

**EASTERN VIRGINIA GROUNDWATER MANAGEMENT
ADVISORY COMMITTEE**

WORK GROUP #2A – ALTERNATIVE MANAGEMENT STRUCTURES

MEETING NOTES – MEETING #6 - FINAL

MONDAY, JUNE 13, 2016

DEQ PIEDMONT REGIONAL OFFICE – TRAINING ROOM

Meeting Attendees

EVGMAC – WORKGROUP #2A	
Elizabeth Andrews – William and Mary	Wilmer Stoneman – VA Farm Bureau
Rhea Hale – WestRock	Eric Tucker – City of Norfolk
Dan Holloway – HRSD/CH2M	Andrea Wortzel – Troutman Sanders/Mission H2O
Whitney Katchmark – Hampton Roads PDC	

EVGMAC – WORKGROUP #1 – STATE AGENCIES	
Scott Kudlas - DEQ	Sandi McNinch – VA Economic Development Partnership
Susan Douglas – VDH-ODW	

NOTE: Advisory Committee Members NOT in attendance: Brent Hutchinson – Aqua Virginia, Inc.; Britt McMillan – ARCADIS – Eastern Shore Groundwater Committee; Jamie Mitchell – Hampton Roads Sanitation District; Dwayne Roadcap – VDH – OEHS; Nikki Rovner – TNC; Rebecca Rubin – Marstel-Day; Kurt Stephenson – Virginia Tech

INTERESTED PARTIES ATTENDING MEETING	
Ken Bannister – Draper Aden	Robert Crockett - Advantus
Robert Bohannon – Hunton & Williams	Jason Early - CARDNO

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

MEETING HANDOUTS:

- **Draft Agenda**
- **Draft Strawman – Alternative Management Structure – Revision 1 (Comments from Elizabeth Andrews and Susan Douglas included)**
- **Email Transmittal from Andrea Wortzel – MH2) Comments on EVGMAC Work Group Products**
- **Input for Groundwater Workgroup #2A Management Structures Presentation – Whitney Katchmark**
- **EVGMAC Workgroup #2A – Meeting Notes – Friday, April 29, 2016 – Final**

1. Welcome & Introductions - Opening Comments (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 notes that the plan for today's meeting was to discuss the Strawman for Voluntary Allocation Agreements; to have a presentation on the use of a 501 (c) (3) style organization as an alternative management structure and to decide what work product that we will present to the main advisory committee at their meeting on June 24th.

He asked for introductions of those in attendance.

2. Discussion of Strawman for Alternative Management Structures/Low Flow Agreements (Mark Rubin/Andrea Wortzel)

Mark Rubin asked Andrea Wortzel to provide an overview of strawman for Alternative Management Structure based on the "Surface Water Management Act" that she had developed and presented at the last meeting.

Andrea told the group that she had developed and presented that the last meeting of the workgroup was based on the discussions of this workgroup and that as she had noted at that time, she had not discussed the content with the Mission H2O folks at that time. Since then she has gotten some comments related to the approach proposed in the document.

Her written comments included the following:

- Our members believe that the strawman for creating voluntary allocation agreements is unnecessary and would not further the goal of resolving water shortages on a regional basis. Water sharing contracts are already in place and factored into the permits that have been issued in several areas of the Eastern Virginia Groundwater Management Area, so this is not viewed as creating a new (or better) tool.
- The subcommittee has discussed whether there is a need to change the permitting system and the general consensus among the participants appears to be that the system works pretty well, but could benefit from additional opportunities to collectively evaluate the status of the aquifer and alternative water source options, as well as coordination of multiple water programs (groundwater, surface water, stormwater) to enable more comprehensive resource management.
- Questions remain about the permitting criteria themselves (i.e., the application of the 80% drawdown criteria) and the use of the model. A greater understanding of the application of the model is needed before it is used as the basis for individual permit determinations. A stakeholder and peer review process focused specifically on the model is needed. It is our expectation that these questions will be addressed in the permitting subcommittee once that committee is formed.

