CALL TO ORDER:

Chairman Griffith opened the meeting at 12:07 p.m., and noted a quorum was present.

II. APPROVAL OF MINUTES:

1. April 1, 2008 Meeting Minutes

With a **motion** by Mr. Perry, seconded by Mr. Stamp, the minutes of the April 1, 2008 meeting were approved.

III. ITEMS FOR DISCUSSION AND/OR ACTION:

1. Town of Harrisville Fire District (HFD) – 5 - Year Update Recommendation

Mr. Griffith introduced the item. Ms. O'Keefe reported on February 13, 2007 the HFD WSSMP 5-Year Update was found to be in Non-Compliance by the Board and subsequently a revised plan was resubmitted on December 13, 2007. She stated staff and agency review was conducted. She recommended the revised plan be found in compliance.

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

2. Kent County Water Authority (KCWA) – 5 - Year Update Recommendation

Mr. Griffith introduced the item. Ms. O’Keefe reported on January 15, 2008 the KCWA WSSMP 5–Year Update was found to be deficient by the Board and a Notice of First Deficiency was issued. A revised plan update was submitted on February 11, 2008 initiating the statutory 90-day review period. She noted the 20-day agency review period ended March 4, 2008 with review comments received from the Statewide Planning Program. She reported DEM review comments were just received prior to today’s meeting and that these comments by DEM have been distributed to the committee. She proceeded to review findings for certain sections of the plan and also noted KCWA has included recommendations for State actions. Ms. O’Keefe recommended a finding of compliance by the committee with certain recommendations as follows; 1) That KCWA continue to provide updated current and projected water availability and water demand numbers and narrative as part of its annual reporting submittal to the WRB; 2) That KCWA continue to implement its proposed efforts and actions to manage withdrawals in the Hunt River Interim Management Plan; and 3) That KCWA General Manager participate as a member of a work group to be established by the WRB to investigate the KCWA recommended state actions for improved water resource management in Rhode Island.

Ms. Scott reported the comments submitted today were comments that were already submitted in the first review process and have not really been addressed. She stated DEM is concerned the Water Quality Protection Plan section has not been adequately addressed. She stated based on the rules for Section 8.03, 4-6 certain requirements need to be done in this area and from the DEM perspective it is important that whatever can be done regarding water quality protection is done. She reported DEM finds the Update, Revised not in compliance for the Water Quality Protection section. She proposed an amendment to the motion and recommendation of staff to place a condition that KCWA give some commitment to those water quality protection efforts that they can do then we would find this plan in compliance.

Mr. Griffith asked staff for clarification on the state agency time period to receive review comments. Ms. O’Keefe stated state agency review comments were due March 4th, 2008. Mr. Griffith ruled the DEM comments were received too late for staff to review and too late to be included in the committee packet distributed last week. Mr. Griffith ruled the original motion and second stand. He recommended the comments submitted by DEM be passed on to KCWA for their action but cannot be included in the findings and recommendations at this time.

Ms. Scott provided a rebuttal and a brief discussion ensued.

Motion to approve staff recommendation of a finding of compliance with the recommendations presented was moved by Mr. Ward and seconded by Mr. Stamp; the motion was approved. Ms. Scott voted Nay.

3. Quonset Development Corporation (QDC) – 5 - Year Update Recommendation

Mr. Griffith introduced the item. Ms. O’Keefe reported the QDC update was found in non-compliance and QDC subsequently submitted a revision on November 23, 2007. She stated the staff and the agency review period was conducted with state agency review comments received from the Statewide Planning Program and the Department of Environmental Management. Ms. O’Keefe discussed review findings noting the implementation schedule remains incomplete and therefore recommends QDC provide annual updates as part of the annual reporting process on progress made on implementing the WSSMP 5-year

Update, Revised. She stated staff recommends a finding of compliance with “subject to” requirements and those recommendations are as follows;

- That, Quonset Development Corporation must provide a detailed justification as to why the new water rates are appropriate, protective of the resource, and are part of a long-term conservation strategy. This justification must be provided to the Water Resources Board with the annual reporting information, due July, 2008.
- That Quonset Development Corporation must provide annual updates as part of the Water Resources Board annual reporting process on progress made on accomplishing the goals included in the implementation plan effective July 2008, and during the remaining subsequent years until the next Five-Year Update is submitted.
- That Quonset Development Corporation must provide annual updates as part of the Water Resources Board annual reporting process on the progress of QDC’s current and proposed efforts and actions to manage withdrawals in the Hunt River basin.
- That Quonset Development Corporation must provide an annual report on progress made on these six identified planned programs which require implementation over the next five years. Specific plans or accomplishments on implementation of the Major User Technical Assistance Program, Desalination Feasibility Study, Water Reuse Program, Water Rate Program, Hunt River Management Plan Program and the Leak Detection and Repair Program should be reported when submitting the annual report (July) effective July 2008.
- That Quonset Development Corporation must include proactive water resource demand and drought management strategies in the water supply system management plan, updates, and in the Quonset Development Corporation Master Plan. New development and building renovation should include water reuse and rainwater harvesting strategies for landscape maintenance. Quonset Development Corporation must provide an implementation plan to incorporate these strategies as part of the Water Resources Board annual reporting requirements effective July 2008 with subsequent progress reports submitted annually.

