

**Attachment 1A
MEETING SUMMARY
MEETING OF
DIRECTORS OF UTILITIES COMMITTEE
July 11, 2012
Newport News**

1. Summary of the June 6, 2012 Meetings of the Directors of Utilities Committee

There were no comments on, or revisions to the summary of the June 6, 2012 Committee meeting.

ACTION: The summary of the June 6, 2012 meeting of the Directors of Utilities Committee meeting was approved.

2. Summary of June 14, 2011 Meeting of the Directors of Utilities Committee

There were no comments on, or revisions to the summary of the June 14, 2012 Committee meeting.

ACTION: The summary of the June 14, 2012 meeting of the Directors of Utilities Committee meeting was approved.

3. HRPDC FY2013 Unified Planning Work Program - Water Resources

The Committee discussed HRPDC priority projects for the FY13 Water Program; these are major projects that are not reoccurring program elements and are in addition to annual projects and tasks for program administration. Recent priority projects include the Regional Water Supply Plan (2011) and the forthcoming UASI infrastructure resiliency study (2012). The Committee reviewed the staff project recommendations included in the agenda and discussed additional ideas. The Committee agreed to pursue the following:

- Revision/update of the Hampton Roads Water Quality Response Plan: Revise the Plan to reflect the current emergency management framework employed by localities and guidance developed since the previous plan update. Update the plan to provide for NIMS compatibility and add a resource identification component to reference capabilities of locality, HRSD, and private laboratories.
- The State of Hampton Roads Drinking Water Infrastructure: HRPDC staff will present a communication plan targeting HRPDC, elected officials, and chief administrative officers to convey a consistent regional statement explaining the impact of infrastructure renewal needs and decreasing revenues on rate structures and the need to transition to more appropriate business models.

The Committee agreed that no changes will be made to the FY2013 Water Program budget, approved in February 2012.

ACTION: Priority projects the FY13 work program were identified; staff will commence work and report back to the Committee.

4. Sanitary Sewer System Asset Consolidation Study

The Committee discussed the status of the study proposal and RFP. The deadline for proposals for the Sanitary Sewer System Asset Consolidation Study was June 18, 2012; seven proposals were received and the Steering Committee developed a short list for consideration. Interviews were held on July 10, 2012, and the selection committee unanimously agreed on vendor rankings. EPA sent an email on July 10, 2012 indicating their agreement in principle to the proposed study process and that a formal response with additional conditions is forthcoming. Contract negotiations with the first choice vendor have commenced. It was noted that locality participation in project-related meetings and workshops will be critical for the data gathering phase.

ACTION: No action.

5. Staff Reports

Staff Reports were provided as information items in the meeting agenda. There was no Committee discussion.

ACTION: No action.

6. Other Business

The meeting was opened for other business and the discussion is summarized below:

- Committee members discussed staffing issues related to aging workforce, early retirement, deferral of retirement, the Family Medical Leave Act, and workers compensation and disability. The group also discussed the implementation of required changes for VRS contributions.
- Regarding the Special Order of Consent for sanitary sewer overflows, the Committee discussed the results of the preliminary Capacity Assessment for the Regional Hydraulic Model. The group shared comments that were made at the July 9 and 10 meetings held with HRSD and localities to review South Shore and North Shore service area results.