In addition she noted the following:

- There is nothing precluding anyone from entering into voluntary allocation agreements now.
- There are some existing contracts between permittees to try to share the resource. Those entities don't see codifying this concept in state law as "advancing the ball". They don't see the benefit of formalizing this concept in state law. There were some concerns raised about adding in the state approval process would make things a little more bureaucratic since they can now negotiate these agreements on their own as needed.
- This approach doesn't create any new tools or incentives for doing things differently.
- The feedback was that there generally is not a need for this and it doesn't address the underlying problem.

Discussions by the workgroup included the following:

- It was noted that in discussions with a number of utility directors that under this concept that those that need water would have to make a deal and negotiate with someone who has a permit for more water than they need – why should they have to do that if the state knows that they have more water than they need?
- This concept has not been used on the surface water side and it is hard to see the upside of using this approach to address things on the groundwater side.
- The way that we got to this concept was there was a sense that the permitting process works fairly well when there is plenty of water – the issue was how do we deal with the situation where there is not plenty of water? This was one idea of how we might deal with that situation.
- If we are talking about alternative management structures – is there something else out there or do we deal with it under the existing permitting system/process?
- On the surface water side you tend to have more cyclical shortages. You have naturally occurring events such as drought, so the voluntary allocation agreement concept only applies during the time of shortage. We know that it is only for a short term. The difficulty that we have with groundwater is that we are already over allocated and it is not just going to bounce back. Whatever agreement that is reached is not going to be a temporary fix, so the whole concept of there being a voluntary allocation agreement that applies during the time of shortage really doesn't work.
- It is not so much a voluntary agreement as it is a funding issue. It is not a matter of dividing up the water but one of where we (collectively) are going to get our water from over the long term and how are we going to pay for it. Who is going to be partners in this process and what are we going to do with our withdrawals in the mean time?
- Is there a sense that the permitting structure that we have works well in times when the resource is diminished and will be diminished for quite some time? Is there a better way than what we have now?
- The problem is that we have gotten to a point where we are relying on the current permitting process to solve a much larger issue. There needs to be more cross-dialogue across the resource

(surface water, groundwater, stormwater) for a longer term planning concept. It was suggested that the permitting process might be the wrong tool for solving the larger issues of Commonwealth's water resources as a whole.

- It was noted that at this point people who have permits are looking around and saying that you are close to solving the problem. People are either accepting the permit cuts or have found an alternate source to meet their water needs – that seems like it has relieved all of the pressure off of people to make any harder decisions to address the immediate issue.
- What is the scenario that we are trying to create a structure for? It was for a structure to deal with the scenario when the resource is diminished and to accommodate growth as well.
- Groundwater is a competitive resource that is diminishing. It is the one “reservoir” that everyone is trying to stick their straw in. It really is more about water supply in total instead of just the groundwater supply.
- What started this whole process was the realization that we are over allocated with regard to our available groundwater resource. DEQ fulfilling their role as the evaluator of the resource has confirmed that it is over allocated by “X” amount and has identified “permitting” as the current tool that is available to address the over allocation issue. So they decided to look at the top 14 withdrawers and proposed significant reductions in the permitted amounts for each of these withdrawers because that is the tool/mechanism that is available. Once that decision was made a number of folks thought that maybe we need to talk about this on a more collective basis because we are talking about investments of millions of dollars to achieve the reductions that are proposed. So the thought then was maybe we need to have a forum to see if there are better options. So we have this group and the workgroups looking at this issue.
- Maybe the permitting system in and of itself isn't broken but when you reach the point where you are going to be asking for those kinds of investments and reductions there needs to be kind of a “time-out” period where there is an opportunity to explore other options. Maybe there are no other options, but maybe there are. How do you take voluntary agreements and translate them into the permitting construct that we have? One of the questions that is being struggled with is how is the permitting process and the opportunity to explore some of these other options going to marry up on a time line under the current system? Under the current framework is there an opportunity to take a pause and maybe say that for these certain permittees that they are comfortable moving forward with the proposed reductions but these other permittees need additional time (6 months/9 months/1 year) to collaborate on a specific project before agreeing to the proposed reductions?
- The concept of the use of a voluntary agreement really does not seem to address the problem/issue at hand. Right now the basic permitting process/structure seems to be working.

