Comments Received From WAPAC Members on "The Top 21 List"

1. Dr. Harold Ward, Brown University (12/5/2003)

Generally I think the list makes sense, but I continue to be concerned about item #13 - described as "Central authority to prove water availability" which is said to come from the Rights sub-committee. I've searched through their report, and don't find this recommendation - as close as I can come is: "Water allocation should play an important role in land use and development decisions, both in ensuring sufficient supply of water, and also in assessing the impact of development on water resources."

I continue to believe that requiring proposed development (including new land uses and new withdrawals) to demonstrate that adequate water supply is available is the single most important of the recommendations. I doubt that until things get much worse there will be the political will to attempt to reallocate amongst existing users - so in my view our main hope is to influence where new supplies are developed and how new development might draw on new and/or existing supplies. The Rights sub-committee seemed to agree on this point - but I don't see anything specific on how this "important role" will be carried out. And I don't see the reference to "central authority". Since most of our land use decisions are local, to say that water limitations on land use will be managed centrally really needs to be spelled out clearly, if it is to be understood.

Obviously, (the word) "adequate" (used above) will require some definition. I think that for residential development, we could project the demand at buildout and allow no more than a proportionate share for each new development. Where demand based on buildout projects that supplies will be exceeded, local govt. should be required to change zoning to fit the supply. I anticipate that would require amendment of the zoning enabling act. Commercial/industrial is harder – and I don't have an immediate suggestion there, beyond requiring any use over some insignificant amount to demonstrate best practices including reuse.

How will the full committee deal with inadequacies in some of the committee reports? One further thought re: out-of-basin-transfer. Did that committee reflect on the fact that providing sewers to existing development is an OOBT, which should require a permit?

2. Judy Doerner, State Conservationist, NRCS (12/5/2003)

The following is my concern regarding the priority phase I recommendations:

During the November WAPAC meeting, Mr. Thompson laid out several alternatives for water rights structures, including managing drought situations, a registration system, a full permit system, and a combination thereof. The Out-of-Basin Transfer Committee, on the other hand, recommends a state-wide water use permit system. My interpretation of those two recommendations is that they are nearly polar opposites of each other. It seems to me essential that either the WAPAC or the WRB select and agree upon one or the other.

Being a proponent of having data upon which to make decisions and of providing an opportunity for voluntary and market based approaches to work, I would not recommend that the

development of a statewide water use permit system be considered critical or part of phase 1. A more phased approach that incorporates education, technical assistance, demonstration projects, collection of data, establishment of minimum stream flow goals, use of price to allocate water and adjust usage during drought and restrictions should be used at first. If the usage data shows that a registration system is necessary, move to that. In the end, it may be shown that a full permit system is all that will work, but I believe that more study and efforts need to be put into other proposed phase 1 efforts before that determination is made by the WRB.

3. Guy Lefebvre, Executive Director, Pawtuxet River Watershed Council

"In my view, the top twenty recommendations as organized by consensus by Ms. McGreavy provide a qualitative "convergence agenda" of the large list of meritorious recommendations to pursue. Establishing stream flow standards was certainly an important impetus to creating the water allocation study process, and should be pursued as we seek to balance human consumption with maintaining ecological diversity. Keeping the stream gauge network operating and adding stations under the guidance of the US Geological Survey is obviously highly important to understanding both historical and existing conditions. Permitting, fee income and coherent data structure are probably necessary to stewarding our small part of the hydrologic cycle in the Ocean State. The comprehensive riparian model code is impressive and should be used as an intelligent inspiration to fine tune state water management toward the common economic and ecologic good."

Other General Comments Received Since the 11/20/2003 WAPAC Meeting

4. Harriet Powell, Chair, North Kingstown Groundwater Committee (11/26/2003)

These are my concerns. I certainly think a well completion report data base is vital, however, I worry that the timeline is so far out that it may be of little use as North Kingstown (NK) development flourishes. Wells drilled outside of NK Water District, or elsewhere, only have to provide water for domestic use. The deeper the well into bedrock, the less the g/m amount has to be, so some homes may have a gallon or less per minute depending on depth.

DEM's Division of Water Resources has indicated that recently they had a complaint that a home in a new subdivision had run out of water. The Well Completion Report (WCR) indicated that the well produced less than one gallon per minute. If that person had gone to his local municipality to complain, no one would have been able to be very helpful since the municipality is not in the loop (I imagine it would need would need legislative input to insure that supply was great enough to assure home owners a consistent supply under ordinary conditions). I understand that the current requirements allow approval with a small number of gallons/minutes when bedrock well is very deep, under the assumption that the amount of water storage in the pipe will compensate for the low gallonage—apparently that is not always true.

