

Water Withdrawal Annual Maintenance Fee Workgroup

September 9, 2021

DRAFT Summary Meeting Minutes

Committee Members Present:

Steve Herzog, Hanover County/VAMDWA
Jim Taylor (alternate), WestRock
Brent Graham (alternate), Golf Course Superintendents Association
Beckam Stanley (alternate), VA Agribusiness Council
Anna Killius, James River Association
Ronald Jefferson (alternate), American Electric Power

Committee Members Absent:

Melissa Rollins, Surry County
Pam Kenel, Loudoun County
Jerry Gouldman, King George County Service Authority

DEQ Staff:

Jeff Steers, Director of Central Operations
Scott Kudlas, Office of Water Supply, Director
Joseph Grist, Water Withdrawal Permitting and Compliance Program Manager
Shane Balloun, Senior Financial Analyst
Lily Tromblay, Guidance and Regulation Coordinator
Brandon Bull, Water Policy Manager

Members of the Public:

Stephen Barten, Waste Management
Callaghan Guy, Christian and Barton, LLP

Proceedings:

1) Welcome and Introductions

Mr. Steers convened the meeting at 10:08 am and welcomed the body to the third and final meeting of the water withdrawal annual maintenance fee workgroup.

He also outlined the goal of the meeting, which was to review inquiries from the strawman annual maintenance fee approaches presented in the previous meeting, as well as guide the group to come to consensus on a final recommendation for the General Assembly.

2) Review and Summary of August 19, 2021 Meeting

There were no changes recommended for the August 19, 2021 meeting summary.

3) Staff Presentations

Mr. Grist provided the workgroup with updates to the strawman annual maintenance fee approaches from the previous work group meeting. The new and/or updated options included including hydroelectric facilities in the calculations based on max diversion volumes, per gallon rate per permitted withdrawal amounts or per reported withdrawal amounts, various tier rate approaches, and program type. Each strawman included options with and without permitted agriculture facilities included.

- Mr. Taylor raised concern that adding in hydro facilities opened the possibility to losing a significant portion of the fee collection, if they are no longer operating. Mr. Kudlas and Mr. Steers both suggested that the DEQ functions off the status quo, however in the event it fluctuates, there would be cause to pause and reflect on the best options moving forward.

4) Workgroup Discussions

The workgroup discussion worked towards identifying a viable option to recommend, focusing on whether or not to include permitted agricultural users, unpermitted (regulatory excluded) users, and equity among fee distribution for permitted users. The workgroup considered all options presented and arrived at a hybrid of the strawman options to recommend to the General Assembly.

- The working group expressed concern with the first option presented, the per gallon rates for permitted or unpermitted users, presented potential for challenges in the future, depending on loss of permitted users.
- The second option presented, a basic four quartile permitted withdrawal tiered split, was not determined as not viable because of its similarity to the next option, and it disproportionate 4th quartile.
- The third and fourth options, actual and permitted withdrawals based tiers, combined and by withdrawal source, were the subject of discussion for the remainder of the meeting, as the workgroup decided they were the two viable options to recommend.

The workgroup continued to discuss the atypical nature of the water withdrawal permits as compared to other DEQ permit programs. Many asserted the number of permit exclusions and this type of fee structure unfairly falls upon a limited number of permitted users. Some members of the workgroup also felt excluding agriculture from the fee payments further added to the inequity of permit exclusions, but felt they would respect the precedent set in the General Assembly by excluding permitted agriculture facilities from the proposed fee structure. In addition to the concerns regarding exclusions, the workgroup continued to search for a line of equity between the imposed fees for the GWP and VWP permit programs—stemming from the 80/20 split in water withdrawal program direct costs, respectively.

a) Final Recommendation

Mr. Herzog continued his assertion from the prior meeting to include some measure of comment on the inequity of exclusions in this type of fee structure. He noted that in the case of the atypical nature of the permitting program, the historical 40% fee design should not apply.

Mr. Jefferson asked the workgroup to identify the most equitable split for fee structure, suggesting the fees be closer to the 80/20 split for GWP/VWP.

Mrs. Killius noted the tier structure in the third option presented might promote users to conserve water to move into a lower, less expensive tier.

The group came to consensus on the third option DEQ presented, to which they modified to introduce a separate fee structure for GWP and VWP. The group discussed ideas and methods to refine the fee rate amounts presented within the DEQ example option, concluding that other factors, other than just direct costs, placed the ratio closer to 60/40 for GWP vs. VWP in regards to the water withdrawal program workload. The group's recommendation accounted for distribution among amount categories of total permitted water withdrawal (368 GWP vs. 99 VWP active permits, and 110 GWP vs 25 VWP permit applications in process), the 80/20 split of water withdrawal program costs, considerations for small facility water users, and excluding agriculture from the annual maintenance fee payment structure.

5) Public Comment

Mr. Barten asked to be provided the summary minutes, to which Mr. Grist directed him to the workgroup's Town Hall page for the summary minutes that will be posted within 10 days of meeting adjournment.

6) Next Steps

This was the final meeting of the water withdrawal annual maintenance fee workgroup. DEQ will take time to write the report outlining the workgroup's proceedings and recommendation to the Governor and General Assembly. The summary report is scheduled to be provided to the Governor and General Assembly by December 1, 2021.

Mr. Steers adjourned the meeting at 2:15 PM.