Ms. O’Keefe reported Pare Engineering, on behalf of QDC, submitted a letter requesting a 30-day extension time to review the scope and gravity of today’s recommendations, hold a meeting and provide responses. Mr. Griffith concluded as a matter of rule an extension of this type cannot be granted and added if we approve this with the annual reporting requirements there is ample time for QDC to meet and understand the requirements in time to make any responses.

Ms. Green, QDC Planner, stated it was QDC’s position that their staff have not had time to review and discuss the findings with WRB staff, that WRB has canceled two review comments meetings, and QDC would prefer a 30-day time period in order to meet with WRB staff and to provide a response to the review comments.

Discussion: Committee member Elizabeth Scott requested that the DEM review comments regarding the documented “streamflow depletions resulting from groundwater pumping in the Hunt River Basin, the recurrent low flow conditions which occur during summer months and the observed shift in fish communities from riverine species to pond species, DEM requests that the Water Resources Board work with QDC and other suppliers located in the Hunt River Basin to reduce demand on the Hunt River

Basin wells, wherever feasible. Specifically, DEM Request that QDC and the other suppliers take actions to: reduce demand, particularly during the summer months; continue efforts to seek alternative sources; and continue to coordinate with the North Kingstown Water Department and the Kent County Water Authority in the implementation of the Hunt River Aquifer Water Supplier Interim Management Plan” be included in the review recommendations submitted to the Board for action as the current plan does not go far enough towards coordination and protection efforts of this water resource.

Motion to approve staff recommendation of a finding of compliance with the recommendations presented was moved by Mr. Stamp and seconded by Mr. Perry; the motion was approved.

5. WSSMP Moratorium

Mr. Griffith introduced the item. Mr. Mariscal distributed a memo and proceeded to explain its contents. He stated the memo is a response to issues raised and discussed with recommendations that could be put in place rather quickly. He provided assessments and recommendations for the various components, which can be ascertained as follows:

Assessment / Recommendations: The submittal requirements of the enabling legislation and the WRB Rules and Procedures define appropriate topics and issues to be addressed in the development of a comprehensive WSSMP so as to meet the objectives of the Rhode Island General Laws. No changes are recommended at this time.

Assessment / Recommendations: Since over 75% of the recent WSSMP submittals have been in non-compliance, something obviously needs to change. One approach is to provide additional interaction between the WRB staff, the water suppliers and their WSSMP consultants prior to a submittal being made to provide additional guidance. To make certain that the plans are completed in a timely, complete and comprehensive fashion, the following changes are recommended:

- A new pre-submittal and post-submittal administrative process should be established as outlined in Attachments 3a & 3b of his memo. This process would expand notifications and reminders to the water suppliers regarding due dates. In addition, meetings would be held with the WRB staff (review agencies would be invited also) and the water suppliers (and their consultants) prior to submittal and after submittal but before recommendations are made to the WRP&U Committee and the Board. The purpose of these meetings is for the WRB staff to provide on-going guidance and feedback to the suppliers so as to minimize errors and omissions in the submittal WSSMP and to reduce the probability of receiving a non-compliant WSSMP.
- As outlined in RIGL 46-15.3, the WRB shall grant extensions of time to submit a WSSMP ONLY IF an extension is justified by “extraordinary circumstances beyond the control” of the water supplier AND ONLY IF a written request is received at least 90 days prior to the due date.
- As outlined in RIGL 46-15.3, no extension of time shall be granted for the submission of the supplier’s emergency management plan. This plan must be submitted on the scheduled due date.
- A five-year schedule should be adopted for the third round of WSSMPs to be submitted and the affected water suppliers notified as soon as possible. The existing schedule for those suppliers that have not yet made their second-round WSSMP submittal should be restated as soon as possible to those suppliers.

Assessment / Recommendations: It is in the best interests of the State of Rhode Island, its citizens and the water suppliers regulated by the WSSMP Rules and Procedures and the enabling legislation that all water suppliers will prepare, submit and implement a comprehensive WSSMP in a timely fashion and that the supplier’s financial management plan provides sufficient funding to complete the tasks outlined in the WSSMP implementation plan. Implementation of a comprehensive WSSMP will achieve the RIGL 46-15.3’s objective of “the effective and efficient conservation, development, utilization, and protection of this finite natural resource in ways that meet the present and future needs of the state and its people.” Future updating of a fully compliant and implemented plan will be a relatively simple task.