In NK, there are dual problems. The Town doesn't get data regarding wells in new subdivisions, or have data from surrounding areas. The application of Fletcher Meadows proposed private wells and gave the Planning Commission one Well Completion Report, from Quidnesset Golf

Club. Town has no idea how many other private wells in the area. In order to find that out would have to submit the street names or plat and lot numbers of all homes in the area in order to find out how many private wells had been drilled. Some have commented that all WCRs should have latitude and longitude to be worthwhile as a database, and if and when this data is received, dug wells (possibly sunk to sustain automatic sprinklers) would not be included since non-drinking wells do not (at least so I have been told—haven't seen regulations) require Well Completion Reports. Our concern in NK is that there is a contaminated groundwater layer in Narragansett Bay that possibly could be pulled ashore if sufficient water pulled out of ground in the adjacent area. We have been assured that there was no danger of that, however, there was no warning that wells would only provide enough water for domestic use, or estimate how much additional water might be needed to sustain automatic sprinklers at homes proposed with a potential for very large lawns. The other problem is that we have no idea how many homes with Town water have put in dug wells to sustain automatic sprinklers so that they do not have to worry about odd/even days (probably not too many, but without data, we cannot be certain).

Also, we worry that dug wells, drilled solely for irrigation, might be a source of drinking water for kids who play in the spray. Who knows, probably the odds are extremely small that something like that might occur, but we do not know how close to the ISDS's these dug wells might be drilled, or whether they could be pulling effluent from the nearby leach field, so unless we know the location, we don't know the likelihood. Some of the concerns of the Town of NK are data-related or to the absence thereof, and that some of their concerns could be alleviated by data sharing. I think that until the data is computerized, it would be extremely valuable to NK to automatically get copies of the Well Completion Reports. Until that, in fact, happens, and, if for some reason, it doesn't, the Town would have its own database to refer to.

Harriet Powell (12/9/2003)

Currently, there is no notification process to municipalities with significant private well potential.

- Dug wells and driven points do not have to be reported;
- Some land owners can have wells dug and just notify the authorities without significant detail;
- Latitude and longitude of wells are not required on reports (or if required, not submitted);
- There is spotty compliance by drillers (inferred, as when do not report, no way to determine);
- Homeowners currently are unaware that their private wells only provide domestic supply, and not informed by developers/builders of that fact (they may be surprised when they install automatic sprinklers without knowing their g/m rate);
- Finding out well drilling history of an area is tedious (must know all street names or plat and lot numbers);
- The current program is under funded and DEM employees in Water Resources are attempting to computerize data on own time (how long will that take?).

…in the case of a crisis, well completion data could be extremely valuable if made fully useful. I would assume that would include including historical data in the database as well as incoming data. I think that recognition needs to be given to the shortcomings of the current well completion program and the data generated, just computerizing won't solve all the problems.

5. Nancy Hess, Principal Environmental Planner, RI Dept. of Administration-Statewide Planning Program (for John O'Brien)

This memo reviews the WAPAC thematic findings with recommendations dated December 5, 2003. This review focuses on the relation of the findings to the State Guide Plan (SGP) elements concerning water supply and land use / planning enabling legislation. It provides an assessment of the impact of such to the SGP and the existing legislation. General comments are presented first and then an assessment of proposed changes from the findings follows. Other recommendations concerning water allocation for the WAP (water allocation program) to consider are included at the end of this memo.

General Overview:

In Rhode Island, more frequent droughts, drinking water quality compliance, non-allocation of the resource, overuse, aging water infrastructure, land development, population growth, and changing trends in water usage are putting higher demands on water resources. None of these issues is new to the State and the agencies that deal with water related issues. Generally, there does exist policy to address these issues but stronger individual programs and actions to implement the existing policies are needed. Specific strategies, actions, and detailed information within a coordinated strategy for officials at the state, regional, and local levels, water suppliers, developers, and the public is needed to be able to effectuate the existing policies. Specific guidance already exists for resource protection, local supply and demand management, drought management and emergency response planning.

Rhode Island State Guide Plan:

The Statewide Planning Program (SPP) has been a proponent of statewide water and land use planning policy for near to forty years. The major policy item to accomplish this has been the SGP. The SGP is the State's long-term planning *policy* document. It comprises thirty elements covering a range of topics. It has four functions. These are to:

1) Set long range policy
2) Coordinate development projects of state importance
3) Set goals and policies for local comprehensive plans
4) And provide a general background on various topics.

Several elements of the SGP apply directly to the management of water resources pertinent to the WAP. These are:

721	Water Supply Policies for RI
722	Water Supply Plan for RI
723	Water Emergency Response Plan
724	Drought Management Plan

An important concept about the SGP to remember is that the SGP is intended to centralize *policy* and recommend methods to implement that policy. It is not intended to be regulatory. It can propose *policy* where regulations are identified as needed but the SGP does not promulgate regulations within it. Nor it is a function of the SPP to promulgate regulations for other programs or other agencies. Several recommendations have been made and identified as changes to the SGP policy but are more regulatory in nature and are identified as such in later sections of this memo.

Statewide Planning agrees that a strong single SGP element on water resources should emerge from the WAP for effective implementation and water resource planning. Amendment, consolidation, and easier access to resource information concerning the existing policies will help to strengthen what exists. Working with the existing policies, strengthening existing language where necessary and merging multiple elements together is possible. A suggested combination is to merge elements 721 and722 into a single element. The 723 element could be blended into the overall State Emergency Operations Plan and eliminated. The 724 element is a strategic stand-alone element that can be amended where necessary for water allocation.

The 121 element is undergoing revision by SPP staff and scheduled for completion next year. This element currently has policy requiring the linkage of land uses to environmental resources and services. It is recommended that written specifics for any new or revised goals, policies, and strategies related to water resource management and allocation be forwarded as soon as possible to the Land Use Staff for consideration of incorporation into the update of this element.

Where the particular expertise and regulatory authority on a specific topic resides outside of the SPP, the SPP have relied on those agencies with this expertise and authority to draft and or revise a SGP element. This is the case with comprehensive water resources information and the development of a water allocation program. Statewide Planning recommends that WRB compose and submit a draft of amended SGP elements to the SPP for consideration of adoption by the State Planning Council (SPC). Final adoption can accomplished under a *Memorandum of Understanding* (MOU) with the SPP. These agreements have been used in the past by SPP. They have been found to be very effective for preparing work on the SGP by others for the final decision of the SPC. Guidelines for preparing elements can be found at http://www.planning.ri.gov/misc/Stateguide.pdf.

It was noted that the findings do not indicate funds would be necessary for revisions to the SGP. **THIS IS INCORRECT AND SHOULD BE CHANGED**. Funds must be budgeted for the preparation, adoption and distribution of any change to the SGP. The funding needed is normally covered by an MOU with SPP.

WAPAC Thematic Findings: [*]

Plans/policies/Coordination/Regulatory Uses

Six recommendations are made to revise the SGP.

#23,37,28 relate to 721 and 722.
#25 relates to 723.
#29 and 59 relate to 724

Existing policies exist that could be strengthened for many of these recommendations in a consolidated element. 724 can be amended where necessary for water allocation.

Land Use

One recommendation is made to revise the SGP.

33[*] relates to 722 and 722

Existing policies exist that could be strengthened for many of these recommendations in a consolidated element.

Also #33 relates to revising existing state planning / land use enabling law. It is not necessary to revise the law. It already empowers municipalities to require environmental information in the development review process. A clearinghouse of water resource information and model procedures for local regulations to follow is what is needed to accomplish this.

Monitoring

Two recommendations are made to revise the SGP.

#9 and 6 are regulatory or should established by agency rules rather than by policy of SGP.

Technical Assistance

#70 relates to revising existing state planning / land use law. This is more appropriate for separate legislation other than state planning / land use law or should established by agency rules rather than by policy of SGP.

Legal Considerations

Nine recommendations are made to revise the SGP.

[*] Indicates a recommendation identified as a "Critical Water Resources Management Program Element"

#27*, 31*, 30* relate to 721 and 722.

Existing policies exist that could be strengthened for many of these recommendations in a consolidated element.

#11 relates to 724

724 can be amended where necessary for water allocation.

#34,14,32*, 15 are regulatory or should established by agency rules rather than by policy of SGP.

#22 relates to state and federal legislation not the SGP. This is more appropriate for separate legislation other than state planning / land use law.

#35 relates to revising existing state planning / land use law. It is not necessary to revise the law. It already empowers municipalities to require environmental information in the development review process. Model procedures for local regulations to follow are what are needed to accomplish this.

Research

Three recommendations are made to revise the SGP.

#80* is regulatory rather than policy of SGP.

#40 and 41 are recommended implementation tools rather than policy of SGP.

Also #80 relates to legislation other than state planning / land use law.

Funding

Three recommendations are made to revise the SGP.

#52*, 53 and 51 relate to #722.

Existing policy calls for the water suppliers to set necessary fees appropriate to the cost of providing water. Revision of the SGP to mention specific fees may not be necessary since the broad policy already exists. The recommendations also suggest that legislation and regulations are needed to set such fees. These recommendations should relate to legislation other than state planning / land use law and should established by agency rules rather than by policy of SGP.

Other Recommendations:

* Indicates a recommendation identified as a "Critical Water Resources Management Program Element"

Currently there is not sufficient information on water resources available to local officials at the state, regional, and local levels, water suppliers, developers, and the public. This lack of information makes it difficult to base land use allocations, density of development, and decisions about future land use on water supply. It also makes it difficult to envision modifying the existing water rights structure without such information in hand.

One way to avoid potential future water shortages and subsequent water rights disputes is to address future water supply and predicted water demands. There is an immediate need for information related to water availability, especially:

- The quantity of the collective safe yield of all water resources of the State. How much water does the State actually have to use and allocate?

- The collective existing water demand of the State. How much of the total resource are we actually using?

- A build out analysis for future water needs. The build out analysis should:

    1) Estimate current water use by municipal zoning districts. It should project daily water usage per acre based upon existing zoning within municipalities and refine projection using the identified major users of the WSSMPs.

    2) Project the total future water demand per acre based upon the anticipated future land use of adopted comprehensive plans by land use category.

    3) Conclude by watershed and by municipality the status of the availability of the resource if build out occurs per future land use desired. How much of the resources can we except to use up and will there enough water at total build out of the State?

It is recommended that the WRB develop and distribute this information as soon as possible. This information should be distinguished by watershed and further broken down by municipality for use in ongoing land management decisions.