

Georgia Department of Natural Resources

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October 15, 2010

MEMORANDUM

TO: Council Members

FROM: Kevin Farrell, GA EPD
Doug Baughman, CH2MHILL

SUBJECT: Meeting 8 Summary
Upper Oconee Water Planning Council Meeting

Georgia Comprehensive Statewide Water Management Plan Regional Water Planning

Council Meeting 8 Summary

Meeting Date: October 13, 2010
Location: Old Capitol Building (Baldwin County)

1) Welcome

Council Coordinator Doug Baughman introduced Chairman Richard Bentley (Mayor of Milledgeville) who welcomed Council back to the Old Capitol Building for its eighth meeting. Chairman Bentley also thanked them for their ongoing service.

2) Meeting Overview and Announcements

Baughman then noted the key objectives for the day:

- Discuss scoring and endorse final list of management practices
- Discuss regional plan enforcement guidance
- Discuss and endorse implementation responsibilities and schedule

Next he reviewed the day's agenda and noted that the Council had a lot to accomplish at this meeting.

3) Review of Instream Flow Needs

Following the meeting overview, Baughman introduced Chris Nelson from the Georgia Department of Natural Resources (DNR), Wildlife Resources Division to give a brief presentation to Council on instream flow needs. Council members had requested this information after discussions at previous

meetings. Nelson's presentation underscored the importance of balancing the needs of humans and biota in maintaining instream flows. He showed a graph that captured the variations in flows of natural hydrologic regimes, including:

- Subsistence flow – particularly important in the fall for providing minimal water quality protection
- Base flow – provides sustainable habitat and is typically higher than 7Q10 [a measurement of stream flow]
- High flow – flushes out silt and sediment
- Overbank/flood flows – help shape habitats and recharge the floodplain water table

He noted the 7Q10 (monthly) number is what was used in the surface water availability resource assessments model and is what EPD typically uses for permitting new surface water withdrawals. Nelson pointed out to the group that high flows are needed to produce game fishes of desirable sizes and provide details on the economic impact of fishing and its related activities to Georgia. Nelson explained that there were three options in existing state policy on minimum instream flows designed to achieve a sustainable approach to managing instream flows:

- Rely on monthly 7Q10 flow
- Conduct a site specific instream flow study
- Seasonal percentages of mean annual flow

Other recommendations from Nelson's presentation included increasing water conservation measures, returning water closer to the intake, using river intakes instead of reservoirs, and identifying high priority streams for the State Wildlife Action Plan. At this point the floor was opened for discussion from Council. A motion was made to include a recommendation in the Water Conservation and Development Plan (WCDP or "the Plan") that the state review the instream flow requirements over the next 5 years.

Council Comment: I'm concerned about voting when we don't fully understand the implications.

Council Comment: The motion would reflect the recommendation that the State look at instream flow policy prior to the next five year update [as it relates to protecting aquatic resources].

Council Comment: I have some concerns with how specific some items are in the presentation.

Council Coordinator: This would just be a general recommendation to the State.

Council Comment: How will this be funded?

Council Coordinator: That's not certain right now.

Council Comment: The subsistence flows are the controversial part. I would like to see more specificity to the recommendation. It just seems like we're kicking the can down the road.

Council Comment: The Council hasn't seen any other information related to flows other than the 7Q10.

The motion was not seconded but was tabled to the discussion later in the day on recommendations to the state.

4) Resource Assessment Gaps

Discussion turned to updated results for the resource assessment models of future conditions for water availability (supply) and water quality. Baughman gave an overview of the modeling conditions used for the evaluations. He noted the model on surface water availability shows a very small shortfall in the Penfield node; he then reviewed a few of the management practices that can be used to help avoid or close the gaps.

Baughman also touched on the water quality modeling results for the future. He pointed out that in the future, the majority of the nutrient loadings into the lakes will be from point sources because of increased wastewater volume as a result of population growth. One council member questioned where the future assumptions came from, asking if land use plans were taken into account.

The discussion shifted to point source [direct discharges] versus non-point source pollution into the basin's waterways. Baughman explained that during a wet year non-point source pollution could nearly double in some instances. However, the dominate source of nutrients in the future would still be point sources without higher levels of treatment.

