

**EASTERN VIRGINIA GROUNDWATER MANAGEMENT
ADVISORY COMMITTEE**

WORK GROUP #3 – ALTERNATIVE PERMITTING CRITERIA

MEETING NOTES – MEETING #3 - DRAFT

FRIDAY, OCTOBER 21, 2016

VIRGINIA HOUSING CENTER

Meeting Attendees

EVGMAC – WORKGROUP #3	
Curtis Consolvo – GeoResources, Inc.	Whitney Katchmark – Hampton Roads PDC
Jeff Corbin – Restoration Systems	Craig Maples – City of Chesapeake
Rich Costello – AES Consulting Engineers	Britt McMillian – ARCADIS
Larry Dame – New Kent County	Doug Powell – James City County Service Authority
Judy Dunscomb – The Nature Conservancy	Wilmer Stoneman – Virginia Farm Bureau
Bill Gill – Smithfield Foods, Inc.	Mike Toalson – Home Builders Association of Virginia
Chris Harbin – City of Norfolk – Department of Utilities	Matt Wells - WestRock
Jonathan Harding – VA Agribusiness Council	

EVGMAC – WORKGROUP #3 – STATE AGENCIES	
Lance Gregory - VDH	Rob McClintock – Virginia EDP
Scott Kudlas - DEQ	

NOTE: Advisory Committee Members NOT in attendance: Nina Butler – WestRock; David DePippo – Hunton & Williams; Kyle Duffy – International Paper; Katie Frazier – Virginia Agribusiness Council; Dan Holloway – CH2M/HRSD; David Jurgens – City of Chesapeake; Mike Kearns – Sussex Service Authority; Mike Lawless – Draper Aden Associates; Jamie Mitchell – Hampton Roads Sanitation District; Brett Vassey – VMA; Michael Vergakis – James City Service Authority

INTERESTED PARTIES ATTENDING MEETING	
Rhea Hale - WestRock	Shannon Varner – Troutman Sanders/Mission H2O
Mike Polychrones - VML	

SUPPORT STAFF ATTENDING MEETING	
Brandon Bull - DEQ	Bill Norris - DEQ
Craig Nicol - DEQ	Mark Rubin – VA Center for Consensus Building

1. Welcome & Introductions (Mark Rubin – Meeting Facilitator)

Mark Rubin, Executive Director of the Virginia Center for Consensus Building at VCU, opened the meeting and welcomed everyone to the meeting. He asked for introductions of those in attendance. He thanked everyone for attending the meeting.

2. Review of Agenda (Mark Rubin):

Mark Rubin reviewed the agenda for the meeting and noted the goals of today's meeting are to continue our discussions about "unpermitted users"; discuss some of the recommendations of the JLARC report that have to do with permitting criteria and will try to determine what we need to do at our next meeting to fine tune any additional issues.

He noted that the main Eastern Virginia Groundwater Management Advisory Committee had met on Monday, October 17th and they had a chance to hear a presentation on the JLARC report on the Effectiveness of Virginia's Water Resource Plan and Management and to review the JLARC recommendations.

3. Continued Discussions: Unpermitted Users (Mark Rubin):

Mark Rubin noted that we need to finish up our discussions on "unpermitted users" and maybe even arrive at some conclusions. He opened the discussions related to "unpermitted users" by posing the following questions: "What is the responsibility of the unpermitted users to the aquifer?" and "Do they have a responsibility to the aquifer?" It was suggested that the question might be better rephrased to ask: "Does the responsibility to the Aquifer differ from 'unpermitted users' and 'permitted users'?"

Group discussions included the following:

- Both "unpermitted" and "permitted" users have a responsibility.
- Every user has a responsibility. Bigger users have bigger responsibilities.
- There should be a proportionate responsibility. There is some responsibility to both "unpermitted" and "permitted" users. At present the volume of use of each user (unpermitted and permitted) is approximately the same.
- A lot of permitted users are required to restrict lawn irrigation and other water uses that are deemed not essential while the unpermitted users have zero such restrictions. Given that they may be accounting for ½ of the water use, by not having any such restrictions that will have a much greater impact on the resource than some of the permitted users.