- Determining Compliance Status
- Non-submittal of a plan in accordance with the WRB-defined five-year submittal schedule (absent an approved request for an extension of time, see previous discussion regarding extensions) shall result in an automatic determination of non-compliance.
- Non-submittal of the emergency management plan element shall result in an automatic determination of non-compliance. (Extensions of time to submit emergency management plans are not allowed)
- As noted in Attachment 1 of his memo, there are 12 sections or “essential or substantive parts” in the WSSMP Rules and Procedures. However, each of these sections does not have the same relative value in assessing “substantive” compliance with the objectives of the act. These 12 parts can be categorized into four key elements as follows:
 - **High Priority Plan Elements**
 - Water Quality Protection
 - Mapping (minor)
 - Future Demand & Availability
 - Demand Management
 - System Management
 - Mapping (minor)
 - **High Priority Plan Implementation Elements**
 - Financial Management
 - Implementation Plan and Schedule
 - **One-Time High Priority Elements** (complete once, minor changes expected over time)
 - Emergency Management
 - Drought Management
 - **Lower Priority Items** (complete once, change if needed)
 - Goals (guidance from State policy documents, legislation, regulations and “priority issues of the state, region and supplier at the time of development and submittal of plan)
 - Water Supply System Description
- Unfortunately, substantive compliance with any of the objectives of the law and the WRB Rules and Procedures is not a simple “in/out” binary-type determination similar to compliance with a

pollutant discharge standard. However, the above categorization provides adequate guidance to reviewers and water suppliers/consultants to indicate the level of importance placed on the various elements or parts of the plan.

- The WRB staff and agencies' staff review will be reasonable and use best professional judgment in the development of recommendations regarding compliance to the WRB. The WRB staff will provide timely feedback to the supplier to present and discuss issues before submittal of a recommendation to the WRP&U Committee and/or Board.
- A water supplier will be given the opportunity to address issues within the context and timing provided in the existing legislation and Rules and Procedures.
- In any type of enforcement program, there are defined progressive steps from minor to major violations. For the WRB process, this is not necessarily the case at present. The enabling legislation does provide two levels of enforcement, however – First Notices of Deficiencies and Non-Compliance. These two levels should be coupled as progressive actions. To address this, the first step of compliance determinations shall be the Notice of First Deficiencies and will specifically identify incorrect, inconsistent or missing data or information that if provided would result in a WSSMP that would meet the objectives of the law. The WRB staff shall provide a list of the incorrect, inconsistent or missing data or information for the supplier to address in a re-submittal. Except as noted in items 1 and 2 above, no notice of non-compliance shall be issued without the issuance of an initial First Notice of Deficiencies.
- Suppliers that have been issued a Notice of First Deficiencies shall have 120 days, per the WRB Rules and Procedures and the enabling legislation, to make corrections and resubmit the plan for re-evaluation and a new determination of compliance.
- Plans may be recommended for conditional approval if, in the best professional judgment of the WRB staff, a water supplier may be able to address substantive non-compliant issues within 180 days or less (This may need a revision to the Rules and Procedures). Possible standard conditions for all approvals could include:
 - Annual Reporting of water use data to the WRB and implementation of WSSMP
 - Maintenance of financial management plan
 - Evaluation of water rates that encourage water use efficiency and conservation (i.e. base condition: no fixed use rate or decreasing block rate)
 - Education program
 - Pre-Drought Strategies
 - Baseline condition for water conservation
 - Once per week watering program
 - Require major users to implement water audits every five years
- Per RIGL 46-15.3-7.6(c), any reviewing agency may conclude that the submitted plan has “substantive” deficiencies that prevent the plan from meeting the requirements. If an agency has this conclusion, it should clearly state such in their review and outline the reasons why they have concluded that citing the specific objectives and requirements in the law or the WRB Rules and Procedures that will not be met. The reviewing agency should consider if a re-submittal could

result in compliance if the supplier addresses the “incorrect, inconsistent or missing data or information.”

- Per RIGL 46-15.3 and the Rules and Procedures, where a determination of non-compliance has been made, a water supplier may be given up to one year to address substantive non-compliant issues.

Recommendations:

Continuation of periodic group meetings with water suppliers to highlight priority issues, to provide new information or approaches and to exchange information. At present, the WRB staff has held meetings at least annually with the water suppliers on a myriad of subjects and made presentations to the Rhode Island Waterworks Association.

Member Comments – Mr. Perry stated these recommendations put forth the presumption that we are not going to stay with the existing schedule of the 5 – Year plans and their due dates. He added we are going to have to stretch them out so significant submittals are not scheduled at the same time.

