

Attachment 1A
MEETING SUMMARY
H2O – Help to Others – Program Board of Directors
February 1, 2011
Chesapeake

1. Salvation Army Memorandum of Agreement

HRPDC staff provided an overview of the draft memorandum of agreement (MOA) for program administration between the H2O program Board of Directors and The Salvation Army (SA) Commands of Hampton Roads. It was clarified that SA staff will screen program applicants for eligibility, but HRSD will disburse program payment to local utilities. There were not enough board members to constitute a quorum to vote on entering into an MOA with the Salvation Army. HRPDC staff is investigating whether the Board of Directors can vote via email. It is anticipated that the Board will be asked to authorize MOA execution at the March 7, 2012 board meeting.

ACTION: None.

2. Summary of H2O Program Kick-off Meeting

HRPDC staff summarized the January 12, 2012 H2O Program kick-off meeting with utility billing department representatives, HRSD, and the Salvation Army Commands of Hampton Roads. The following topics were discussed:

- Overview/history of the Help to Others-H2O-Program
- H2O fundraising process
- H2O program administration and roles of the Directors of Utilities, HRPDC, HRSD, Salvation Army, and water utility billing departments
- H2O program eligibility requirements
- Client screening process
- H2O payment process

The Committee requested that HRPDC and SA staff monitor the issue of accessibility to SA offices and whether any citizens are having difficulty reaching SA offices. HRPDC staff noted that concern as to the accessibility of SA Commands was brought up at the kick-off meeting, and that SA staff responded with confidence that their offices can effectively serve all Hampton Roads communities, as demonstrated by their administration of the Dominion Energy Shares program. Staff can also advise citizens as to the most conveniently located SA Command. If accessibility is a problem, the program administration can be adapted in the future to address the gap.

The winter fundraising period has come to a close and the Salvation Army will be ready to screen clients by the week of February 13, 2012. The total amount of assistance available for

the current fundraising period is \$38,293.42, which includes the \$20,000.00 transfer of carryover funds authorized in January.

ACTION: No action.

Attachment 1A
MEETING SUMMARY
DIRECTORS OF UTILITIES COMMITTEE
February 1, 2012
HRPDC - Chesapeake

1. Summary of January 4, 2011 Meeting of the Directors of Utilities Committee

There were no comments on, or revisions to the summary of the January 4, 2011 Committee meeting.

ACTION: The summary of the January 4, 2011 meeting of the Directors of Utilities Committee meeting was approved.

2. White Paper: Coastal Plain Aquifer Groundwater Levels

During the Committee's discussion of the International Paper (IP) Groundwater Withdrawal Permit at the December 7, 2011 meeting, the Committee agreed to develop a white paper on the groundwater impacts observed since pumping has ceased at the IP plant. HRPDC staff asked the Committee for feedback to confirm the desire for a white paper or letter, the intended audience, and any potential considerations or issues that should be addressed in the document.

The Committee discussed the groundwater permitting process, including recently negotiated permits that reflect reductions from previously permitted withdrawals, the need for the applicant to demonstrate demand, the consideration of beneficial use, and the potential results of modeling large groundwater withdrawals. Although there are clear economic benefits of a limited or complete reopening of the IP plant, the Committee also noted that a large allocation to IP may preclude other applicants from obtaining withdrawal permits and that the permit process may be influenced by political pressures for particular interests, despite the regulatory agency's application of the precautionary principle in permit negotiations.

The Committee agreed that a comment letter would be premature, as the draft permit is pending, and that HRPDC staff should draft a summary of the related technical information describing the groundwater level response in the Coastal Plain aquifer since IP ceased withdrawals.

ACTION: Committee directed HRPDC staff to prepare a draft summary of groundwater level response in the Coastal Plain aquifer since IP ceased withdrawals.

3. EPA Draft Framework for Integrated Municipal Stormwater and Wastewater Planning

The U.S. Environmental Protection Agency (EPA) is promoting the use of integrated planning to allow local governments to balance compliance requirements for Clean Water Act (CWA) stormwater and wastewater obligations. An EPA memo dated October 27, 2011 describes the initiative and motivation for the new approach. EPA has developed a Draft Integrated Planning Approach Framework document (http://www.epa.gov/npdes/pubs/integrated_planning_framework%20draft.pdf), released on January 13, 2011 and is conducting five listening sessions scheduled from January 31 to February 17, 2012 in various locations across the country to solicit comments. HRPDC staff provided an overview of the document, noting that the initiative is related to municipalities with combined sewer systems desiring to implement green infrastructure to provide cost effective solutions and that the initiative includes the principle of allowing local governments to prioritize and sequence CWA obligations to focus on the highest priorities first. HRPDC staff flagged the issue of how this initiative would fit in with existing compliance efforts, and welcomed any comments or concerns from the Committee for staff to take forward to the February 17, 2012 listening session.