Mark noted that then the answer to the question is generally yes that both the unpermitted and the permitted users had a proportionate responsibility to the aquifer. We had talked about the notion at our last meeting that for the permitted users that we are looking at their use and impact on an individual basis whereas with the unpermitted users we are looking at them from the perspective of cumulative impacts. The question then is what do we do with this concept in terms of is the regulation of the unpermitted users a good idea - Given that there is some proportionate responsibility?

Continued discussions included the following:

- From the permitting side of things it looks like we are kind of capping the growth of withdrawals from the aquifer, if not reducing it. Is there also agreement that if the unpermitted sector is as big or bigger that we are imposing a cap? What we are hearing is that the unpermitted sector is continuing to grow, a million gallons a year, every year. Are we explicitly

saying that there is a cap now on unpermitted withdrawals and now we have to figure out a way to implement that? Before we get hung up in the “how do we do it” discussions, is this way we are talking about doing – putting a cap on unpermitted growth because we are reducing permitted growth?

- It was suggested that it is not necessarily “capping” unpermitted use but could be simply the placing of some use restrictions, similar to those imposed on permitted users, on the unpermitted users. The question of this approach would be how would you enforce such restrictions? Enforcement of these kinds of restrictions can be difficult.
- If we were treating folks proportionately and one of the approaches we are taking is to put a cap on permitted users, then should there be that sort of cumulative type of cap on the unpermitted users? If we are going to call this “proportionate” then we are explicitly saying “yes”.
- It was suggested that this had not been considered as a cap and that might not be a practical thing to do. It appears that we would be saying that there would be no growth/no development in the Groundwater Management area unless you have access to surface water. That seems impossible and really not being in the best interest of people living in that area. This should be framed more from the perspective of how do you provide water to the Groundwater Management area through the use of a mixture of surface water and groundwater.
- We are essentially putting a cap on the permitted users by changing their permit limits and saying that if you want or need more water than you need to turn to some other source than groundwater.
- Is the notion just for the purposes of a broad regulation or policy regulation addressing how much unpermitted users can remove from the aquifer? Do you do it with permit criteria?
- The real difficulty here is that we are talking about “permitted” and “unpermitted” and some legislative body at some point in time decided through a legislative action as to which users required a permit and which ones are not required to obtain a permit. We have discussed this many times, but if you want to go down the track of identifying who the unpermitted users might be they are the folks, at least from the perspective of agriculture, that own the property and have some expectation that they have a full bundle of rights and that includes a right to water on that particular property. Whether that is a fact, legislatively or not, that is certainly the perception of a lot of people. You could also probably go as far as to say that the homeowners who are going to build a house and they buy their lot and put their house in and they punch their hole in the ground for a well that they have a certain expectation that that water is theirs. If we go down this track we are going to tip all of our water perceptions, whether it is surface water or groundwater on its head. A perception of water use (water doctrine) in Virginia was noted as being that as a permitted user that you have a certain right to a certain amount of water and that certain amount is such that your use is not affecting other people and their use of the resource. These large permitted users are such that they are viewed as having the potential to impact a lot of other users very quickly. What we are talking about going down this track is turning our water doctrine on its head.

- What we are dealing with is an expectation that a landowner (unpermitted user) has a right to a volume of water such that you are not affecting another user. Individually that is probably true, which is why they are unpermitted, but now when you look at it from a cumulatively basis there is an impact on other users. It was suggested that there are a large group of current unpermitted users who would view a limitation on their water use as a taking.
- The biggest number of unpermitted users are “homeowners”. In 1980, the Health Department used 400 gallons per day per house as the average water use for a single family home. That number is now down to 325 gallons per day. We probably don’t want to regulate using that 325 gallons per day number or even 400 gallons – you just don’t want to touch it. The Homebuilders have the position that everyone has the right to build a house and own a piece of land. Now whether you have to right to use 2,000 gallons of water per day to irrigate your front lawn is another matter. The Homebuilders are willing to say that you have a right to water but maybe not that volume of water. You can probably come up with some way to regulate or restrict the use of groundwater for lawn irrigation purposes. You probably don’t want to regulate or try to permit individual homeowners.
- This discussion started off with the question of whether it was a good idea to regulate unpermitted users. There was also the notion of whether the unpermitted users had a responsibility to the aquifer. The group agreed that there was a proportionate responsibility, but that is difficult to figure out something that is proportionate when on an individual basis there is a perception of the right to the use and access to water without impacting another user while on a cumulative basis there is an impact.
- It was noted that you cannot “fill a bathtub with a hole in it” and you have this large body of users that are consuming a lot of the groundwater to unsustainable levels, so clearly there is an issue that needs to be addressed – politically it is a nightmare. Dealing with this issue is both politically and technically challenging. Yes, there is a small volume that is being used for domestic use (which is protected in Code) but then there is the volume of water that is being used for lawn irrigation – how do you regulate that? How do you functionally address the issue of groundwater depletion without figuring out what you do with that large body of water users (unpermitted users)?
- Regarding the cumulative effect of permitted users – a 1/2 MGD permitted user in the City of Chesapeake has almost no effect on the overall regional groundwater resource. They almost fall into the same category as the unpermitted users. It is only the cumulative effect of this level of permitted users that are creating this issue.
- Lawn irrigation is a problem if it is in the confined aquifer.