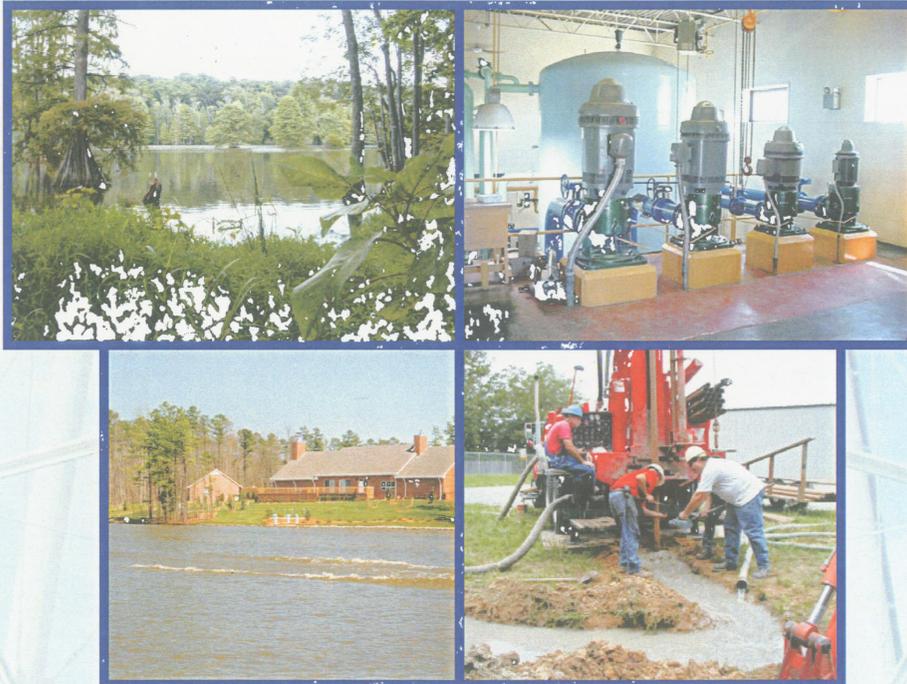
ACTION: No action.

Committee Meeting Sign-In Sheet
July 11, 2012

Attachment 1A

Locality/Agency	Representative	Representative	Representative	Representative
HRSD	Ted Henifin			
Chesapeake	Bill Meyer			
Franklin				
Gloucester	Martin Schlesinger			
Hampton	Tony Reyes	Jason Mitchell		
Isle of Wight				
James City County	Larry Foster			
Newport News	Brian Ramaley			
Newport News	Reed Fowler	Everett Skipper		
Norfolk	Kristen Lentz			
Poquoson	Bob Speechley			
Portsmouth	Bryan Foster			
Smithfield				
Southampton				
Suffolk	Al Moor			
Surry				
Virginia Beach	Tom Leahy			
Williamsburg				
Windsor				
York	Brian Woodward			
HRPDC	Whitney Katchmark	Tiffany Smith		
HRPDC				
New Kent				
DEQ				
EPA				
USGS				
VDH				
VDH				
AECOM				
AquaLaw				
Brown & Caldwell				
CH2M-Hill				
Christian Barton				
CNA				
Hurt & Proffitt, Inc.				
McGuire Woods				
REMSA				
Troutman Sanders				
Virginia WARN				
URS				
Watermark Risk Management				
Private citizens				

Hampton Roads Regional Water Supply Planning Process Memorandum of Agreement



March 2007

PEP07-05

HAMPTON ROADS PLANNING DISTRICT COMMISSION

Attachment 3A

CHESAPEAKE

REBECCA C.W. ADAMS
AMAR DWARKANATH
* CLIFTON E. HAYES, JR.
ANNE F. ODELL
ELLA P. WARD

FRANKLIN

JOSEPH J. SCISLOWICZ
* ROWLAND L. TAYLOR

GLOUCESTER COUNTY

JOHN J. ADAMS, SR.
* WILLIAM H. WHITLEY

HAMPTON

* RANDALL A. GILLILAND
ROSS A. KEARNEY, II
JESSE T. WALLACE, JR.

ISLE OF WIGHT COUNTY

W. DOUGLAS CASKEY
* STAN D. CLARK

JAMES CITY COUNTY

* BRUCE C. GOODSON
SANFORD B. WANNER

NEWPORT NEWS

CHARLES C. ALLEN
* JOE S. FRANK
RANDY W. HILDEBRANDT

NORFOLK

ANTHONY L. BURFOOT
* PAUL D. FRAIM
DR. THERESA W. WHIBLEY
REGINA V.K. WILLIAMS
BARCLAY C. WINN

POQUOSON

* CHARLES W. BURGESS, JR.
GORDON C. HELSEL, JR.

