

Environmental Roundtable May 8, 2002

Present: J. Kos, S. Dormody, E. Marks, H. Ward, M. Terebus, C. McGreavy, K. Crawley, J. Campbell, N. Hess, J. Sherman, G. Lefebvre, J. Jellison, B. Marston, K. Strouse, B. Schiller, H. Perry, B. Mendoza, C. Modisette

DEM staff: J. Reitsma, T. Getz, A. Good, R. Chateaufneuf, E. Scott, K. Ayars, S. Majkut, M. Lapisky, E. Stone, M. Musselman, J. Keller, R. Ballou, J. Nield, G. Schultz

Old Business

Announcements

- **Al Hawkes Award Luncheon** – the award will be presented to Harold Ward on May 22.
- **Bob Mendoza said annual EPA awards** - were presented on May 1 to Andy Lipski of Save the Bay for eelgrass restoration efforts, to Roberta Aronson of the Childhood Lead Action Project, Steve Hamburg, Brown University (Climate Change) and a lifetime achievement award to Eugenia Marks of the Audubon Society.

February Minutes - accepted

Legislation

Elizabeth Stone answered questions on legislation. Eugenia Marks was concerned that the bird depredation bill language was too broad, allowing birds to be killed if they were “about to commit depredation” to “ornamental or shade trees.” The bill needs to have standards set which will define when birds are problems. Mike Lapisky said there are only about 5 or 6 bird depredation permits issued per year and the permits are tailored to the situation. The Department will consider taking out “about to commit” and “ornamental or shade” trees. DEM will also work on developing standards that will define criteria used for determining when birds become problems.

Drought Management

Kathleen Crawley, of the Water Resources Board briefed the group on the status of the state drought management plan. She mentioned the plan was in the final editing stages and will be presented to the State Planning Council on June 13. The Drought Task Force Steering Committee was meeting today. This committee is just a starting point for water allocation program development. This interdisciplinary committee has been expanded. Nancy Hess of the Statewide Planning program said the existing policies on supply and demand management were developed in the early 90's and are being updated. The question of who owns the water is not as salient as the reasonable use policy that says one can use water as long as one is not diminishing the water quality or quantity for the downstream user.

Questions was raised on how the Drought Management Plan affects minimum stream flow and the use of water by the agricultural community. Farmers may believe they own the water but their use is subject to the broader community needs. The question was raised on who owns the

water. It is a public trust, it needs to be managed for the public good. The Water Resources Board representatives said they did not have an attorney with them and could not answer the ownership question. The director is a member of the Water Resources Board. These issues need to be resolved for the Board to be able to develop and implement a plan.

Harold Ward said the Clean Water Act gives the state the authority to set minimum stream flow standards, but RI has not done it. Without standards we cannot develop a model for balancing the water budget of South County. The Farm Bureau's attitude is that as long as there is some water the farmers should be able to pump streams dry. The director said the state needs to set minimum stream flow standards, perhaps by watershed. Then a policy needs to be developed to determine the priority for water use. The policy needs to be transparent and must address the needs of human consumption, wastewater management, agricultural use and natural resource needs. The plan needs to be flexible, but should initially be conservative in the allocation process. When the state gets experience in determining water budgets it can be adjusted accordingly.

The agricultural community needs to be contacted to discuss the prioritization and distribution of water resources in a draught situation. The plan needs to balance the loss of crops with the loss of fisheries. Eugenia Marks raised a concern that there can be permanent damage to the ecosystem if too much water was withdrawn during a draught condition. Gregg Schultz said minimum stream flow is not the whole story, the Freshwater Wetlands Act is also applicable.

Bob Mendoza mentioned that the plan address drinking water supplies, and conservation measures should be encouraged. In addition demand management should be evaluated.

Jeff Kos asked how well the agencies are working together on water issues. The Drought Task Force Steering Committee is developing a water allocation policy, but it has been delayed due to a loss of staff at the Water Resources Board. The Pawcatuck Water Use Stakeholder Group has been meeting for about two years but has not yet come to an agreement. Alicia Good said the group is working in an area of the state that has a lot of conflicting water uses and will see the process through, but questions whether it is an effective way to accomplish the task. Liz Scott said the draft Habitat Assessment Study in the Queens/Usquepaug is a good place to start developing a model. This area does not have a lot of development; there are no large water withdrawals; and parts of the plan (as well as the Natural Resources Conservation Services hydrologic model) can be applied in other areas of the state.

Guy Lefebvre said the Natural Resources Conservation Services has a good database of flow information. The Director said drinking water needs to be protected. In order to accomplish this, there is a need for collecting information on water use and stream flow. The Natural Resources Conservation Service has some of this information and was encouraged to share this information. The Natural Resources Conservation Services, however, will not always release information on water withdrawal from streams and wells. A concern was raised that as long as the Water Resources Board acts as a non-regulatory agency, the farmers and Natural Resources Conservation Service will not voluntarily disclose water use. The state should consider treating water as a limited resource and regulate its use. In response to comments made by the Director that differentiated groundwater and surface water, Guy Lefebvre pointed out that the distinction between groundwater and surface is often artificial, and these two water reservoir realms need to be understood and regulated as an integrated, whole system. The Director acknowledged this point.

Ken Ayars said the Farm Bureau is adamant on the rights of farmers to water, but farmers individually are open to good management practices. They do not want to use more than they need, but need water when it is dry.

The group discussed the function of the Water Supply Board. It currently operates in a consensus mode, but this may not work when the amount of water consumption exceeds supply. It was noted that this agency has the legal authority to act as regulatory agency but does not operate in this mode.

Connie McGreavy said that since September 11, water systems data confidentiality has become an issue. Water supply management plans were ready to be posted on the web, but were pulled back due to the concerns of suppliers on the vulnerability of systems. There is legislation pending to limit the availability of information on water systems. The director said water is a public resource and some information should be available for public review. The public should be informed about budgets, water use, drought management, conservation measures and what the government is doing to ensure safe water supplies.

USGS is collecting data statewide on water budgets and will be finished with their work in 2004. They also have information on water withdrawals. The major water suppliers currently have better data, but don't necessarily share it. Massachusetts has a better data set because they require suppliers to provide this information to the state. Sheila Dormody said that limiting information does not make the hazard go away.

It was also mentioned that farmers might claim a proprietary interest as the basis for not telling how much water they use. At the federal level, there is a lobbying effort to get Senator Chafee to see the importance of using nonpoint source funding for agricultural BMPs. The Environment Council is on record regarding the importance of nonpoint source funding.

Legislative Issues

Save the Bay submitted a bill requiring the replacement of cesspools when a house is sold. Eugenia Marks said financial support for cesspool removal is needed and the State Revolving Fund could be used to finance loans to homeowners through municipalities. The director said there are several Waste Water Management Districts plans in place and they could allow funding for cesspool replacements. Russ Chateaufneuf reiterated that some homeowners need more help than loans. Last year a bill was submitted for a tax credit for those upgrading systems, but considering the budget shortfall, this may not be a good year to propose this. Harold Ward suggested a tax credit allowed within a year of the sale of a property. Requiring an upgrade could be enforced as a condition of sale.

Sheila Dormody discussed a Renewable Energy Portfolio bill that would require the grid to purchase 20% of its energy from renewable sources by the year 2020. DEM was asked to support this initiative.

Barry Schiller discussed a bill that would allow electric motor scooters on sidewalks and bike paths. The director said the Department's policy is that bike paths are not designed for motored vehicles.

Jeff Kos mentioned that Rep. Eileen Naughton has submitted a bill to put the Public Utilities Commission, DEM, and the State Energy Office in charge of implementing the Greenhouse Gas Action Plan recommendations.

The director said the Department did not submit dam safety legislation this year but is working on what can be done without legislation and may submit legislation again next year.

The administrative search warrant bill, at this time, was only discussed in Committee. There was nothing else to report.

Some communities want MTBE banned as a gasoline additive because gasoline leaks have caused problems with community water supplies. It would appear that a MTBE phase out is more realistic. The Department has contacted Mobile to assist with the Pascog cleanup. They were initially interested, but then declined.

Barry Schiller asked about the status of New England states' letter to Governor Whitman on New Source Review. A letter was sent through the Ozone Transport Commission and EPA has not yet responded. At the Environmental Council of the States spring meeting, the commissioners told the executive director to press this issue with EPA. Barry Schiller also said DEM should consider investigating ways to reduce Ozone Day pollution, including reinvigorating the RIPTA ozone program to get more ridership.

The current wetlands penalties for unauthorized alterations is \$1,000 is clearly not an effective deterrent. The Department is supporting legislation to raise this fine to \$10,000.

Anti-idling legislation is a late initiative. DOH and RIPTA are supportive of a bill that focuses on buses, especially school buses.

The next meeting will take place on August 15. The group was asked for potential meeting topics. A discussion of persistent bio-accumulative toxins, i.e., PCB's, mercury, lead and dioxin was suggested.