Staff introduced Mr. Jim Pletl, HRSD, who attended the first listening session held on January 31, 2012. Mr. Pletl provided the Committee with summary of the listening session format, key points communicated by EPA, and observations of emerging themes and issues related to implementing the initiative:

- The listening session was facilitated by a few representatives from EPA headquarters who addressed a 16-member panel of selected stakeholders to solicit input. The session was attended by approximately 50 additional observers. Mr. Pletl attended as a representative of Water Environment Federation (WEF).
- It appears that EPA is taking the initiative very seriously; the involvement of EPA headquarters promotes agency-wide support of concept. However, it is clear that the short draft framework document needs significant development.
- EPA is open to implementing integrated planning at any scale – organization level, community level, and larger.
- EPA envisions the integrated planning process as an umbrella over all existing permit processes. EPA would maintain the 5-year schedule for permit renewals, and adapt permit revisions to overarching integrated plans as they are developed for respective cities or regions.
- EPA is not investing resources toward integrated planning efforts, and is looking to stakeholders to develop plans. EPA indicated that the permit processes will support stakeholder plans, and will push for integrated planning if desired by stakeholders.

- There is a common understanding within EPA that integrated plans will be living documents, subject to change with plan updates to promote adaptive management.
- In addition to the listening sessions, EPA is asking for statements and input from the interested public by February 29, 2012. EPA intends to publish a revised framework document on March 30, 2012.
- Stakeholders emphasized that obligations for drinking water sources should also be addressed in the integrated planning framework, however, EPA appears to be resisting this, preferring to focus to stormwater and wastewater.
- Stakeholders from non-governmental organizations advocated for transparency and opportunities for stakeholder involvement in the planning process, as well as for the use of green infrastructure in projects. It was also commented, and acknowledged by EPA, that green infrastructure may not always be the best solution and that the framework should be flexible enough to provide for this consideration.
- In response to questions regarding affordability, EPA indicated that they do not have any guidance and resisted commenting on previously cited numbers regarding affordability, such as 2% of median household income. EPA noted that affordability will be determined on a case-by-case basis. Stakeholders commented that the lack of guidance is problematic for many reasons, including encouraging poor planning and a longer negotiation process.
- Stakeholders emphasized the need for a watershed approach toward integrated planning that accounts for the influence of non-point source pollution. It was clarified that the non-point source sector should be at the table, but not necessarily part of the permitting process, to provide perspective on where to leverage funds and improvement projects to better address the big picture. Stakeholders expressed desire to maintain the permitting process for accountability, but EPA believes that consent decrees are easier to develop. EPA, however, is not opposed to permits.
- Regarding variances and the development of integrated plans, EPA supports the use of attainability analyses and standards and criteria-based nutrient allocations, as is being applied in the James River.

At the Committee's request, HRPDC staff will provide examples of how this EPA initiative is being forwarded through consent decrees in Chicago and St. Louis where green infrastructure will be implemented to reduce combined sewer system overflows by capturing stormwater.

The Committee echoed many of the concerns expressed by stakeholders at the January 31, 2012 listening session. Additional comments and questions from the discussion included the following:

- Do localities want to do stormwater improvements to try to address infiltration/inflow (I/I) to the sanitary sewer system?
- Can localities do work for the TMDL first to the benefit of SOC requirements?
- The idea would allow prioritization and sequencing of projects without conflicting or causing non-compliance issues with stormwater and wastewater obligations – if a locality prioritized stormwater, it would not be seen as in conflict with the wastewater consent decree.
- Integrated planning would not absolve localities from obligations to do I/I work to reduce sanitary sewer overflows (SSOs).
- The initiative will theoretically allow localities to balance TMDL and SOC work and is worth exploring, but the situation is complicated by the fact that the SOC process is already underway and integrated planning would impact regional partnership agreements for the SOC.
- Prioritization would require cost estimates, which brings back the affordability issue.
- Prioritization could be based on the project benefit and how a project could be implemented.
- Because of low incidence, the elimination of SSOs will have negligible effects on water quality in the Chesapeake Bay and compliance with the Chesapeake Bay TMDL.
- For the Chesapeake Bay TMDL, the integrated planning approach allows options to address nutrient reductions by providing the opportunity to figure out the most cost effective reductions.
- Local TMDLs must also be considered; project benefits will include improvements to local water quality and compliance with local TMDLs.
- How does the EPA justify planning that allows CWA violations in the form of SSOs to continue while stormwater projects are implemented?
- Localities owe it to rate payers to investigate the potential implications of integrated planning.
- It is possible that integrated planning could also result in the identification of additional enforcement issues.
- The draft EPA framework addresses future actions, but the need for a balance between CWA obligations is immediate.
- The push for integrated planning came from the U.S. Conference of Mayors, not EPA. Municipalities cannot afford to meet the multiple regulatory requirements and want to address the question of what can be done to achieve the most impact with the limited available resources.