PORTSMOUTH

JAMES B. OLIVER, JR.
* DOUGLAS L. SMITH

SOUTHAMPTON COUNTY

ANITA T. FELTS
* MICHAEL W. JOHNSON

SUFFOLK

LINDA T. JOHNSON
* JAMES G. VACALIS

SURRY COUNTY

* TYRONE W. FRANKLIN
JUDY S. LYTTLE

VIRGINIA BEACH

HARRY E. DIEZEL
ROBERT M. DYER
BARBARA M. HENLEY
* LOUIS R. JONES
MEYERA E. OBERNDORF
JAMES K. SPORE
JOHN E. UHRIN

WILLIAMSBURG

* JACKSON C. TUTTLE, II
JEANNE ZEIDLER

YORK COUNTY

* JAMES O. McREYNOLDS
THOMAS G. SHEPPERD, JR.

*EXECUTIVE COMMITTEE MEMBER

PROJECT STAFF

ARTHUR L. COLLINS

JOHN M. CARLOCK
WHITNEY S. KATCHMARK
JULIA B. HILLEGASS
LAURA M. WHEELING

FRANCES D. HUGHEY

ROBERT C. JACOBS
MICHAEL R. LONG
BRIAN MILLER
RACHAEL V. PATCHETT

EXECUTIVE DIRECTOR/SECRETARY

DEPUTY EXECUTIVE DIRECTOR, PHYSICAL PLANNING
SENIOR REGIONAL GEOLOGIST
SENIOR PLANNER, ENVIRONMENTAL EDUCATION
PHYSICAL AND ENVIRONMENTAL PLANNER II

ADMINISTRATIVE ASSISTANT

DIRECTOR OF GRAPHIC & PRINTING SERVICES
GRAPHIC ARTIST/ILLUSTRATOR TECHNICIAN II
GRAPHIC TECHNICIAN II
REPROGRAPHIC SUPERVISOR

**MEMORANDUM OF AGREEMENT
GUIDING THE
HAMPTON ROADS REGIONAL WATER SUPPLY PLANNING PROCESS**

WHEREAS, Section 15.2-4200 of the Code of Virginia enables local governments to establish Planning District Commissions; and

WHEREAS, the sixteen cities and counties that are signatories to this Agreement have acted, in accordance with Section 15.2-4200 of the Code of Virginia, to establish the Hampton Roads Planning District Commission; and

WHEREAS, the Hampton Roads Planning District Commission has been requested and has undertaken various studies to support local government water supply programs; and

WHEREAS, the eight towns that are signatories to this Agreement participate directly or indirectly in the regional water supply planning program; and

WHEREAS, the signatory local governments have requested the HRPDC to administer and coordinate the development of a regional water supply plan on their behalf; and

WHEREAS, pursuant to the State Water Control Law Section 62.1-44.15 and 62.1-44.38:1 of the Code of Virginia, the State Water Control Board has promulgated implementing regulations, 9 VAC 25-780, which establishes the planning process and criteria that all local governments will use in the development of local or regional water plans; and

WHEREAS, the twenty-four signatory local governments are required by 9 VAC 25-780 to submit a local water supply plan or participate in a regional planning unit in the submittal of a regional water supply plan to the Department of Environmental Quality; and

NOW THEREFORE, the signatory parties enter into the following Agreement.

This Memorandum of Agreement, entered into this 7th day of March 2007, among and between the sixteen cities and counties and the eight towns in Hampton Roads and the HRPDC, establishes the Hampton Roads Regional Water Supply Planning Process.

