

**Water Supply Plan Advisory Committee**  
**Thursday June 28, 2012 at Draper Aden Associates**

**Members:** Rob McClintock, Judy Dunscomb, Art Petrini, Mike Lang (for Larry Dame, Andrea Wortzel (for Tom Roberts), Beate Wright, Traci Goldberg (for Chuck Murray), Rick Linker, Bob White, Scott Smith, Susan Douglas, John Carlock, John Staelin, Bill Cox,

**Guests:** Chris Whyte, Vernon Lang, Gina Shaw, Cabell Vest; Aaron Keno, Speaker Pollard, Barry Matthews

**DEQ staff:** Scott Kudlas, Tammy Stephenson, Brenda Winn, Heather Mackey, Sara Jordan, Mary Ann Massie, and Robert Burgholzer.

Ms. Stephenson welcomed everyone to the meeting and thanked Mr. Lawless, Draper Aden Associates, for hosting the meeting and for providing lunch. Introductions were offered.

**Report from Subcommittee #7**

Ms. Goldberg, Fairfax Water Authority, reported out for Subcommittee #7 on the issue of methodologies utilized by localities to determine adequacy and reliability of supply. Concerns were initially raised by Fairfax Water Authority staff as they reviewed the methodologies selected by contributors to the Northern Virginia Regional Water Supply Plan. Methods used to determine the resource's ability to support predicted demand were inconsistent and, based on interpretation by Fairfax Water staff, may not accurately predict supply deficits. The Subcommittee recommended DEQ provide guidance to localities and their agents on water supply reliability evaluation for incorporation during the second iteration of plan submissions.

Discussion followed. Mr. Kudlas noted that he had no issues with the overall goal of the Subcommittee but cautioned that authority for determination of water availability rests entirely with the State. The TAC responsible for drafting the water supply regulation had no reasonable expectation that localities should be making that determination in the first iteration of plan submittals. Ms. Wright asked about § 9 VAC 25-780-130 A which states, in part, that a 'plan shall determine the adequacy of existing water sources to meet current and projected demand by preparing a clear statement of need...' Mr. Kudlas acknowledged their charge and the benefit of understanding the localities' expectation of water source reliability, but replied that DEQ's responsibility would be to educate them on the reliability of the source in light of all beneficial uses. Several Subcommittee members reiterated their interest in having DEQ provide guidance for future iterations of plan submission. Mr. Kudlas agreed that feedback was useful and the timing of that feedback was important. .

Mr. Linker asked about the model used to predict supply adequacy and its availability to local governments in the future. Mr. Kudlas responded that modeling was complex, especially the modeling of ground water issues, and his hope is that the State's modeling would be widely available to localities which should significantly enhance local efforts as they move forward. DEQ is working on the development of model interfaces which should allow this to happen. Ms. Dunscomb encouraged making the model accessible for use by localities. Ms. Goldberg acknowledged efforts in this first iteration of plans but hopes the next iteration will move from facility planning to resource planning.

Ms. Stephenson then asked about finalizing the Subcommittee's recommendation. Ms. Wright suggested striking the bullets and making a minor edit to the second paragraph, basically paring the document down to the Statute citation and the Subcommittee recommendation for DEQ

guidance on the matter. Ms. Douglas indicated the bullets were meaningful to VDH and should be captured for consideration in the future. Ms. Goldberg felt the bullets did not belong in the Subcommittee's recommendation but could be part of this meeting summary for use later by VDH. The bullets are provided below, copied directly from the document entitled "Sub 7 Report Draft 06282012":

*"Based on a review of several local water supply plans, it appears that water supply reliability is being evaluated in ways that may not readily identify a supply deficit. Of concern:*

- *In some cases, water supply is assessed based solely on intake capacity, pumping capacity or VDH rated treatment plant capacity. While these metrics identify infrastructure limitations, they do not provide a clear indication of whether the source of supply is reliable or will continue to be reliable in the future.*
- *The metric of assessing water supply reliability, typically the drought of record, is not consistent among plans.*
- *In many cases, monthly or average annual withdrawals are evaluated without considering that daily demands may exceed the minimum flow of a particular water source. This is a particular problem in basins where there are possible conflicts or significant planned downstream beneficial uses."*

Mr. Linker reported out for Subcommittee #7 on the issue of tools to enhance the effectiveness of water supply planning and water resources planning. He noted most of the information has been presented by other subcommittees, specifically items numbered 1 through 3 which came out of Subcommittee #4. There were some minor edits to the previous work that were embraced by Subcommittee #7. Discussion followed with Dr. Cox noting the full Committee would deal with any inconsistencies or conflicts between subcommittees. Discussion followed and included an interest by Mr. Staelin that a reference to the relationship between surface and ground water resources be included. Mr. Linker will amend the recommendations to include a reference to ground water recharge and surface water base flow.

#### **Draft WSPAC Final Report**

Ms. Wortzel led a discussion on the draft "Report of the State Water Supply Plan Advisory Committee to Virginia Department of Environmental Quality." Members had no comment on the draft **Pages 1 through 5** addressing **background, mission statement, membership, subcommittee list, and a list of meetings.**

#### **Page 6 of the Draft report reads:**

##### **Assumptions:**

*In making its recommendations, the Committee made the following assumptions:*

- *The primary purpose of the Committee is to provide advice on the 8 issues listed in Va. Code § 62.1-44.38:2(B).*
- *The focus of the Committee is on how these issues will impact the state water supply planning process in Virginia. The state water supply plan is one component of the state water resources plan.*
- *The evaluation of those issues must be done in the context of the existing regulatory framework.*

- *Future work of the Committee, if its term is extended, could include evaluation of changes to the existing regulatory framework to resolve existing regulatory conflicts and other issues identified through initial and subsequent drafts of the state water supply plan.*

Discussion of the assumptions itemized above included comments from Mr. Kudlas on the requirements for both localities and the State to facilitate a continuous water supply planning process, according to §62.1-44,38:1 (Chapter 227, the water supply planning statute, enacted in 2003). Mr. Kudlas, in an attempt to manage expectations, noted a lack of support on the part of the Administration for a formal extension of the Committee's work past the December 2012 sunset as reflected in the Governor's amendment (fourth bulleted item above). He acknowledged that the group may decide to continue to meet in an ad hoc capacity and that he was supportive of continued dialogue with the group.

**Page 7 of the Draft report reads:**

**Recommendations for review of local and regional water supply plans:**

- *For the first local and regional water supply plan submittals, DEQ's review should consist of a determination of whether the local/regional plan is consistent with the water supply planning regulation. If it is not consistent with the regulatory requirements, DEQ should send the locality or region a letter identifying the components that are missing or incomplete and asking for a revision.*
- *DEQ should use the local/regional plans to conduct a cumulative impact analysis by watershed and identify potential issues raised by the local/regional plan such as flaws in the alternatives analysis, potential conflict, public concern, etc. Even though the local/regional plan may be consistent with the regulation, DEQ will outline these issues and request that the locality or region work to resolve them before the next plan submittal cycle.*
- *The local/regional plans, along with DEQ's proposed findings, should be subject to public notice and comment. Following the public notice and comment, DEQ will issue the consistency determination letter. The public comments received on the plans should be used by DEQ as part of the identification of potential issues or flaws in the plan that should be addressed before the next plan submittal cycle. The local/regional plans should not be presented to the State Water Control Board for approval.*

Discussions on the first and third bulleted items above focused on the consistency review and included questions on the scope of the public comment period. Mr. Kudlas indicated that public comment would generally be limited to the consistency determination. However, in instances where individuals did not feel their comments had been addressed during the local public comment process, DEQ staff would need to review and respond to questions on plan content. Ms. Dunscomb commented on the time and resources needed for DEQ review of public comments and development of the State Water Resources Plan, as well as the time needed for localities to respond to noted conflicts. Mr. Pollard asked how often a State Water Resources Plan would be updated to reflect new information; Mr. Kudlas responded that the operating presumption is every five years.

Discussion of the second bullet, concerning the “*use of the local and regional plans to conduct a cumulative impact analysis by watershed,*” resulted in an agreement that the reference to cumulative impacts was inappropriate in this context and should be deleted. Instead, potential conflicts will be identified by DEQ and localities will include an update on their efforts to resolve conflicts in their next plan iteration.

**Page 7-8 of the Draft report reads:**  
**Recommendations for Minimizing Potential Conflicts**

- *After all local/regional water supply plans are submitted and evaluated, the alternative sources presented will be modeled within river basins to determine the extent of hydrologic conflicts between localities, regions, existing users and other instream and offstream beneficial uses, and whether an optimum combination of alternatives can meet the basin need with the available supply. DEQ will issue a letter to the locality(ies) with identified conflicts and explain the identified conflict, recommend the involved parties work out the conflict before their next update of the local/regional water supply plan, explain the recommended conflict resolution process (informal), and identify who at DEQ can be contacted for assistance. DEQ will request that the locality(ies) address the conflict and report on the outcome in the next iteration of their local/regional water supply plan. Specifically, locality(ies) should identify the parties to the conflict and detail the final resolution or, if a resolution is not achieved, an explanation of attempts to resolve the conflict. These analyses will be included in the State Water Resources Plan, which will identify conflicts and efforts to resolve the conflicts.*
- *Informal party-to-party resolution – When conflicts are identified, attempts should be made to address the conflict at the local level, with informal facilitation with DEQ staff, localities, and water users.*
- *DEQ does not currently have any authority to resolve conflicts beyond identifying them and facilitating discussion between localities and regions. Under the current regulatory framework, conflict is resolved through the issuance of Virginia Water Protection permits and/or litigation.*
- *Formal conflict mechanism (cooperative body/commission) – For certain identified conflicts, the plan could recommend creation of a legislative or voluntary body (such as a river commission) to resolve the issue.*
- *Very formal/regulatory (Surface Water Management Area, regulatory action) – For certain identified conflicts, the water supply plan could be used as the basis for declaring a surface water management area or taking other regulatory action.*

Discussion of the first bulleted item above included an agreement that this bullet more appropriately addresses cumulative impacts. Ms. Wortzel will make some edits to the general language of this bullet based on discussions about response to noted conflict.