Scott Kudlas noted that from the state's perspective in one sense it is validating to know that the permitting program is largely doing what people hope it does. The one thing that we need to be careful about is that we don't somehow in the process lose sight of the long term issues/concerns. Because even if we are successful in achieving some of the cut backs that are being proposed the system will continue to decline over time. If we don't want to find ourselves in an ad hoc process again, then we

really need to find something that we can all agree upon to help us move forward with that kind of early warning that people are talking about. With regard to the permit timing question that has been raised, part of the challenge is that there has to be an idea of a “nugget of something” to go into that permit – that is a precondition. The agency can give people longer time to implement reductions but there has to be something that they are actually working on. There is a fair amount of flexibility in the process. With the permittees that DEQ has been working with to date that is what we have tried to do – to provide some level of flexibility. For those that have yet to identify that “nugget” – that “something” they are working on the message is that time is ticking – we are fast approaching the time where we need to find something to reduce the water usage.

- Everyone can do their part to try to meet as much of the needed reduction through water conservation and look for new small projects but there is a need for a longer term more holistic plan for addressing the issue of a diminishing resource in the future. People need to show good faith that they are doing everything they can to address the issue of a diminishing groundwater resource.
- While the voluntary agreement concept may not be something that is workable, the other thing that has been kicked around but maybe not talked about in detail is would it make sense to continue in perpetuity an Eastern Virginia Groundwater Advisory Committee or some sort of similar body that maintains an ongoing dialogue about groundwater issues? Or maybe a committee of the 14 largest permittees or some sort of discussion opportunity so that these types of discussions can continue. There needs to be a mechanism to continue these discussions.

Mark Rubin noted that if you look at the law in Virginia now as it relates to groundwater that we are sort of a “western law state” – you can stick a straw in the ground and take whatever water you want. Is that a structure that we want to continue? Do we need to change the law? Is that part of this discussion?

Scott Kudlas noted that in reality it is a “first come – first served” model. It is not really the ideal way to implement a “reasonable use” doctrine. Some people might argue that we are not a “reasonable use” state – that we are not an “American Rule” state. One of the challenges of the “first come – first served” approach is if you have the water then you don’t have to worry as much about losing as much of it as you do if you don’t have it to begin with.

- When you are in the Groundwater Management Area is it really a “first come – first served” situation? Because you are required to obtain a permit and to demonstrate your need. The doctrine we are really talking about is more of a “Common Law” doctrine that generally applies to groundwater throughout the state. With respect to the Eastern Virginia Groundwater Management Area we are no longer under that doctrine, we are governed by the Groundwater Management Act – which is a permitting program, unless you are withdrawing less than 300,000 gallons a month. You have to make a demonstration that your use is reasonable and beneficial.
- One of the missing pieces in terms of structure – as far as changing anything with the status quo is that if you develop a surface water source (as is part of the discussions of the “Alternative Sources of Supply” workgroup) what happens with your groundwater withdrawal permit/what impact does that have on your groundwater permit? There is no existing structure or mechanism to dictate that kind of policy decision. It is not spelled out in the law and there are no

predictable criteria to know what the resulting impact might be. You have your permit and there is a surface water source and you are trying to make a business decision, you don't know whether it is likely that you will be able to keep your groundwater permit or keep just part of it. It was suggested that it would be helpful if the main committee would say "do you want to investigate that level of change?" Or will be difficult to hash out what type of criteria you would use to evaluate this type of change and the impact on an existing groundwater permit. It is hard to get excited about going down this path without buy-in from the top that there is interest in evaluating that level of change. Everybody can't be a winner in this scenario without some certainty of what the future holds.