BASIC PREMISES

1. All local governments in Hampton Roads must submit to DEQ a local water supply plan or participate in the submittal of a regional water supply plan.
2. The local governments in Hampton Roads recognize the benefits, in terms of cost, coordination and regulatory compliance, of proceeding with a Regional Water Supply Planning Process.
3. The local governments have developed a consensus of regional goals to guide the water supply planning program. The HRPDC Directors of Utilities Committee endorsed the following goals on January 4, 2006:
 - a. Develop a regional water supply plan for the Hampton Roads Region that ensures the long-term availability of a high quality, safe water supply for the citizens of Hampton Roads.
 - b. Develop a regional water supply plan that enables the localities of the Hampton Roads Region to meet the local and regional water supply planning requirements of the Commonwealth of Virginia, 9 VAC 25-780.
4. The HRPDC Directors of Utilities Committee will guide and direct this planning process. The Committee will evaluate and approve data collection criteria, methodologies for data analysis, and assessments and alternatives identified in the Regional Water Supply Plan, as necessary to meet all requirements of 9 VAC 25-780.
5. This Agreement applies to all local governments within the Hampton Roads Planning District. All participating local governments will be participants in and signatories to the Agreement.
6. This Agreement establishes the administrative framework, which will be used by the local governments in Hampton Roads to complete a Regional Water Supply Plan and meet the requirements of the Water Supply Planning Regulation, 9 VAC 25-780.
7. A final draft Regional Water Supply Plan for Hampton Roads will be completed by August 2008 and submitted to all signatory localities for review and approval.
8. The data required by the Water Supply Planning Regulation, which has not previously been collected by most or all of the signatories will be collected and compiled on a cooperative regional basis. This will include environmental characteristics, agricultural use and self-supplied use,

including development of estimates of water use by residences and businesses that are self-supplied by individual wells withdrawing less than 300,000 gallons per month.

9. Existing local studies addressing existing water needs, future requirements and potential water sources will be used to develop the regional plan. The regional process will not include new studies that address this type of data.
10. Appropriate areas to be addressed through sub-regional plans will be determined by the HRPDC, in cooperation with the Directors of Utilities Committee, during the course of the water supply planning process.

HRPDC RESPONSIBILITIES

Under the terms of this Agreement, the HRPDC is responsible for the following:

1. Provide the necessary administrative, technical and clerical resources to support all program activities directed by the Directors of Utilities Committee.
2. Facilitate consensus process to development of the Regional Water Supply Plan and associated technical studies.
3. Collect data, conduct analyses and prepare documentation necessary for the participating Hampton Roads localities to comply with the requirements of 9 VAC 25-780.
4. Prepare, in cooperation with the Directors of Utilities Committee an Annual Work Program and Budget for the Water Supply Planning Process.
5. Serve as liaison between the participating localities and the Department of Environmental Quality.
6. Develop educational materials and conduct regional educational activities for elected officials, municipal employees, civic leaders, and so forth. The program will address the new water supply planning requirements and their implications on water users, elected officials, and the general public.
7. Contract with and manage consultants to support the development of the Regional Water Supply Plan as determined appropriate by the Directors of Utilities Committee.
8. Manage and/or participate in Public Hearings supporting the water supply planning process.

9. Assist the signatories in coordinating water supply planning activities to ensure that the plan requirements are met in a cost-effective manner.
10. Provide other technical support, as requested, to the signatory local governments.

LOCAL GOVERNMENT RESPONSIBILITIES

1. Maintain active participation in the Directors of Utilities Committee.
2. Provide timely technical review of the HRPDC's analysis and conclusions.
3. Work with HRPDC to develop educational materials and conduct regional educational activities for elected officials, municipal employees, civic leaders, and so forth.
4. Identify self-supplied and/or private water users within their respective locality and assist in collecting water use data and projected water needs.
5. Provide existing technical studies and permits to support the regional water supply plan.
6. Coordinate any efforts to align a locality's Comprehensive Plan to the Regional Water Supply Plan. Locality representatives are responsible for determining if local Comprehensive Plans and the Regional Water Supply Plan are consistent with each other. Revisions to the localities' Comprehensive Plans are outside the scope of this project.
7. Provide agreed upon funding to support the Regional Water Supply Planning Process.
8. Support HRPDC efforts to obtain additional funding to support the Regional Water Supply Planning Process.

ROLE OF THE HRPDC DIRECTORS OF UTILITIES COMMITTEE

1. The Directors of Utilities Committee will consist of one voting representative of each signatory, appointed by the Chief Administrative Officer of the signatory local government. One or more alternates may be formally designated by the Chief Administrative Officer or the members of the Directors of Utilities Committee.
2. The term of membership on the Directors of Utilities Committee will be coterminous with the term of service as Director of Utilities or at the pleasure of the Chief Administrative Officer.