The second bullet above was supported by some members as being supportive of the process. Other members felt this informal relationship currently exists and does not need to be included. Ms. Wortzel asked if Subcommittee #2 should revisit this list and come back with improved language. It was agreed another meeting will take place to complete review of this

recommendation. Dr. Cox noted some of these were not specifically recommendations, but more commentary.

**Page 8 of the Draft report reads:**

**Recommendations for Incorporating State/Local Plans into State Plan:**

- *The State Plan should not be a compilation of the local/regional plans. Instead, the data in the local/regional plans should be used to assess state water resources and current and future water demands, identify current and potential water problems and conflicts, evaluate possible management strategies for addressing problems and conflicts, and identify state water management policies and programs for maximizing the benefits of water to the Commonwealth. The plan should include an overview of state management programs available to facilitate water's beneficial use. The Committee's recommended structure and contents of the state plan can be found at Appendix 4.*

Dr. Cox felt this was more commentary and should be reworded in a more positive manner. Ms. Wortzel agreed to amend language, separating commentary from recommendations.

**Page 9 of the Draft report reads:**

**2. Methodology for calculating demand**

**Recommendation:**

- *All of the methodologies employed in the initial local and regional water supply plan submittals were reasonable and should be found to be consistent with the requirements of the planning regulation.*
- *Further analysis will be needed as the planning process moves forward to determine whether a given methodology is accurate and enables comparison across multiple plans.*
- *DEQ should develop guidance on acceptable demand methodologies that preserves flexibility and allows professional judgment in the choice of method to best characterize and address local circumstances, but ensures that comparable methods are used.*

The three bullets above were discussed collectively and it was agreed Ms. Wortzel will amend language (particularly the use of the terms "accurate" and "acceptable") to be more positive and reflect flexibility in method selection that best fits the locality.

**Page 10 of the Draft report reads:**

**3. Funding necessary to ensure the availability of the needed technical data for development and implementation of a statewide planning process (Pg. 10):**

Discussion of this item was tabled until after Mr. Kudlas' presentation on funding challenges.

**Page 11 of the Draft report reads:**

**4. Effectiveness of planning process in encouraging aggregation of users into common planning areas.**

*The vast majority of localities participated in the development of a regional plan. Many of the regions are large and cover the entire territory within a given river basin. There are several, however, where greater regional cooperation would make sense in order to develop a*

*truly sustainable water supply plan. Many of the planning areas and divisions were based on political considerations rather than a watershed basis.*

*Allowing the additional time for localities working in a region to submit the plan was an effective way to encourage regional planning. Additional incentives are needed to ensure continued cooperation among regions and also to encourage greater regional planning efforts. A concern is that the planning process could result in a rash of water withdrawal permit applications to protect localized interests rather than a more strategic determination of how to optimize Virginia's water resources through regional and watershed based planning.*

**Recommendations:**

- *Based on the cumulative impact analysis of local/regional plans, DEQ should identify potential issues raised by the local/regional plan such as flaws in the alternatives analysis, potential conflict, public concern, etc. Part of the recommendations DEQ makes to address such issues should include recommendations for which localities/regions should be working together.*
- *Regional planning should be encouraged. This Committee supports the use of regional planning bodies, such as the Interstate Commission on the Potomac River Basin. The formation of other similar bodies or studies (such as in the James River basin) would aid in the development of the state water supply plan.*

There was considerable discussion on the 'rash of water withdrawal permit application' language in the second paragraph above. The second bulleted item, referencing regional planning and Interstate Commissions, was accepted only as a concept, not as an endorsement. Ms. Goldberg noted the value of regional groups lies in their ability to provide technical support and resource knowledge as future plans are developed.

Due to time constraints, the Committee concluded the meeting's discussion of the draft report and will pick up on Page 11 at the next meeting.

**DEQ Staff Presentations**

Mr. Burgholzer gave a presentation on Flow Ecology Analysis and Mr. Kudlas gave a presentation on Funding Challenges. Both presentations are included as an attachment to this summary.

**Public Input and Adjournment**

At this time on the agenda, Ms. Stephenson asked for public input. There was none. She addressed next steps and it was agreed that Subcommittee #2 should have a meeting to revisit and finalize its appropriate portions of Ms. Wortzel's draft report. The full Committee will meet after this to discuss sections of the draft report not covered in this meeting.