- We need to look at the resource holistically.
- The idea of bringing this group together is to find a long term solution that we can all agree to. Otherwise we all are going to cling to the status quo because we think that maybe that is the better option. We have not seen a solution with enough certainty, flexibility, and low enough cost for everybody to say that it makes sense to do it this way with the certainty that DEQ is going to support the approach and that we can get there and will be able to fund it. What we want to make us comfortable to let go of the status quo where everyone can cut a deal with everyone else is to say let's identify 2 or 3 alternative sources and let's go work on it together on a time frame that makes sense. Flexibility is needed. We need some certainty to move off of the status quo. What system could we devise to make everybody is a winner.
- You have to have a scenario where you might not like the status quo – otherwise the status quo is the easy choice.
- At the last meeting of the workgroup we talked about economic development but we have not really quantified any lost opportunities or potential conflicts. If you solve the problems for the 14 largest users this year, do you get a reprieve for 2 years? 5 years? 10 years? A reprieve from either missed opportunities or conflicts with people needing water and they don't have a viable alternative. It was suggested that such a reprieve period would be for no more than 10 years. The problem is not going to go away. Do you solve it ahead of time so you are working with a known structure or do you just keep the status quo and have to deal with unknown reductions in the future?

Mark noted that the idea of looking at alternative structures was to see if there were some viable alternatives available that made sense. Right now we are not coming up with anything that is a workable solution. We have not yet identified something that is an alternative that would create the certainty that is needed. Do we see anything on the horizon that we want to explore further that might be that "alternative"? As the permitting negotiations are going on it has taken the pressure off of a lot of people.

- The concept of having some kind of regional management group was raised. This group could be something similar to the existing ICPRB and could be endorsed and recognized as being able

to work collectively to look at the existing infrastructure. This is a topic that we have not yet fully explored or discussed.

- We have looked at a number of different approaches taken in other states and have essentially shot them all down as not being applicable in Virginia. The only promising concept has been something that could be structured along the lines of the group in the Potomac, the ICPRB. This is something that we might want to explore in more detail. If there are folks who have looked at the ICPRB model and have identified PROS and CONS with the approach, it would be useful information for this group to hear and be able to consider. It appears that the group is functioning effectively. It was noted that the ICPRB is functioning effectively but they still have things that need to evolve towards that they are not prepared to acknowledge yet. They have the same kind of issues that an entity would face here in the Groundwater Management Area.

3. Discussion – 501 (c)(3) Concept – Input for Groundwater Workgroup: #2A Management Structures (Whitney Katchmark)

Whitney Katchmark with the Hampton Roads Planning District Commission provided an over view of a draft forum concept. She noted that during the Workgroup meeting on April 29, 2016 the workgroup considered two concepts that included the following:

- Examined non-profit in Alabama that provides forum to discuss watershed issues. Concluded that a forum for groundwater permit holders might be valuable for information sharing and establishing relationships that would improve conflict resolution.
- Review Surface Water Management Act section on Voluntary Agreements. Concluded that the language might be a valuable option for groundwater permit holders.

She provided the following information on a “**Draft Forum Concept**”:

- **What:** Meeting held 2-4 times per year to share information and get to know the perspectives and challenges of groundwater users in Eastern Virginia Management Area.
- **Why:** Easier to deal with scarcity and conflicts when you have established relationships and shared baseline knowledge. Easier to establish relationships in low stress environment prior to crisis.
- **Who participates:** Working level representatives from entities that hold permits, state agencies, technical experts (aka Participants in Groundwater Workgroups).
- **Typical Topics:**
 - State of resource: reports on water levels, salinity, subsidence
 - Policy Options: reports on other states or regions
 - Resource Management: number/changes to permits, economic development issues, emerging sector (Ag, industrial) concerns, cost of water
- **Structure Options:** Who should set agendas and administer forum?
 - DEQ

- PDCs (one or rotating)
- University
- DEQ grant open to all including NGOs and consultants (based on existing grant for Watershed Roundtables)
- **Decisions/Recommendations**
 - How often to meet?
 - Who should administer forum?
 - Does the administration require funding? If so, how should it be funded?