3. Generally, the Directors of Utilities Committee will operate on a consensus basis. For purposes of this document, consensus is defined as being able to "live with" the resulting Regional Water Supply Plan, although each party may not agree with all elements of the Plan. All consideration of and recommendations concerning the Annual Work Program and Budget will require a majority vote of the Directors of Utilities Committee membership. Each signatory is entitled to one (1) vote.
4. The Committee will evaluate and approve data collection criteria, methodologies for data analysis and assessments, and alternatives identified in the Regional Water Supply Plan.
5. Various subcommittees may be established by the Directors of Utilities Committee to facilitate operation of the Hampton Roads Regional Water Supply Planning Process.

METHOD OF FINANCING

Beginning with Fiscal Year 2007 (July 1, 2006-June 30, 2007), program costs will be allocated on a pro-rata basis among the local governments. For purposes of the Regional Water Supply Planning Program, pro-rata shares will be determined based on the locality's proportionate share of total regional water connections.

Individual local governments may request specific services from the HRPDC, which are in excess of the program elements common to all participants. The cost of such services will be borne by the requesting locality or localities.

To conform to local government charter and Virginia Code requirements, funding obligations under this Agreement will be subject to annual appropriations from the participating localities.

When appropriate, financial support from other entities, such as state and federal agencies and nonprofit organizations, will be sought and obtained to support the activities of the Hampton Roads Regional Water Supply Planning Process. Any such financial support will be used to defray costs to the localities.

A locality, as provided for in paragraph 3 of OTHER CONDITIONS, may terminate its participation in this Agreement. Once the project budget is approved for a particular Fiscal Year, any locality terminating its participation will remain liable for its share of the approved project budget for that Fiscal Year.

AVAILABILITY OF FUNDS

Performance by the HRPDC of its responsibilities under this Agreement is subject to the availability of funding from the signatory local governments, as supplemented by appropriate external funding sources. Failure of the local

governments to provide the necessary funding to support these activities will constitute a Notice to Modify or Terminate the Agreement.

MODIFICATIONS

Modifications to this Memorandum of Agreement must be submitted in writing, recommended for approval by the Directors of Utilities Committee, approved by the Hampton Roads Planning District Commission, and accepted by all signatories.

DURATION AND TERMINATION

This Agreement will have a term of approximately six (6) years, extending from the date of full execution by the signatories on this 7th day of March 2007 through December 31, 2011.

The term of this Agreement may be extended by the participants following review and evaluation of the effectiveness of the regional water supply planning process. This evaluation will include consideration of the requirements in 9 VAC 25-780 that the Regional Water Supply Plan be reviewed at least once every five (5) years and that the Regional Water Supply Plan be revised at least once every ten (10) years.

This Agreement may be terminated, based on a majority vote of the participating localities. An individual locality, participating in this Agreement may terminate its participation in accordance with paragraph 3 of OTHER CONDITIONS.

OWNERSHIP OF PROPERTY

It is not the intent of the signatories that the Memorandum of Agreement will result in the purchase, ownership, leasing, holding or conveying of any real property.

LIMITATION OF LIABILITY

It is the intent of the signatories that no signatory will be held liable for any damages or associated penalties caused by or associated with the failure of any other signatories to discharge its duties or to exercise due diligence in discharging its duties under this Agreement, and that no signatory, by entering this Agreement, waives any defenses or immunities available to it at law, including, but not limited to, those set forth in Section 15.2-970 of the Code of Virginia.

By entering into this Memorandum of Agreement, no signatory locality agrees to assume or otherwise become responsible for any other locality's compliance with or liabilities associated with obligations and requirements mandated under the

State Water Control Law (Section 62.1-44.15 and 62.1-44.38:1), the Water Supply Planning Regulations (9 VAC 25-780), or any other applicable law, regulation, administrative order, contract or agreement.