Mark rephrased the question in this way: We have a cumulative impact from unpermitted users that is growing that will affect the aquifer. So forget regulation versus non-regulation, so if we agree that there is a problem, how do you solve the problem? Regulation is one option, but are there any “out of the box” options for addressing the problem? What kind of options might there be to solve the problem of the cumulative impact of unpermitted users?

The Groups suggestions and discussions included the following:

- You could limit the aquifers that are available. You could limit the aquifers that are options. For example, you could keep lawn irrigation wells out of the Potomac Aquifer.
- You could limit the viable uses of an aquifer – limit by aquifer what the allowable uses can be.
- How was the total use for unpermitted users calculated in the first place? Staff noted that up through 2000, that there is census data that identifies whether or not you have an individual private well, so that formed the basis for the 2005 Mid-Period estimate of the census data for what is included in the model for the unpermitted users – since then staff has taken a look at the information that VDH presented at the last Workgroup meeting related to how many new wells were being installed annually and for what purpose and then they have taken the USGS estimated water use, that they do every 5 years, and applied those average values to those use types, identified by the well data that VDH collected – that is how the estimates for use for unpermitted users was calculated.
- Is there some notion of contributions from unpermitted users in the form of money that would then be used to pay for replenishment in other ways? Is this a potential option?
- From a funding perspective, surface water users have always paid – there should be no issue that groundwater users should also pay something – for example, a groundwater user, say a home, uses 325 gallons per day, if they pay \$50 per year that is essentially \$1.00 per week. It should be proportionate so if a groundwater user is using 3,250 gallons per day then they would pay 10 times that or \$500 per year. This is a political football so it better be kept simple. This would be a simple solution. People might complain about a \$1.00 a week for water, but everyone that is on surface water pays for their water use. Eventually, you can move more people to surface water, but then you might be better off moving the larger users to surface water rather than trying to move these smaller users from groundwater to surface water.
- There are a lot of folks in the rural areas that have no access to public water and have no other options except for groundwater use. Most of the Groundwater Management Area is rural. These people have a reasonable expectation to build a house on their land and drill a well to have access to water – they have a reasonable expectation of being able to build their houses on their land that they are paying taxes on and have access to potable water. Trying to tell someone that they have to pay for use of water that is on their own land and that is available through a well on their property is going to be a hard sell – that is why it is a political football.
- Legally if someone owns the land and they punch a hole to access water – they pay \$10 grand and go down 1,200 feet – is 1,200 feet down still my land? Is that aquifer state water or their water. The expectation is that it is their water. Is the legal answer that they have the right to that water? Or do they have the right to drill the well but don't have a right to the water? Staff responded that what they have been advised is that the aquifer is considered state waters and that people have a right to punch that hole but they don't have a right to a specific volume of water from that well and that volume can be regulated by the state. So in essence it is no different than surface water where you have a right to go to apply for a permit to access that surface water and that the state will permit the use of a specific volume.