She noted that if the group decided to move forward with this type of approach as a work product from the group that she could develop it into a one-page proposal. She suggested that answers to the Decisions/Recommendations questions would be useful to have to flesh out such a proposal.

Discussions by the group included the following:

- This concept does address the stakeholder involvement concept and does deal with the regional outlook piece depending on members selected for the group so potentially you would have a more holistic approach to looking at the resource.
- This appears to be a great concept for networking and keeping lines of communication open. It would be different than the “Advisory Committee”. One of the advantages of the existing committee structure is that the group was formed through a legislative mandate.
- This is more of a networking concept.
- Could this type of organization have a role in the water supply planning process? It was noted that even the Alabama group does not have the authority to mediate – they provide the ability to do it and people can access it so it has become institutionalized within the organization/structure. It is just one of the tasks that is in their grant.
- We are looking for an opportunity for a group like this to have some contribution to policy direction that is recognized by the Commonwealth. There needs to be a mechanism for the permittees to have a voice in the process. There needs to be a mechanism for further focused discussions on the permits themselves and how to manage the resource.
- This type of forum should have a work session with a problem to address/solve along with informational sessions.
- It needs to be a directed/recognized piece of the resource management process.
- It should be a legislatively recognized body that has people that are appointed to it to serve those roles.
- The ability of the group in Alabama to get the parties to the table to discuss the issues was identified as being a valuable aspect of the organization.
- There is some value to having regular opportunities for sharing information.
- There needs to be greater transparency in the model and the modeling process – it would be helpful to share this information on a regular basis.

- Is there a way to make the State Water Control Board or the State Water Commission better? The State Water Commission potentially has the authority to address these types of issues.

The State Water Commission was established by the Virginia General Assembly to:

- Study all aspects of water supply and allocation problems in the Commonwealth, whether these problems are of a quantitative or qualitative nature; and
 - Coordinate the legislative recommendations of all other state entities having responsibilities with respect to water supply and allocation issues.
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The identified “interests” for this type of organization/group included:

- Forum for networking and discussion
- Forum for exchange of information
- Stakeholder involvement – In what?
- State recognized piece of resource management
- Dispute resolution mechanism
- Problem Solving – what problems?
- Vetting – long term solutions
- Who has the final authority to make decisions?
- Model maintenance and transparency
- Holistic
- Supply Planning

4. BREAK – 2:20 – 2:40

5. Continued Discussion on the Forum Concept/Proposal (Mark Rubin and Workgroup)

Mark Rubin brought the group back together and continued to discussions on the “forum concept”. What is the relationship that you would want this type of group to have with DEQ? How would this forum work? What options should be considered for the structure and working of the group? What is the job of this group?

The forum’s role/focus:

- Sounding board for stakeholder issues that then goes to DEQ.
- Advisory group to the permitting board.
- Advisory to the Water Commission – sources; infrastructure; policy
- Policy Development
- Advising on Allocations
- Advise DEQ on permitting decisions
 - Permit application goes to the group first?
 - Applicant goes to the group as a sounding board?

- Advise DEQ on long range water supply planning – continue dialogue to develop a long range plan.
- Provide opportunities for collaboration.

The group noted the following related to the focus of the forum:

- Long range water supply planning in an advisory role to DEQ and the Water Commission – infrastructure; funding; melding of individual and small regional plans – does it need a change in the statute? Does it need structure?
- Forum for exchange of information
- Have to be careful what the term “advise” means in relationship to the forum.