OTHER CONDITIONS

Notwithstanding any other provision of this Memorandum of Agreement:

1. Nothing in this Memorandum of Agreement shall prevent any signatory locality from developing its own local water supply plan at its own expense for submission to the Department of Environmental Quality to ensure that locality's compliance with the Water Supply Planning Regulations in case the development of the Regional Water Supply Plan is delayed or, in that locality's sole judgment, would not meet the water supply planning needs and objectives of that locality or otherwise would not serve the interests of its residents.
2. Nothing in this Memorandum of Agreement shall prevent any signatory locality from withdrawing from this Memorandum of Agreement after that locality provides ten (10) days' advanced written notice thereof to the Directors of Utilities Committee of its intent to do so, and where such withdrawal is based on the sole judgment of that locality that the development of the Regional Water Supply Plan or the proposed Regional Water Supply Plan would not meet the water supply planning needs and objectives of that locality or otherwise would not serve the interests of its residents.
3. The Regional Water Supply Plan (whether it be in draft, proposed, or final form) will not be submitted to the Department of Environmental Quality unless and until each and every locality within the Hampton Roads Planning District, which is a signatory to this Memorandum of Agreement and participating in this regional plan has provided to HRPDC its respective written approval and endorsement of such Regional Water Supply Plan and authorization to submit it to the Department of Environmental Quality as a regional water supply plan that includes that locality. If one or more localities, participating in this regional plan determine that they cannot approve and endorse the Regional Water Supply Plan, the Plan will not be submitted as a Regional Water Supply Plan by the HRPDC. Nothing in this Memorandum of Agreement will preclude one or more of the remaining signatories from submitting those elements of the Regional Water Supply Plan specific to their locality or localities as a Regional Water Supply Plan.

HAMPTON ROADS PLANNING DISTRICT COMMISSION 2012 LEGISLATIVE AGENDA

In preparation for the 2012 Session of the Virginia General Assembly, the staff of the Hampton Roads Planning District Commission has developed this 2012 Legislative Agenda. It outlines, based on ongoing HRPDC projects, prior HRPDC legislative positions and work of the region's localities, a series of issues that warrant regional attention during the upcoming legislative sessions. It also provides a recommendation or recommendations addressing each of the issues for consideration by the HRPDC.

Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E Act)

HRPDC supports legislation, proposed by the Virginia Housing Coalition, providing an exception to the definition of "mortgage loan originator" allowing local government entities and regional agencies, such as HRPDC, to assist homebuyers, through the provision of downpayment and closing cost assistance without meeting the same criteria as mortgage loan originators.

Virginia Housing Trust Fund

Housing trust funds are distinct funds established by city, county, or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing opportunities for families and individuals to access decent affordable housing. Several local and state organizations are advocating for the creation of a state housing trust fund. Governor McDonnell recently announced support of the Housing Trust Fund as a resource to decrease homelessness by fifteen percent by 2013. The HRPDC supports the establishment of the Virginia Housing Trust Fund.

Stormwater Management Program Consolidation

The Department of Conservation and Recreation proposes to integrate implementation of the Erosion and Sediment Control Act, Chesapeake Bay Preservation Act, Virginia Stormwater Management Act and expand the requirement to administer a qualified local program to all localities within the Commonwealth. HRPDC supports this proposed amendment.

Based on the work of the Governor's Commission on Government Reform and Restructuring, the Governor has proposed moving the Municipal Separate Storm Sewer System (MS4) Permit Program from the Department of Conservation and Recreation to the Department of Environmental Quality. This proposal follows the recent efforts by the Department of Conservation and Recreation to reorganize and better integrate the stormwater programs. The impact of this proposal on the region's localities is not clear and requires further evaluation. The HRPDC will monitor and evaluate this proposal.

Water Quality Funding

Virginia's local governments face mounting costs for water quality improvements for sewage treatment plants, urban stormwater, combined sewer overflows (CSOs), and sanitary sewer overflows (SSOs). In response to federal and state legislation, regulation and policies, the federal government and the Commonwealth should provide adequate funding for these water quality improvements.