Baughman continued the presentation and shared the future chlorophyll-a results for Lake Oconee. While there are not set standards yet for reservoirs in the basin, the model used a 20 ug/L standard (based on the metrics for Jackson Lake). The result was that the proposed wastewater treatment plants may have to go beyond the assumed permit limits to maintain water quality in the future.

Council Comment: Can the model be run with lower limits?

Council Coordinator: Yes.

Council Comment: How expensive is it to go from 5 mg/L to 1 mg/L of total phosphorous?

Council Coordinator: Very expensive.

Baughman provided similar information on impaired streams in the basin; he also asked Council to review a document showing planned and permitted water and wastewater treatment facilities for accuracy. The item is for planning purposes.

The discussion moved on to the management practices (MP) to address TMDL parameters (total maximum daily load) [a measurement of a water body's assimilative capacity]. Baughman reminded Council of the MP "strawman" they had received in their pre-meeting materials and reviewed the MPs for non-point source pollution as they applied to different areas (urban, rural), the level of effort (high or low) and the percent of land using MPs (50% - 100%). Council members offered their feedback.

Council Comment: Clarke County already has a storm water utility.

Council Comment: MS4 counties already have to meet 80% removal level for total suspended solids. We should use "high" level of implementation for the five MS4 counties (Barrow, Clarke, Jackson, Oconee, Walton).

Council Coordinator: We do have to look at this over a 50 year period, so it's better to go with high.

Council Comment: Some of the dense development areas along the lakes will be required to do more. I would suggest applying more stringent requirements on the main tributaries leading to the lakes, possibly developing specific MPs for subwatersheds.

5) Management Practice Scoring Discussion

The next item on the day's agenda was reviewing the scoring of the MPs. Baughman recognized the efforts of the scoring committee who met in August after CM 7 and held additional conference calls. On the committee were:

- Hunter Bicknell
- Jennifer Davis
- Larry Eley
- Alan Foster
- Pat Graham
- Benjie Tarbutton

Baughman presented the scoring of the MPs for each category:

- Demand Management
- Water Supply
- Wastewater
- Water Quality

He then shared the top scoring practices that were included on the strawman and went through additional endorsement from the basin subcommittees.

Baughman asked members of the scoring committees to say a few words about the process and resulting MPs. Bicknell mentioned that the water supply really came out as a very important component. Foster commented that there was a lot of complexity involved in the scoring process and he was concerned at first, but felt good about the results in the end. Council member Andrews noted that a lot of thought went into the process and overall the results were good.

After a motion and a second the scoring committee's recommendations were adopted unanimously by Council.

6) Review & Discussion on Regional Plan Enforcement

The discussion transitioned into how the plan will be enforced. Baughman read a statement from the State Water Plan to explain EPD's role:

The Division will implement the integrated water policy through its existing statutory authority for permitting of water withdrawals and discharge of pollutants under O.C.G.A. §§12-5-31, 12-5-30(a), 12-5-30(b), 12-5-96 and 12-5-105.

He also highlighted some of the key points from the Regional Water Planning Guidance that is part of the State Water Plan, specifically:

- Once adopted, the EPD Director will use the Water Development and Conservation Plans to guide decisions regarding permitting.
- These plans will also guide state grants and loans from the Georgia Environmental Finance Authority (GEFA) for water-related projects within that region.
- Once the regional Water Development and Conservation Plans have been developed and adopted, the State and the regions must partner to implement the plans.
- The Director will update current compliance inspection and enforcement capabilities and recommend enhancements as appropriate to provide consistent implementation of existing laws and rules and regulations across the State and among local issuing authorities.

Next Baughman reviewed other enforcement options for Council to consider, such as including "qualified local government status" via DCA (Department of Community Affairs) and establishing an audit process similar to the Metro District [North Georgia Metropolitan Water Planning District]. The reference to DCA generated discussion on its role in the implementation process.

Council Comment: Qualified local government status is usually tied to the "comprehensive" plan, which also has solid waste, service delivery strategies, etc. This can be an onerous process for smaller communities.

DCA Comment: We anticipate that the regional water plans will be integrated into the comp plan.

EPD Comment: This is not specifically stated, but it does appear to be going in that direction.

Council Comment: There are already too many mandates on county and city governments. And the [Metro] District approach seems too stringent, but you have to put it somewhere.

Council Coordinator: The regional water plan will be one review piece during the permitting process by EPD, but there does need to be some sort of balance or a bright line.

Council Comment: The recommendations should be included in the comp plan as opposed to a strict compliance measure. Unless there is some requirement in a comp plan, nothing is going to be implemented. So there does need to be a bright line at least forcing consideration of the water plan. We need to set the bar somewhere because we need to protect water resources for future economic development. And the local governments will end up funding it indirectly anyway.

Council Comment: Who makes the call on compliance? DCA is not a compliance agency even though it can change the qualified local government status.

Council Comment: Will the judging for compliance be based on all 38 MPs? How will that be spelled out in the final product for implementation?

Council Comment: The state water planning process seems to be promoting consolidated government because the smaller communities can't deal with all of the requirements.

Council Comment: We need it tied in to legislation to ensure funding. Is there interest in a per capita assessment to fund implementation?

Council Comment: Comp plans are usually pretty general and the requirements aren't too burdensome.

At this point, Council facilitator Marci Davis explained that during this agenda item, the goal was to get input from all members by going person to person and giving everyone a chance to speak without interruption. Some members deferred, but the discussion continued with additional questions and comments on how the Plan would be enforced.

Council Comment: In some counties, there are several cities and how will we deal with who is responsible for what?

Council Comment: Rural counties shouldn't have to suffer [the expense] because by definition, they shouldn't have water quality issues or significant development.

Council Comment: How will the Plan be revised if there are some unintended consequences before the 5-year update?

Council Coordinator: That's a topic we'll discuss later on the agenda.

Council Comment: There will be a cost to taxpayers and we need to know that to successfully implement [the Plan].

Council Comment: There has to be some enforcement mechanism to do the right thing.

Council Comment: Should there be some per capita threshold for implementation?

Council Comment: What is the trigger for amending the Plan?

Council Coordinator: There is none currently.

Council Comment: We need to think of an Upper Oconee specific response.

Council Comment: What is the feedback from other Councils? What does the [Metro] District do with its per capita contributions?

Council Coordinator: The funds are used to maintain support staff and provide revisions to the District Plan.

Council Comment: It seems that the people who appointed us as council member knew there would be a cost and that many local governments are already spending money to meet the requirements. My question is who owns the plan? And will they ultimately have the responsibility to enforce it?

EPD Comment: Our [EPD] task is to provide permits on an individual basis. The permit writers look in detail at all conditions, and they will pick out recommendations from the Plan that seem most appropriate to each permit. EPD will likely be the ones using the plans the most.

Council Comment: This is why we need language in the 38 MPs that “encourages” the practices to allow the flexibility local governments need.

Public Comment: There could be a lot of unintended consequences from mandates and it would be better to have the practices be recommendations that could be converted to requirements. The Upper Oconee region is very different from the Metro District – their issue is quantity and ours is quality. We also need to be careful about touching on the local government status for communities.

Council Comment: I’m concerned about the financial situation and how any upcoming water mandates could affect budgeting. Transportation is another concern with HB277 [pending state legislation]. As a member of the GEFA Board and I’ve seen communities who have already been approved for loans turn them back in because they are nervous about being able to make the payments over 20 years.

7) Implementation Responsibilities

For this portion of the agenda, Council was broken into five working groups to review Section 7 of the draft Plan, which outlined the parties responsible for implementing the 38 MPs. The responsibilities were divided into initial actions, short-term actions, and long-term actions. Each group reported out on areas of concern.

After the exercise, Baughman reviewed Table 7.4 from the draft Plan and asked for comments on “State Recommendations” for funding, coordination, and the 5-year update.

Council Comment: If we fund the group, we’ll have more control on the implementation and have folks involved within the basin. This would allow the local funded council to certify and track implementation.

Council Comment: Could we establish an authority that would allow for budgets and funding power?

Council Comment: It would be a problem to get that idea through counties for a self-taxing, self-funded body.

Council Comment: Regional commission boundaries don’t match council boundaries.

Baughman requested additional information on funding ideas from council members to help fill in Table 7.4.

8) Monitoring and Reporting

Next Baughman gave Council with information on the development of Section 8, which covers monitoring and reporting of the Plan. The section will address benchmarks, Plan updates, and Plan amendments. Baughman also provided the group with language from the State Water Plan to expand on those points, specifically:

- ... each Regional Water Plan will be subject to review by the appropriate Regional Water Planning Council every five years.
- These reviews and updates will allow an opportunity to adapt the Regional Water Plan based on changed circumstances and new information arising in the interim five year period.
- The benchmarks just discussed will guide EPD in their review of the Regional Water Plan.

Baughman offered some suggestions on approaches and examples Council could use for this phase of the Plan, including:

- Following the Metropolitan North Georgia Water Planning District model
 - Council meets periodically to review implementation status and amendments
 - ARC (Atlanta Regional Commission) staff provide support and complete annual reporting
 - Self-funded

- Using a non-profit in a coordinating role
 - Council recommends NGO or new organization
 - NGO tracks implementation and completes reporting
 - Potential funding through grants
- Establish an alternative inter-governmental agreement
 - Council would recommend
 - May include key local governments within basin
 - Could be self funded

Baughman said the group could also come up with its own suggestion or create a combination of the presented options. He noted that the State Water Plan also offers some flexibility in updates based on “triggering events” such as changes in state law, Council consensus, and other situations to be determined. He said the contractors would fill in Table 8.1 and send to Council within two weeks.

At this point, Chairman Bentley asked to revisit the motion to include recommendations on the instream flow policy that was proposed earlier in the meeting. The motion was seconded and approved by Council with one vote in opposition.

9) Review Schedule and Next Steps

Near the end of the meeting, Baughman reviewed the upcoming schedule of events and proposed December 8 as the date for the next council meeting with a location TBD somewhere in the middle of the basin.

10) Wrap Up/Elected Official and Public Comment

Comments from elected officials and the public were solicited throughout the meeting and then also at the end. There were no additional comments at the end of the meeting.

Council members completed their meeting evaluations and the group was adjourned.

11) Written Comments Submitted to Council

In accordance with the Council’s request to receive written comments, three were submitted by the end of the meeting. The comments are recorded as written. Illegible words are noted with a question mark (?). Additional clarification of acronyms, jargon, etc. is noted by brackets [].

Bryan Rogers – County Administrator, Laurens County

Implementation of plans should be done through the Regional Commission or new Regional Organization but not through EPD or other state agency. Local government would have representation on a regional commission but if control goes to a state agency then there is no representation. State agency would take one size fits all strategy.

Meeting Attendees

Council Members Present

- | | |
|---|---|
| <ul style="list-style-type: none">• James Andrews• Charles S. Armentrout• Richard Bentley, Chair• Hunter Bicknell• Vincent Ciampa | <ul style="list-style-type: none">• Stuart A. Cofer (alternate)• Melvin Davis• Larry Eley• Alan Foster• Linda Gantt |
|---|---|

- Dana Heil
- Allen Hodges
- Danny Hogan
- Dennis W. Holder, Vice Chair
- Charles H. Jordan

Council Members Absent

- Jennifer Davis
- Roger Folsom
- Pat Graham
- Pat Hardy
- Kevin Little

- Jim Luke (alternate)
- Drew Marczak
- Richard McSpadden
- Bill Ross
- Benjamin R. Tarbutton

- Rabun Neal
- Greg Thompson
- Rep. Terry England (ex-officio)
- Sen. Bill Cowser (ex-officio)

Staff and Planning Contractors

- Kevin Ferrell, EPD
- Ted Hendrickx, EPD
- Doug Baughman, CH2MHill

- Heather Dyke, CH2MHill
- Marci Davis, Jacobs JG
- Brian Skeens, CH2M HILL

Partnering Agencies

- Patti Lanford, Department of Natural Resources – Fisheries
- Joe Krewer, Department of Community Affairs
- Chris Nelson – Department of Natural Resources
- Tas Smith, Georgia Farm Bureau
- Harold West, Georgia Forestry Commission

General Public

- Kenneth Turner, City of Gordon
- Herbie Johnson, Georgia Power
- Bryan Rogers, Laurens County
- Glenn Coleman, Athens-Clarke County Public Utilities Department
- Ethan Armentrout, Armentrout Matheny Thurmond Consulting Group
- Ben Emanuel, Altamaha Riverkeeper
- Katherine Cummings, Fall-Line Alliance for a Cleaner Environment
- John Clayton, Hazen and Sawyer