Ms. Swallow stated the idea of more communication, meetings and less flexible time schedule is probably the right direction but from our review agency perspective it is going to be difficult with the limited personnel capacity and regrets that DOH may not be as responsive to these meeting requirements over and above the emergency response plan component. Ms. Swallow added that the emergency management planning component cannot be an item that only requires minor changes from time to time. In fact, she noted, that emergency planning has become more serious and complex. She noted she disagreed with the categorization proposed for emergency planning.

Mr. Griffith stated there are similar concerns at Statewide Planning regarding personnel commitment. He added maybe the review agencies may need the flexibility to request extensions. Discussion ensued on this matter.

Mr. Mariscal stated the bottom line is that the staff has to produce a recommendation to the WRPU Committee and the Board. He stated absent a review recommendation from a review agency the WRB agency is going to make a recommendation to the Board.

Ms. Scott stated there are too many people involved in the review process when it is really an administrative function where it is primarily the WRB responsibility to review the plans and receive comments from the various agencies. She added she thinks the plans should not come before this committee and the only reason the plans should come before the Board is for “appeals” or disagreements by the water suppliers. It is basically an administrative function where issues are highlighted and decisions should be made at the staff level. If a water supplier has a problem with the decision they can appeal it to the Board. She stated additional meetings will help but believes the staff will be taking on additional work they may not be able to keep up with and there is an issue of consistency on what the findings will be and an issue of lack of enforcement.

Mr. Griffith asked Ms. Swallow to forward her special concerns regarding emergency planning in writing.

Mr. Ward stated the plan should be dynamic and should be fixed as it goes along such as every year when annual reports are due by the suppliers. If something isn't working than adjust it at the staff level

and agrees the plan may not need to come before the Board.

Mr. Perry stated a very realistic point to be considered is the use of this plan – does the water supplier use this plan or is this a document that is prepared to satisfy a statutory guideline.

Mr. Mariscal stated the supplier will use this plan if he takes it seriously and defines what he has to do as an agency.

Discussion ensued on this point as Mr. Perry provided further explanation.

Mr. Mariscal stated this program lacks progressive discipline or enforcement actions and suggested changes in the statutory findings on handling of non compliance and first deficiency actions.

Mr. Stamp asked if there has been input from the water suppliers. Mr. Mariscal stated that on an on-going basis there are communications with them and soliciting of comments. He stated what the WRB requires is pretty standard information and what is being submitted is pretty far off.

Mr. Griffith stated there seems to be a consensus that more time is needed to review and discuss this and we should request the review agencies give us their input. He also asked for staff input. He asked the members to make note of any questions so we can extend to the full Board these questions and arrange the opportunity to conduct an internal workshop on the subject to pursue further and decide what we are going to do.

6. Statewide Water Conservation Program

Mr. Mariscal reported this is a high priority and there is work in progress which will be finalized soon.

IV. STAFF REPORTS:

1. Drought Management Program – Drought Condition Update

Mr. Griffith introduced the item. Ms. O’Keefe reported the Scituate Reservoir is at 104% capacity and other surface water bodies are full. She stated the Drought Steering Committee met last month and will meet again on May 15th. She reported last month we moved from a “drought watch” condition to a “drought advisory” condition because of the improvements. She stated the groundwater wells are the problem right now and we are making sure per the drought management plan that we are going in the right direction. She stated CoCoRaHS weather observer training workshops were held, which attracted over 30 people. She added we are working with website showing 27 “weather stations” reporting at this time through the cooperative partnership with the National Weather Service.

2. Water Supply Systems Management Plan Program - Update

Mr. Griffith stated we are up to date on this program based on previous discussions.

3. Groundwater Protection/Acquisition Program - Update

Mr. Griffith introduced the item. Mr. Riverso reported the Board approved project off Heaton Orchard Road is moving forward. He reported attending a Town of Richmond Planning Board meeting where the property owner's consultant submitted a subdivision plan with the Planning Board asking for a few adjustments to be made. He reported preliminary work is being done on two other projects which includes preliminary negotiations, well placement and comparables research. He stated they be on track to come before the Board by June or July. He added one of these projects could be a big win for the Town of Richmond because one of the sites is very close to their transmission lines. He added he will be working on scheduling site visits with staff engineer to see the sites and checking with owners to reopen discussions.

VI. OTHER BUSINESS:

Mr. Mariscal reported an issue was raised about a year ago regarding the state grounds (Powers Building and Statehouse) irrigation systems not functioning well and actually watering during rainstorms. He noted that a new smart irrigation system has been installed. We have initiated a project to monitor the water meters and any abatement meters to document water savings.

He reported the Supplemental Water Supply Study is proceeding towards conclusion, especially with the report on how Big River would be integrated into the plan. He stated the special Board meeting to hear the report is being scheduled.

VII. ADJOURNMENT:

Chairman Griffith adjourned the meeting at 2:08 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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