The HRPDC urges the General Assembly to maintain its commitment to water quality through dedicated and adequate state appropriations to the Water Quality Improvement Fund and to make full and timely payments under point source upgrade contracts with local governments. The HRPDC supports the issuance of \$300 million in bonds to allow the Commonwealth to meet its obligations for its share of wastewater treatment projects. Concurrently, the General Assembly should address costs associated with the permit requirements of Municipal Separate Storm Sewer Systems (MS4) Permits, associated new EPA regulations and the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

Proposed Nutrient Credit Expansion

The General Assembly is expected to consider a proposal to expand nutrient credits during its 2012 Session. The HRPDC supports the expansion of the Nutrient Credit program to include all sectors addressed by the Chesapeake Bay TMDL. The program should allow credit trading between sectors such as urban stormwater and wastewater treatment plants. It should include enabling authority allowing localities to establish local nutrient credit programs and banks to allow them to set priorities to improve and protect local water quality. The program should also provide a framework for localities to include BMPs on private property as part of their Municipal Separate Storm Sewer System (MS4) Permit compliance if they provide funding or incentives to private property owners to build or maintain BMPs.

Uranium Mining

The HRPDC requests the General Assembly maintain the moratorium on uranium mining or the consideration of such, until at least the 2013 General Assembly session. Furthermore, the General Assembly is requested to direct the Department of Mines, Minerals, and Energy to not pursue development of regulations for uranium mining until after completion of and full consideration of the studies, which are presently underway.

Federal Facilities

The Hampton Roads region relies significantly on the defense industry. Two proposals are moving forward from Hampton Roads localities to enhance state support for the industry and for protection of existing facilities. To assist its member localities to ensure the continued viability of the defense industry in Hampton Roads, the HRPDC supports proposals to:

- Create the Virginia Federal Facilities and Defense Industry Caucus.
- Maintain state funding for the land acquisition program supporting mitigation of encroachment around NAS Oceana.
- Provide state funding for the land acquisition program supporting mitigation of encroachment around Langley Air Force Base (now Joint Base Langley-Fort Eustis).

Recycling Requirements

Each locality in the Commonwealth, individually or through a regional collaboration, is required to achieve a 25% recycling rate. A key constraint to local ability to achieve or exceed this recycling rate has been the lack of markets for the materials as well as access to industries that recycle or reuse the material. Recycling is an economic development tool as well as an environmental tool.

Despite increased public awareness of the benefits of recycling, beverage container recycling has been declining in recent years, while the amount of beverage containers that are being sold and consumed has increased over time.

The HRPDC supports legislation that would:

- Grant localities the authority to require certain businesses to recycle glass.
- Prioritize incentives to businesses that recycle materials, such as glass, paper and electronics, while concurrently providing new employment opportunities.

Eminent Domain

The General Assembly will consider a proposed constitutional amendment addressing eminent domain. Legislation enacted in 2011 requires the General Assembly to again consider and pass the proposed amendment in 2012, prior to it being presented to the voters. The amendment language is shown below.

*That the General Assembly shall pass no law whereby private property, the right to which is fundamental, shall be damaged or taken except for public use. **No private property shall be damaged or taken for public use without just compensation to the owner thereof.** No more private property may be taken than necessary to achieve the stated public use. **Just compensation shall be no less than the value of the property taken, lost profits and lost access, and damages to the residue caused by the taking.** The terms "lost profits" and "lost access" are to be defined by the General Assembly. A public service company, public service corporation, or railroad exercises the power of eminent domain for public use when such exercise is for the authorized provision of utility, common carrier, or railroad services. In all other cases, a taking or damaging of private property is not for public use if the primary*

*use is for private gain, private benefit, private enterprise, **increasing jobs, increasing tax revenue, or economic development**, except for the elimination of a public nuisance existing on the property. The condemnor bears the burden of proving that the use is public, without a presumption that it is.*

The HRPDC is very concerned about the serious and permanent consequences of this proposal, including creation of new property rights in terms of awards for lost access and lost profits. These are concepts that have not been supported in prior Court decisions as speculative and are likely to lead to additional litigation and increased delay and costs for public infrastructure projects. The HRPDC does not support passage of this legislation in its current form.