The group noted that the following with regard to the goal of the forum:

- Forum for holistic view of resource for planning.
- Relationship with DEQ
- What makes people come?
- What is the authority?
- How do you incentivize the partnership?
- Does DEQ have to pay attention to the recommendations of the forum?

General discussions included the following:

- This might provide a mechanism for some level of preplanning. It was noted that this sounded a lot like the existing water supply planning program/regulation not permitting.
- Effectively we are over-allocated.
- Long-term options need to be vetted to evaluate the resource.
- Need to be able to collectively manage the resource.
- There needs to be a collaborative effort with DEQ.
- We won’t have a permitting problem if we didn’t have a planning problem.
- There is a need for long-term planning. Long-term planning should drive the process.
- It is hard to get the industry folks to “come to the table” and sometimes they are “not invited to the table”.
- What is going to bring the players to the table? What brings them to this table – this workgroup and advisory committee? If they won’t come to the table now how do we incentivize it so that they do or want to come to the table?
- What kind of authority is there?
- Maybe the economic development folks need to be more engaged in the process and water supply planning made a part of the economic development evaluation.
- What is going to bring the industry folks to a forum of this nature? What incentive do they have to participate?

- What job would a group or forum of this nature have?
- What are our basic goals? What kind of entity do we want to recommend? We want to have some process in place to make sure that we don't use our water in an unsustainable manner. So is that DEQ and the State Water Control Board or is it the State Water Commission or some other entity? The other job is to once we have achieved the level of planning needed to identify what our sustainable use level is then do we want to set aside some amount for new industry? Or do we just have to say no more withdrawals over a certain permitted amount? That is probably not a palatable option politically.
- What is the role of the regulated community? What mechanism is there for their input into the process? Is it input to DEQ? Is it a notion that they want to trade among themselves? It is some of both. The current system has each individual permittee going in by themselves with DEQ and evaluating options in a one on one (a very silo) manner. We all recognize that given the point that we are at, the longer term solutions are not achievable individually.
- Someone has to be in the position to be able to say that there is not enough water to accommodate a requested increase or not enough water for the proposed withdrawal.
- Based on the discussions so far that it appears that there is some comfort level in saying that DEQ would be the final decision maker in whether there was water available for a given use in a given area. Having this as a foundation we still need to address what kind of support or input forum is needed? What would bring people to such a group and what kind of authority is needed or would the forum need? What authority would be needed to be able to convene such a group? How do you put something in the law that requires that DEQ pay attention to the input and recommendations of such a forum?
- It was suggested that there is still some disconnect between the existing water supply planning efforts and this alternative management structure concept. We already have regional water supply plans that look at existing and potential water supply needs in different areas of the state and DEQ has reviewed those plans and those projected water demands/needs.
- Based on the submitted Water Supply Plans it is evident that people are always going to project their own future demands assuming that they are going to get that next project; that next increase. There is no incentive to optimize. So their projections are always going to be high. What we create is a situation where we are looking to remote alternatives to create a volume of available supply that is too big – that is more than is available. So unless people are willing to share the benefit of the growth, they are not likely to be able to achieve anything in the conversation about how to share the resource. Nobody has an incentive or willingness to share the resource, unless they get something out of it. With this scenario all we accomplish is having added a whole lot more time to the process of getting a permit and a lot of staff time and lot of additional time on the part of the industry to come up with something that nobody is prepared to accept.
- There needs to be an incentive to preserve the resource.

- Groundwater is a competitive resource. Don't know how you make a "5-gallon" bucket bigger by managing it. Until we tie in surface water into this process we aren't looking at the whole picture. We have a real water problem in the state that we need to address.
- The current water supply planning efforts provide that more than one entity (2 localities) can be a region for the purposes of water supply planning. Maybe there needs to be a more inclusion evaluation of the "regional" concept so that those communities in the Eastern Virginia Groundwater Management Area would come together to create a more regional look at the resource. DEQ could identify those localities or small regional entities that should come together to create a more comprehensive "regional" plan during the next planning cycle. The water supply plan for the Eastern Virginia Groundwater Management Area needs to be broader and more inclusion.
- The foundation as to who makes the decision as to permitting should stay with DEQ. Now the question is what is it that makes people come to this forum or submit their permit applications to this forum in advance so that there is an ability to have a stakeholder and regional holistic view of the resource? What kind of authority if any do you need to be able to make that happen?
- How much do people look at other permit applications now? Do we need another body for this to happen/to review permit applications? It was noted that people do currently look at other permit applications and they comment privately but they won't comment publically on them. You could add a requirement that DEQ would not issue the permits without the endorsement of this forum or some group that had all of the other major permittees on it. What is happening now is a gentlemen's agreement that "I won't comment on yours if you don't comment on mine".
- It was suggested that instead of permitting we should be focused on resources – water supply planning and new sources not people commenting on permits. The permitting process will complement a supply planning process – a good plan – we won't have an issue with someone else's permit if we are all working towards the same goal.
- The suggestion was made that the forum should focus on planning and supply issues not individual permit applications.
- How many "regional" water supply plans are there? There are currently 38 regional water supply plans that were submitted through the water supply planning process. There may be a dozen or more of those plans that would fall into the Eastern Virginia Groundwater Management Area. There could probably be some benefit from taking those individual and regional plans and making a "groundwater management area" consolidated plan. The forum that is being discussed could be the mechanism for figuring out how those entities were going to interact. This goes more to the notion that this forum would focus more on the supply side of the equation than in the permitting side. What we would be doing is trying to consolidate those individual and regional plans and to bring greater clarity to the water needs of the "region" – the Groundwater Management Area. It would give a greater level of transparency to the process and the available resource. This might also tend to drive more people to the table.

- This forum/group should focus on long-range water supply planning.
- Would this group have a role in evaluating the modeling efforts – model maintenance and creating transparency around the model?
- The science is best done by DEQ.
- Is the idea that the Supply Planning Group/Forum is going to be advisory to DEQ and the State Water Commission? Is it going to have some authority to do something? This group could provide input to DEQ but at the end of the day someone has to be able to say “no” – that should be DEQ. The general sense is that this group would be advisory. Are we talking about two groups – one a forum for exchanging information and one for providing input to DEQ and the State Water Commission on long-range water supply planning? It was suggested that it could be the same group. This group should be “advisory” to DEQ. A question was raised as to what we were going to say that “advisory” mean?
- The way the Water Supply Planning Regulations reads now is that localities are charged with developing a water supply plan and they can do that solo or in conjunction with any number of other localities. So they are given the authority to put together their plan and submit it to DEQ, who ultimately reviews those plans to make sure that they are consistent with the statute/law. The “great fear” at the time the regulations were developed was that DEQ was going to review the plans and say that some plans would just not work – which is not in the statute. DEQ does evaluate the plans and has said in some instances “that in your next planning cycle you should consider the following: for example, “our model indicates that your Option A is not likely going to work, so we would encourage you to look at other options, etc. If we are talking about this group or forum putting together a master water supply plan for the region it is still a group that is ultimately going to submitting it to DEQ for approval and do we need change anything about the water supply planning statute to enable a group like that to submit something to DEQ?
- It does seem that the group/forum has to have some structure to it in order to agree on a work product. You would have to know who the members are and how the group is going to be established. That is different than having a networking mechanism where people can exchange information. Are we talking about having some statutorily created entity that is going to doing this networking?
- There was a general discussion of the aspects of the water supply planning process and the concept of having a forum as a networking mechanism and/or as an advisory mechanism to DEQ.
- It sounds like on one hand we have a networking group that does just that networking and on the other hand we have something that needs a ton of authority to be able to change planning to be more serious and then the permits won’t have any conflicts because the conflicts will be in the planning. It is hard to see a middle ground aspect of this that would work.
- It was suggested that a workable alternative or interim step might be feasible was that maybe instead of modifying the water supply planning statute and formally dealing with all of the questions that raises maybe if we get the major permits synced up enough, in advance of each 10 year cycle DEQ could do a compilation for the Groundwater Management Area of all the

numbers that we have now, particularly if VA Hydro works as anticipated, then that might provide some sort of meat to chew on that then this proposed advisory committee could be helpful with.