- For options, maybe it is a combination of regulations and fees, but can we incentivize alternative sources, for instance, somehow support farmers who want to build a stormwater collection pond and irrigate out of that instead of out of a well? Could we incentivize a homeowner who uses a rain barrel to irrigate with rather than using a well? You are going to be more effective with the larger users, for instance a developer who says that they are just going to drill a well and do their own little water system – somehow incentivize, either positive or negative incentives to determine an alternate source or help them pay for that longer pipe that they need to hook to a public system. Maybe some of that it with a “stick” and some is with a “carrot”.
- It was suggested that we had jumped quickly to the solution set, maybe there would be some benefit and utility to thinking through and recording some things that are being discussed around the room. Maybe some guiding principles are needed. Things like: “rural users without access to surface water have a reasonable expectation of the use of water under their land”; “groundwater is a state resource”; “domestic use is a right protected in Code”; “it is really hard to enforce regulations on irrigation”; “surface water users pay and perhaps unpermitted groundwater users ought to pay as well”.
- There is also an expectation that there will be groundwater available in the rural areas for people to use when they want to build. We need an acknowledgement that if the state does not manage the resource that the groundwater might not be there. Until people realize that the resource might not be there they don’t want it regulated and they don’t want to pay. How do you inform people of the risk of the resource being depleted?
- There is no question that there are conflicts between uses that need to be addressed. There is no question that there is a reasonable expectation that a landowner can access and use the water under their land.
- Maybe there are really not conflicts related to access to the state resource and arriving at some reasonable determination that by consuming that resource that maybe there is a fee that goes into the pot that helps us all manage it better – as long as you are not denied the access and you can come up with a reasonable nonprohibitive formula to pay, whatever that is.

Mark noted that we have talked about a number of options so far today that have included: “limiting by aquifer the allowable use”; “some notion of regulation, particularly in terms of the amount that you can withdraw – it seems that you have a right to put a well on your property the only question is how much can you take out”; “there is the possibility of a fee – so you wouldn’t necessarily do a limit”; or “you could use all of these together”; “you could have a fee that was a contribution back to the replenishment of the aquifer”; and “incentivize alternative sources of water – both positive and negative incentives”. Are there other options that should be put on the table?

Continued Discussions Included the Following:

- Is there a need to segregate “unpermitted users” into “larger users” or “agricultural users” or “some other category” so that there is a much better sense of the actual types of uses that fall into this category? It is going to be very hard to go house to house to regulate use of the

resource in any form or fashion. Would it help to identify the “bigger unpermitted users” and the “smaller unpermitted users”? Do we need to try to develop a little better database moving forward, so that we aren’t attempting to handle this on an individual, house by house basis?

- It was noted that the last time this workgroup met that there was a lot of discussion on new project whether or not people were hooking up to the public system if access was available. It appears from the available information that people are connecting to the public system if the infrastructure is in place and if access is available. We need to look at the expansion of the existing availability of access to a public system - access to alternative sources. We need to look at incentivizing and constructing alternative sources – expanding the public system. Maybe we also need to look at incentives for private systems and the development of alternative sources.
- How do we address high water use systems, like communities that prohibit open-loop geothermal heat pump systems? – Systems that are prone to high water use – do we need to consider some regulatory restriction to either promote conservation or limit high water use activities.
- The potential difficulty of permitting a high-water use – a water dependent facility/operation was discussed. Staff noted that it is getting more and more challenging and it is harder and harder to find ways to “skin the cat” so that people can get what they need.

4. Unpacking the Options/Issues: (Mark Rubin/Craig Nicol)

The workgroup discussed unpacking the options. Following a brief Craig Nicol captured the components of that unpacking exercise (presented below) for consideration and review by the group as a homework assignment for discussion at the next meeting of the workgroup.

Unpermitted Users Discussion

What is the responsibility of the unpermitted user to the aquifer? Do they have a responsibility to the aquifer?

- YES – a proportionate responsibility

Does the responsibility to the aquifer differ from permitted and unpermitted users?

Guiding principles

- Rural Areas lack access to water and have reasonable expectation to water under their land
- There seems to be expectation that GW is available for use (until its gone)
- Have the right to drill a well but not a right to unlimited use
- Reasonable expectations to water on their land
- Domestic use is protected in code
- Hard to enforce irrigation rules
- GW is a state resource
- SW users pay
- Water is a State Resource
- Resources may not be there in the future if over used

How do you solve the problem... is the answer?

1. Promote Water Conservation

- Low Flow
 - § Find ways to promote use of low flow and leaks for unpermitted users

2. Incentivize Alternative Sources

- Water Quality Improvement Fund
- Small scale storage (from rain barrels up)
 - § Use storm water BMPS for irrigation/Ag etc.
- Funding for replenishment projects
- Constructing /Expanding the public/private systems or alternative water supplies
 - § Find monies to help incentivize
 - § Encourage to have people to connect
 - Reduce connection fees
 - Pay off over time
 - Abate fee for requirement to abandon old well/system
 - § Volunteer reporting of water use with meters then get a different rate
 - § Develop grey water systems
 - § Move from groundwater to surface water
 - § How do you send development to open lots in the service areas without promoting increase in private well development
 - This is not only about utility planning

3. Restrictions

- Limit the allowable use type per aquifers
 - § Political will (not every well have to be regulated)
 - § Regulations set well drillers as the way to implement the limits (function as self-regulating – enforcement)
 - § Only prospective wells
 - § Keep it simple
 - § Will have to navigate it ... not create excessive regulations for every caveat
 - § Could be by Zones/Regions
- Limit high water use activities (ex: open loop geothermal systems)
- Promote conservation or limit high users
- Make bigger water users move to surface water
 - § Due to lack of access to surface water supplies for rural areas
 - § Segmenting Users (Split or break up unpermitted users into withdrawal by scale of withdrawal)
 - Quantity / impact
 - § Use Type (Ex: Developers / cumulative withdrawals from one owner)

4. Regulation

- DEQ / VDH relationship for issuing well permits

- § Close loop hole where people put in irrigation wells to circumvent DEQ limit and VDH still issues them a permit
 - § If have access to public water would not be able to get permit for private well (except for Agriculture)
 - Make water use reporting mandatory/enforceable
 - Use local ordinance
 - How to make surface water permitting easier and faster
 - § Streamline and simplify
 - Permitting ombudsman
 - Promote the bigger picture vs the individual interests (that are competing)
 - It is a goal of the state
 - Cooperation and coordination between agencies
 - § Once get the permit where do you get the money
 - Is 300,000 the right value
 - § If lower value and increase permitting and have resource concerns
 - Promote Conservation or limit highest users further
 - Subdivisions
 - § Density / etc.
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5. BREAK 10:30 – 10:40

6. Continued Discussions (Mark Rubin/Workgroup):

The group continued the “unpacking” of the list of options which included the following:

5. Fee

- Is there a location/regional model needed to not penalize those that do not have alternative sources
- For Agriculture is a non-starter
 - § Does beneficial use definition of non-production agriculture need to be re-defined
- Surface water user’s pays why do groundwater users not have to pay?
- Should unpermitted pay by rule?
 - § Annual Fee for small users and monthly for small users unless you get an exception such as using a shallow aquifer.
 - § Look at storm water as an example for fee reduction incentives

6. Cap

- Is there a Cap on unpermitted just as there is a hypothetical one on the permitted user or a Cap on the system?
 - § That basically says maybe no growth in the GWMA unless you have access to surface water.
 - § Biggest private well take is home owners/builders (regulate use not individual homeowners)
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Continued Discussions included the following:

- For surface water permits – could we take steps to make the permitting process for surface water less expensive and less time consuming? How can we create incentives for people to turn to a surface water permits as opposed to drilling wells for their water supply? It is probably not a problem politically or financially it is the time to get a permit that is frustrating. Because of all of the different agencies involved there are multiple times that the same questions are being asked and the same information that has already been submitted to one agency is being requested by another agency. Could we simplify and streamline the surface water permitting process? Staff noted that technically, you have four separate permits that you have to get for a surface water project, only one of those is issued by DEQ. You also have permits from the CORPS of Engineers; VMRC; and VDH (if it is a public water supply). They all have different interests and sometimes what they are attempting to protect are competing. The flip side of this is that once you get the permit, where do you get the money to build the project, because you are not expanding a system to provide more service, you are basically expanding the system to give most of the existing service that you already have – so there are essentially no new rate payers – you are not getting a whole lot of new customers to help pay for the project – you might get them 10 years down the road – but the bond payments are due next year. If there are more incentives from the state like money from the Water Quality Improvement Fund. It is easier to sell a project of you know you can get some of the funding to pay for it.
- When we say streamline the process what do we mean? We all say that it would be a good idea to streamline a process but what does that mean? Does it mean that we need to eliminate redundant permits or providing redundant information in multiple permits? It was suggested that we need to have good problem formulation if we are going to solve a problem. So what is the problem that we are trying to solve? All of the different agencies have different and sometimes competing interests in their permitting programs.
- It was suggested that there needs to be better coordination between all of the agencies involved. Do VDH and DEQ coordinate and cooperate? Could that process be improved so that there could be a single comprehensive permitting system? The two agencies have different charters and different responsibilities and authorities. There needs to be better cooperation and coordination among those agencies that deal with water supply issues and concerns. Can the process be streamlined to make it more efficient for the applicant to encourage the use of surface water as opposed to groundwater? Staff noted that DEQ currently functions as an Ombudsman in this process where possible. There needs to be accountability. It was suggested that there should be an effort to identify to all of the state agencies that the overall goal of the state is to save the groundwater resource and we need to make sure that we facilitate these surface water projects without having to look at every hurdle that you have to jump over as a monumental task. It was noted that some of these agencies are in the same Secretariat.
- It was noted that we still do not have the robust state water supply plan that sets goals and says that we will do this and you can't have everything that you want but here are the tradeoffs. It might be possible to impose expected timeframes in the process.

- In a streamlined process, when you all have the same goal, which is to try to get off of groundwater (that's the state's goal) and to encourage the use of more surface water withdrawals – if that is the goal – then all of the different agencies involved should have that as their primary focus and when they look at these “little” permitting hurdles, a lot of the decisions are “okay, now that you have gone through all of these hoops, yes, I understand it.” You have to jump through the hoops.
- Having an official ombudsman would be helpful to the process and would be part of streamlining the process. An example of this type of process from North Carolina was discussed.

7. JLARC Report Recommendations (Mark Rubin):

Mark Rubin presented the recommendations from the JLARC report related to “alternative permitting criteria”. These included:

RECOMMENDATION 13:

The General Assembly may wish to consider amending the Groundwater Management Act (§§ 62.1-254 through 62.1-270 of the Code of Virginia) to require that the State Water Control Board reduce permitted withdrawal amounts for non-human consumptive use as necessary to provide permit capacity to meet human consumptive needs (Chapter 5, page 41).

Discussions by the Workgroup included the following:

- This is out of their (JLARC's) sense that the law requires that “human consumptive use” have priority, but that the permitting process does not prioritize human consumption when it does permits.
- Staff noted that they were not really sure what the recommendation means in terms of operationalizing it. It is good that they are trying to address the language that is in the Code but there is not a lot of detail included about how DEQ should do it.
- A question was raised as to whether this meant that permits would be reopened and reissued or would this apply only to new permits. It was suggested that this likely would result in the reopening and reissuance of permits. It was noted that “human consumptive use” is only a subset of just about everyone's use, including public water supply. Lawn irrigation is not “human consumptive use”. How do you start parsing out generically the water that is used for a larger system the water used for human consumptive use? Not sure how many of the current systems are 100% human consumptive use but it probably a small number. In fact it is likely that there aren't any systems that are 100% human consumptive use. Not sure how you would implement this recommendation.
- The report recommends that the reductions of the permitted withdrawal amounts for existing industrial users be phased in over time to allow those users to find and establish alternative sources and put conservation measures in place.

- It was suggested that the premise that there is a conflict between industrial use and human consumptive use should be rejected. It is not beneficial to try to pit anybody against their jobs. This was discussed at the Advisory Committee meeting. If you restrict/limit the human consumptive use then they don't have jobs and they have to go somewhere else. Need to look at this issue from a "big picture" perspective.
- It was suggested that this is a nice broad statement that doesn't address the issue.

RECOMMENDATION 14:

The General Assembly may wish to consider amending the Groundwater Management Act (§§ 62.1-254 through 62.1-270 of the Code of Virginia) to establish a limit on the proportion of overall permitted withdrawal capacity to be granted to an individual permit holder in the coastal aquifer (Chapter 5, page 43).

Discussions by the Workgroup included the following:

- This would establish a limit beyond which nobody could ever get a permit for.
- It was suggested that from a technical standpoint, the issue is that it is looking at the resource as a "bathtub" again and it is not a bathtub. As you move closer to the Fall-Line the amount you can withdraw without an impact is less – as you move away from the Fall-Line the amount you can withdraw without an impact is greater. It is an issue of the location of the withdrawal within the Groundwater Management Area that needs to be taken into consideration. The wording of this recommendation does not in any form take into consideration location of the withdrawal within the management area.
- This concept is already addressed in the current regulations and permitting process.
- The overarching question in terms of having water available is going to be "who pays for it"? It might not be a question of supply but more of a question of "Who is going to have to pay for what to have that supply of water available?"
- It was suggested that this is probably oversimplified and is also in conflict with the last recommendation/option (Option 2) in the JLARC report:

RECOMMENDATION 15:

The Virginia Department of Environmental Quality should develop a plan to reduce the amount of withdrawal capacity granted by each permit issued to more closely reflect the actual amount needed. The plan should be presented to the State Water Control Board and State Water Commission by December 1, 2017 (Chapter 5, page 44).

Discussions by the Workgroup included the following:

- The JLARC report contains the following statement: *Between 2010 and 2015, DEQ permitted the use of about 170 MGD of groundwater in eastern Virginia each year. For most of this time, only 30 to 40 percent of this total permitted amount was actually used. After DEQ's efforts to reduce maximum permitted amounts are completed, there could be about 112 MGD of total permitted use, of which about 40 percent will be initially withdrawn.*

OPTION 2:

The General Assembly could amend the Code of Virginia to establish statutory authority for a priority system to award groundwater withdrawal permits to industrial users likely to have the greatest economic benefit (Chapter 5, page 45).

- How do you establish the “greatest economic benefit”?
- Determining the relative economic benefit (a snapshot in time) of one particular project that 3 years from now may have a completely different economic benefit picture is insanity.
- Also, how do you measure “one user”? Is one user the James City Service Authority which has 22 thousand customers – is that the same as one corporation? The way that Recommendation 14 is worded they would be the same – an individual permit holder.

8. Summary Notes – JLARC Report Recommendations:

JLARC

Recommendation 13

- Human Consumption Use as a priority
 - Most systems are not 100% human consumption
 - § Better planning of alternative sources
 - Phase this in over time (to allow industrial users to get off of groundwater)
 - § Then you pit people against their jobs if you remove industrial use
- The language is in Code but not on how DEQ should operationalize/implement it

Recommendation 14

- Put a % Cap on each permit holder on the system
 - Redistributes the impacts (spread the wealth/impact)
 - Overly simplistic idea or way to ration water
 - Contradicts the last recommendation from JLARC related to Economic Development
 - How do you measure one user
 - § Owner, Permit, County, Region?

Recommendation 15

- Plan to reduce withdrawal capacity more to current use
 - Similar to DEQ taking back what people have not used (60%) criteria

Option 2

- Priority system to Industrial users with great economic benefit.
 - How do you model that?
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9. Next Steps/Next Meeting:

Mark summarized the next steps in the process regarding what else we want to do as a workgroup in our next meeting. He noted the following:

- We want to try to get some closure on the unpermitted user issue.
- The homework assignment regarding “options” will be distributed to the group with a request to submit the work back in time to be compiled for discussion at the next meeting of the workgroup. (This information should be sent back to Bill Norris for compilation.)
- Need to finish consideration of the JLARC Report recommendations.
- Need to look at permitted users also – they are the other have of the withdrawals.
- Need to look at the integration of the planning process and the permitting process.
- One of the things that we had mentioned in past meeting notes was the concept of “use it or lose it” portion of the permitted withdrawal amount. This refers to a cushion in the permit where you are permitted for more than you are actually using.

The next meeting of the workgroup is scheduled for Friday, November 18th – 9:00 – 12:00 at the DEQ Piedmont Regional Office Training Room.

10. Public Comment: No public comment was offered.

11. Meeting Adjournment:

Mark Rubin thanked everyone for their attendance and participation in today's meeting.

The meeting was adjourned at approximately 11:55 A.M.