HRPDC staff will attend the February 17, 2012 listening session and report back to the Committee.

ACTION: No action.

4. Staff Reports

- FY 2012-2013 Water and Wastewater Program Budgets: Hard copies of the revised proposed program budgets were distributed. HRPDC staff will distribute electronic copies with a request for written confirmation of support.
- **HRPDC Socio-Economic Analysis:** HRPDC will be commencing work on the regional socio-economic analysis, which includes population projections. At the March 7, 2012 Committee meeting, HRPDC Chief Economist Greg Grootendorst will make a presentation. The Committee will have the opportunity to review any questions on past practices regarding population projections and provide input on how projections may be improved general and for the use of the utility.

ACTION: No action.

5. Other Business

- Mr. Richard Stahr, Brown and Caldwell, provided a briefing on recent coordination efforts with the Department of Environmental Quality (DEQ) and EPA on the DEQ Special Order by Consent (SOC) and the EPA Consent Decree for Sanitary Sewer Overflows.

In a January 20, 2012 email, DEQ provided the agency's interpretation of specific items in the Regional Technical Standards, including the peak flow threshold and applicability to multiple levels of service (LOS), growth loading in the regional hydraulic model, and the sequence of work of the LOS analysis, rehabilitation plans, and the Regional Wet Weather Management Plan (RWWMP). The email also requested clarification on the rehabilitation planning approach and justification for model inputs for the capacity assessment. Finally, the email acknowledged potential issues with the submission deadlines identified in the SOC, and indicated that DEQ will be submitting an amendment to the SOC to change deadlines to allow simultaneous development of rehabilitation plans and the RWWMP.

The Capacity Team met with DEQ on January 30, 2012 to discuss DEQ's interpretation of the RTS and the proposal for amending the SOC. At the close of the meeting, the regional partners were not in agreement on the next steps. The Capacity Team will work toward consensus on a path forward and intends to meet with DEQ again in mid-February. HRSD has informed EPA, as required by the

federal Consent Decree, of these developments and the potential impact on compliance with the schedule.

- Mr. Jim Walski, Director of Chesapeake's Public Utilities Department, introduced Mr. Bill Meyer to the Committee. Mr. Meyer will serve as the Interim Director and represent the City on the Committee following Mr. Walski's retirement on February 29, 2012.

ACTION: No action.

Committee Meeting Sign-In Sheet
February 1, 2012

Attachment 1B

Locality/Agency	Representative	Representative	Representative	Representative
HRSD	Phil Hubbard	Jim Pletl		
Chesapeake	Jim Walski	Bill Meyer		
Franklin				
Gloucester	Martin Schlesinger			
Hampton	Jason Mitchell			
Isle of Wight	Frank Haltom			
James City County	Larry Foster			
Newport News	Reed Fowler	Everett Skipper		
Newport News				
Norfolk	Kristen Lentz			
Poquoson	Bob Speechley			
Portsmouth	Bryan Foster			
Smithfield				
Southampton				
Suffolk	Craig Zieseimer			
Surry				
Virginia Beach	Bob Montague	Steve Motley		
Williamsburg				
Windsor				
York	Brian Woodward			
HRPDC	John Carlock	Whitney Katchmark	Jennifer Tribo	
HRPDC	Lisa Hardy	Katie Cullipher	Tiffany Smith	
New Kent				
DEQ				
EPA				
USGS				
VDH				
VDH				
AECOM				
AquaLaw				
Brown & Caldwell	Richard Stahr			
CH2M-Hill				
Christian Barton				
CNA				
Hurt & Proffitt, Inc.				
McGuire Woods				
REMSA	Joe Duffy			
Troutman Sanders				
URS				
Watermark Risk Management				

DRAFT **INTEGRATED PLANNING APPROACH FRAMEWORK**

Stakeholder involvement and outreach are critical components of an integrated planning approach for municipalities. EPA will provide opportunities for stakeholder input during the development of this framework. Outreach activities associated with this effort will include the development of both case studies of municipal leaders as well as public outreach tools. EPA is planning a series of listening sessions to allow the public to provide input on a draft of this framework. EPA intends to hold at least five listening sessions during January and February of 2012. EPA listening sessions will be open to the public.

EPA recognizes that approved NPDES States are partners in the implementation of the program and have the lead for the day-to-day activities in their States. EPA is working closely with the States in the implementation of this framework.

I. Background

In recent years, EPA has begun to embrace integrated planning approaches to municipal wastewater and stormwater management. EPA further committed to work with states and communities to implement and utilize integrated planning approaches to municipal wastewater and stormwater management in its October 27, 2011 memorandum “*Achieving Water Quality Through Municipal Stormwater and Wastewater Plans.*”¹ Integrated planning will assist municipalities on their critical paths to achieving the human health and water quality objectives of the Clean Water Act (CWA) by identifying efficiencies in implementing the sometimes overlapping and competing requirements that arise from distinct wastewater and stormwater programs, including how best to make capital investments. Integrated planning can also facilitate the use of sustainable and comprehensive solutions, including green infrastructure, that protect human health, improve water quality, manage stormwater as a resource, and support other economic benefits and quality of life attributes that enhance the vitality of communities. The integrated planning approach does not remove obligations to comply with the CWA, but rather recognizes the flexibilities in the CWA for the appropriate sequencing of work.

The purpose of this framework is to provide further guidance for EPA, states and local governments in developing and implementing effective integrated plans. The framework identifies the operating principles and essential elements of an integrated plan.

II. Principles

Following are overarching principles that EPA will use in working with municipalities to implement an integrated approach to meet their wastewater and stormwater program obligations

¹ The October 27, 2011 memorandum is available at <http://cfpub.epa.gov/npdes/integratedplans.cfm>.

under the CWA. Also presented are guiding principles that EPA recommends municipalities use in the development of their integrated plans.

Overarching Principles

1. This effort will maintain existing regulatory standards that protect public health and water quality.
2. This effort will allow a municipality to balance various CWA requirements in a manner that addresses the most pressing public health and environmental protection issues first.
3. The responsibility to develop an integrated plan rests with the municipality that chooses to pursue this approach. Where a municipality has developed an initial plan, EPA and/or the State will determine appropriate actions, which may include developing requirements and schedules in enforceable documents.

Principles to Guide the Development of an Integrated Plan

Integrated plans should:

1. Reflect State requirements and planning efforts and incorporate State input on priority setting and other key implementation issues;
2. Provide for meeting water quality standards and other CWA obligations by utilizing existing flexibilities in the CWA and its implementing regulations, policies and guidance;
3. Maximize the effectiveness of funds through analysis of alternatives and the selection and sequencing of actions needed to address human health and water quality related challenges and non-compliance.
4. Incorporate effective innovative technologies, approaches and practices, including green infrastructure.
5. Evaluate and address community impacts and consider disproportionate burdens resulting from current approaches as well as proposed options.
6. Ensure that existing requirements to comply with technology-based and core requirements (*e.g.*, proper operation and maintenance of facilities, secondary treatment requirements, nine minimum controls for combined sewer overflows (CSOs), including elimination of dry weather overflows, and stormwater minimum measures) are not delayed.
7. Ensure that a financial strategy is in place, including appropriate fee structures.
8. Provide appropriate opportunity for meaningful stakeholder input throughout the development of the plan.

III. Elements of an Integrated Plan

Defining Scope

National Pollutant Discharge Elimination System (NPDES) requirements for separate sanitary sewer systems, combined sewer systems, municipal separate storm sewer systems and wastewater treatment plants may be included in an integrated plan. Each of the aforementioned systems may have different owners/operators responsible for the various sewer systems and treatment plants as well as different geographic service areas and different service populations. When developing an integrated plan, a municipality/community must determine and define the scope of the integration effort (*e.g.* utility or service area wide encompassing all projects or narrower to include two or three projects), the entities that need to participate in implementing the integrated plan, and the role each entity will have in implementing the plan.

Plan Elements

Although the details of each integrated plan will vary depending on the unique challenges of each community, an acceptable integrated plan generally should address the following elements:

Element 1: A description of the water quality, human health and regulatory issues to be addressed in the plan, including:

- An assessment of existing non-compliance with CWA requirements and projected future CWA requirements (*e.g.*, water quality-based requirements based on a new total maximum daily load (TMDL));
- Identification and characterization of human health threats;
- Identification and characterization of water quality impairment and threats, and where available, applicable wasteload allocations (WLAs) of an approved TMDL or an equivalent analysis;
- Identification of sensitive areas and environmental justice concerns; and
- Metrics for evaluating and meeting human health and water quality objectives.

Element 2: A description of existing wastewater and stormwater systems under consideration and summary information describing the systems' current performance, including:

- Identification of municipalities and utilities that are participating in the planning effort and a characterization of their wastewater and stormwater systems; Characterization of discharges from the wastewater and stormwater systems under consideration as well as overflows from wastewater systems that do not result in a discharge to waters of the United States; and
- Identification of deficiencies associated with existing assets.

Element 3: A process for involving relevant community stakeholders in the planning and selection process.

- Municipalities developing integrated wastewater and stormwater plans should provide appropriate opportunities for meaningful input at various stages of development of the plans.

Element 4: A process for identifying, evaluating, and selecting alternatives and proposing implementation schedules which addresses:

- The use of appropriate infrastructure management approaches, such as asset management, to assist in providing information necessary for sustainable planning and in prioritizing investments in and renewal of major wastewater and stormwater systems;
- The use of a systematic approach to consider green infrastructure and other innovative measures that may provide more sustainable solutions.
- Identification of criteria, including those related to sustainability, to be used for comparing alternative projects and a description of the process used to compare alternatives and select priorities;
- Identification of alternatives, including cost estimates, projected pollutant reductions and other benefits associated with each alternative;
- An analysis of alternatives that documents the criteria used, the projects selected, and why they were selected.
- proposed implementation schedules; and
- For each entity participating in the plan, a financial strategy and capability assessment that ensures investments are sufficiently funded, operated, maintained and replaced over time.

Element 5: Measuring success

- Proposed performance criteria and measures of success; and
- Monitoring program to address the effectiveness of controls, compliance monitoring and ambient monitoring.

IV. Implementation

EPA and states will determine the appropriate roles of permit and enforcement authorities in addressing the regulatory requirements identified in the plan. Implementing an integrated approach to wastewater and stormwater management will require coordination between state and federal NPDES permit and enforcement authorities. As discussed below, elements of an integrated plan can be incorporated into NPDES permits where appropriate, enforcement actions, or both. Permit issuance and implementation of existing permit and enforcement requirements and activities should not be delayed while an integrated plan is being developed.

Permits

All or part of an integrated plan can be incorporated into an NPDES permit as appropriate. Limitations and considerations for incorporating integrated plans into permits include:

- Compliance schedules for meeting water quality-based effluent limitations (WQBELs) in NPDES permits issued for discharges from publicly owned treatment works (POTWs) and/or CSOs need to be consistent with the requirements in 40 CFR 122.47. EPA has issued guidance on when an NPDES permit authority may include a compliance schedule in a permit for the purpose of achieving a WQBEL. The guidance explains when such compliance schedules are consistent with *In the Matter of Star-Kist Caribe, Inc.* 3 E.A.D 171, 175, 177 (1990), (see “Compliance Schedules for Water Quality-Based Effluent Limitations in NPDES Permits”, May 10, 2007).
- Green infrastructure approaches and related innovative practices that provide more sustainable solutions by managing stormwater as a resource should be considered .
- Appropriate water quality trading may be reflected in NPDES permits (see EPA’s 2003 Water Quality Trading Policy).

Enforcement

EPA and the states may bring enforcement actions against municipalities to address noncompliance with the CWA. Enforcement actions include administrative orders or negotiated consent decrees that require compliance with various requirements under the CWA. All or part of an integrated plan may be able to be incorporated into the remedy of an enforcement action. Considerations for incorporating integrated plans into enforcement actions include:

- Enforcement orders should provide compliance schedules for CWA requirements that prioritize the most significant human health and environmental needs first.
- Where *Star-Kist* limits the use of a compliance schedule in a permit, an enforcement action may be used in conjunction with the permit to ensure implementation of the integrated plans.
- The integrated planning framework should ensure that all necessary parties to a consent decree or administrative order are involved (e.g. municipality, utility authority, etc.).
- Green infrastructure approaches and related innovative practices that provide more sustainable solutions by managing stormwater as a resource should be considered.