Septic Tanks

The Chesapeake Bay TMDL establishes limits on the amount of nitrogen, phosphorus, and sediment that can enter the Bay. As part of the effort to meet the nitrogen limits set forth in the TMDL, reductions in the nitrogen load from the onsite sewage system sector must be achieved. Monitoring of septic tank pumpout (once per 5 years), as required by the Chesapeake Bay Preservation Act, should be conducted by the Virginia Department of Health not by localities. The HRPDC supports the following recommendations:

- Seek legislative changes necessary to establish state tax credits for upgrade/replacement of existing conventional systems with nitrogen reducing systems, or connection to existing sewer.
- Look into steps for gaining General Assembly approval to grant all counties the authority to require hook-ups to existing sewer lines when appropriate.
- Develop, in cooperation with state agencies, a legislative proposal to establish a cost share program, similar to what is done with the Agricultural BMP Cost Share Program, to assist with the cost of required upgrades or replacements and incentivize non-failing septic system owners to upgrade to a denitrifying system.
- Amend the Chesapeake Bay Preservation Act to require that regulation and enforcement of septic tank pumpout requirements be conducted by the Virginia Department of Health. Localities would continue to maintain an inventory and tracking system for septic tank locations.

Sea Level Rise and Coastal Flooding

The HRPDC has identified the issue of sea level rise as a critical issue facing Hampton Roads. HRPDC staff studies to date have focused on the magnitude of the problem and its potential implications to the region. Ongoing work is addressing options for adaptation. The City of Norfolk has requested that the Commonwealth conduct a one-year study to examine the overall effectiveness of current adaptation efforts to address relative sea level rise and coastal flooding in Virginia's shoreline and coastal communities. The HRPDC supports the proposed study as an initiative that will provide critical information for the entire region's efforts.

Environmental Education

The HRPDC continues to support passage of federal legislation known as the No Child Left Inside Act of 2009 and companion legislation that may be considered at the state level. This legislation would require each state to develop an environmental literacy plan to include environmental education standards and teacher training, as well as funding to support program development. This legislation would address one of the key findings of the research conducted in Hampton Roads over the past year by HR GREEN. The legislative proposal was endorsed by the HRPDC in November 2010.

Agriculture Programs

HRPDC supports a well-financed and fully staffed state program to address the problem of non-point source runoff from agricultural operations. The program continues to include cost-share assistance to agriculture and should effectively encourage and incentivize implementation of priority best management practices such as nutrient management planning, use of cover crops, continuous no-till farming, development of forested riparian buffers, livestock stream exclusion and other practices essential to meeting agriculture's share of the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

Expand Authority for Tree Canopy Requirements

HRPDC supports the amendment of Virginia Code Section 15.2-961.1 that would enable all Virginia localities to adopt an ordinance containing a set of tree canopy preservation requirements based on development density. Section 15.2-961.1 was adopted during the 2008 General Assembly session and is currently applicable only to the localities within Planning District Eight. Increasing the urban tree canopy is an inexpensive method to reduce nutrient loading through runoff reduction and will allow localities to reduce the cost of achieving nutrient reductions for urban stormwater.

Restoration of Funding to PDCs

In FY 2001, HRPDC received \$366,628 or \$0.24 per capita in basic funding from the Commonwealth's budget through the Department of Housing and Community Development. The legislative agenda of the Virginia Association of Counties supports overall funding of Virginia's Planning District Commissions at a level of \$0.35 per capita or a minimum of \$100,000 per commission, whichever is greater. The Department of Conservation and Recreation (DCR) is relying on PDCs to facilitate the development of locality specific nutrient reductions in Phase II of the State's Watershed Implementation Plan.

HRPDC supports restoration of funding to Virginia's Planning District Commissions at the FY 2001 level of \$0.24 per capita.

State Fees on Local Government Services (water, sewer, solid waste)

HRPDC strongly opposes the imposition of a state fee, tax or surcharge on water, sewer, solid waste or any service provided by a local government or authority to finance the nutrient reductions imposed by the Chesapeake Bay TMDL.

Unfunded Mandates

HRPDC opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state, and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, HRPDC opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility, such as maintenance of state transportation facilities or litter control, should be accompanied by a full fiscal and program analysis to determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect.