

**WATER ALLOCATION PROGRAM DEVELOPMENT  
OUT-OF-BASIN TRANSFER COMMITTEE**

**MINUTES OF MEETING**

Sept 18, 2003

**Members Present:**

Kevin Cute  
Jeff Hershberger  
Herb Johnston  
Henry Meyer  
Alisa Richardson

**Members Absent:**

Ken Burke  
Paul Corina  
Mike Covellone  
John Dubis  
Julia Forgue  
Stan Knox  
Pam Marchand  
Denise Poyer  
Ed Szymanski  
John Torgan

**Water Resources Board Staff:**

Kathleen Crawley  
Connie McGreavy

**Guests:** None

**I. CALL TO ORDER**

Kevin Cute called the meeting to order at 1:10PM.

**II. APPROVAL OF MINUTES**

Approval of meeting minutes was deferred.

**III. ITEMS FOR ACTION**

**A. Updates on OOBT Report Writing**

Mr. Cute gave a verbal report on the two sections he is preparing for the report. The first is Legislation in RI and the other is The RI Watershed Approach. He stated that there is no legislation that was expressly intended to manage out-of-basin transfer of water or wastewater. Mr. Cute refreshed the committee's understanding of OOBT prohibitions in coastal areas under RI Coastal Resources Management Council's (CRMC) jurisdiction. He noted that the RI Dept. of Environmental Management (DEM) and CRMC have nearly identical freshwater wetlands regulations. DEM has affected water quantity decisions through this regulatory program. Mr. Cute explained that there are still gaps, and that geographically, the entire state is not totally covered by either of the two agencies. The group talked about using a map to depict these jurisdictions. Mr. Cute went on to explain that in some cases, CRMC has jurisdiction in inland areas as well. Mr. Johnston wished to clarify that CRMC has authority three miles out to sea, over coastal areas and 200' from any coastal feature, and along tidal reaches of coastal rivers. Mr. Cute answered yes, and that dams are generally endpoints on tidal rivers.

Ms. Richardson explained that the Water Quality Certification program was more restrictive than the wetlands program. Most permit applications come through the wetlands program first. Federal legislation (Safe Drinking Water Act, Clean Water Act) is controlling. Ms. McGreavy mentioned that there were no references to OOBT in State Guide Plan (SGP) elements #721, #722, #723 and #724. Mr. Johnston asked if the Scituate Reservoir SGP element had been reviewed, since water management issues were elaborated on in that plan. WRB staff will investigate.

Questions arose regarding the proper way to address OOBT at the local level. Should individual water plans be written up for all water management areas? Should statewide zoning and/or land use legislation be amended? Should the State Guide Plan be amended? Should there be performance standards for septic systems? Ms. McGreavy stated that the WRB would prepare a Water Allocation Plan, but it was not yet determined what form this would take. Both Mr. Johnston and Mr. Hershberger stated that basin management is needed, not town/city management.

Discussion turned to the second section and the group agreed that the name should be changed, or it should be worked into one comprehensive section titled, Legislation, Regulations and Plans. Mr. Cuta stated that he intends to discuss the RI Watershed Approach Coordinating Council (CC); however, Ms. McGreavy was concerned that the status of the CC might be changing, merging into the RI Rivers Council. She felt the Regulated Riparian Model Water Code (Code) was substantive in terms of the OOBT report. Several states had adopted portions of it. In addition, the WAPAC had provided research on other states including CT and GA in terms of a regulatory approach that was worth describing if time. Mr. Johnston noted that Rhode Island should heed lessons learned in other states including CT, which grandfathered water uses and MA, which overly regulated OOBT. Ms. McGreavy reminded the committee that Mr. Johnson had selected various sections of the Code for the committee's consideration. She will distribute it again, or summarize it. Mr. Johnston stated that after a point, there should be no further expansion of sewer systems if the distribution of wastewater through a pipeline results in OOBT. Mr. Johnson supports onsite sewage disposal within basins where this can be done without adversely impacting ground-water quality as well as sewer system expansion within basins. Return flows should be encouraged. Ms. Crawley reminded everyone of the Community Comprehensive Planning process and that it would be possible to amend statewide laws to provide guidance at the local level. Ms. McGreavy provided Mr. Cuta with a list of items that could be worked into the two sections of the report.

## **B. Finalize OOBT Committee's Recommendations**

Ms. McGreavy presented the group with an aggregated set of recommendations to consider. She explained that she compiled this by looking at a list of recommendations generated after review of all meeting notes from Nov. 2002-July 2003 presented at the August OOBT meeting, the five recommendations forwarded to the WAPAC, and the new recommendations contained in Mr. Johnston's section of the report, some of which differed significantly. She indicated that while there is redundancy in the list, it serves to emphasize points of consensus. The goal was to

consolidate the recommendations and order them in categories to make them more understandable. Ms. McGreavy organized the recommendations into three categories: regulatory measures (including criteria-oriented points), nonregulatory management measures, including decision support tools, and other areas to explore. This later section included items from the NEWWA white paper which summarized OOBT policies in the New England states. She added that some text was extracted from Mr. Johnston's section that was not directly recommendations-oriented, some was inserted into the introduction of the recommendations section, and that the remainder would be contained in the body of the report. This was done when the committee agreed that a separate section in the report specifically set aside for recommendations was preferred. After electronically circulating this version to the full committee for feedback, only Mr. Hershberger and Ms. McGreavy indicated their preferences with Mr. Hershberger adding some overall thoughts that tied various sentiments together that were voiced by the group.

Ms. McGreavy apologized for not having time to whittle the list down to eliminate the redundancies. The purpose was to show that all recommendations were being considered. Next, Ms. McGreavy restated the mission which was to: "*Develop criteria for OOBT that protect the reasonable needs of water basins*". She noted that Mr. Johnston's recommendations addressed criteria with a reference to the performance standards used in the MA OOBT program, adding that his view had shifted away from OOBT regulation, itself, to regulation of water withdrawals. Such an approach would provide the data necessary to properly understand and manage OOBT, add predictability to the water allocation process and justify water resource management decisions in court, if need be. He explained that OOBT would be one of many criteria, rather than the primary focus, emphasizing the importance of stream flow for one.

Without having enough time to properly digest the aggregated recommendations, the committee agreed to forward the original five recommendations to the WRB for inclusion in the master list. In the interim, between this meeting and the one to finalize the power point, Ms. McGreavy volunteered to consolidate the list, reorder the priorities and circulate it for feedback. (Mr. Hershberger, Mr. Meyer and Ms. McGreavy subsequently offered minor edits to that document.)

### **C. Presentation Before the WAPAC**

Various individuals agreed to coordinate the slide graphics; Ms. Richardson took responsibility for the master and indicated she would have a revised version by the following Monday.

## **V. AJOURNMENT**

The meeting was adjourned at 4:15 PM.

Respectfully submitted,

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Connie McGreavy  
RI Water Resources Board

Date

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