- That concept provides a good basis for having a groundwater management area to begin with. Simply because if you don't have some type of overarching plan for the groundwater management area then you really don't have a groundwater management area, you just have 15 to 20 localities that are all doing their own thing that think that they are working together but they are not. The reality is that unless you have some sort of overarching plan you might as well not have the groundwater management area, because all you are doing is talking about one another not to one another.
- It was suggested that the value of having a forum that would meet twice a year to review existing permits and identifying those permits that had been applied for and those permits that had expired/gone away and would be able to show how the water levels had fluctuated as compared to the model which would help identify emerging problems on a shorter time frame than every 10 years (every permit cycle). It was suggested that you would still however be relying on those impacted localities to go back to their plans and do the right thing to address the emerging problems. If nobody is pushing that locality to do the right thing they are not likely to do it and you might as well not have the groundwater management area.
- If you have a plan in place to increase supply then you would be able to accommodate more folks/entities coming in the future.
- In looking at what we have today and what we could have, it appears that the gap that we have today is that we don't have a process where DEQ and the Economic Development folks and the regulated community can all get together and talk about for this part of the state which is the best plan for use of the available water supply resources? What steps do we need to take to achieve a holistic water supply planning? What is the mechanism to meet those interests? What kind of body and what kind of authority is needed?
- The group had a lengthy discussion on the various aspects of water supply planning and different levels of authority that a forum and/or advisory group needed to have.

6. What can we say to the Advisory Committee about the working of the Workgroup (Mark Rubin):

Mark suggested that we can tell them that we have looked at a lot of alternative structures and how other folks in other states have addressed these issues and the concept of an alternative management structure. The workgroup looked at the possibility of incorporating the voluntary agreement concept from the Surface Water Management Act into a groundwater management setting. All of these are things that did not meet with a lot of interest to pursue further. What the workgroup is currently looking at and will continue to examine are questions regarding the creation of an advisory group or a networking forum or both that by and large would be trying to meet the interests of looking at the resources holistically – to look at it broadly in the region – but we have not figured out a whole lot more at this point, but here are the questions that we are looking at.

It was suggested that one of the things that needs to be part of this presentation to the Advisory Committee is that the group can't get past are "self-interest" versus the "greater good"; political considerations and the consideration of economic development interests. The key stumbling block seems to be how do we address the "self-interest" perspective? We need a forum for those types of discussions and to create a mechanism to move forward. We need to be able to provide more water in a more economic fashion – part of that needs to take into consideration conservation and finding other sources, etc. The interest is in getting to the point where we can look at the resource holistically but it appears that an "alternative management structure" is not the way to get there.

It was suggested that what we need is an alternative structure for financing – alternative funding sources.

7. Scheduling and Next Steps (Mark Rubin):

Mark Rubin told the group that this had been a useful and good discussion and that we will be getting back to them regarding the next meeting following the meeting of the Advisory Committee. Bill Norris told the group that right now we are looking at possible dates in July and August for workgroup meetings and as soon as those dates have been narrowed down that he would be sending out a Doodle Poll to the group to set the next meeting date.

A question was raised regarding the formation of the Workgroup on Alternative Financing Structures – Scott Kudlas informed them that the proposed membership for both that workgroup and the Alternative Permitting Structure will be presented to the Advisory Committee at their meeting on June 24th.

Mark informed the group that the next meeting of the Advisory Committee has been scheduled for Friday, June 24th from 9:00 to 12:30.

8. Public Comment: No public comment was offered.

9. Meeting Adjournment:

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

The meeting was adjourned at approximately 4:00 P.M.