

Minutes of the Edisto RBC Meeting

Wednesday, August 19, 2020

9:00 a.m. until 11:00 a.m.

Meeting was held virtually via Zoom Meeting Application

RBC Members Present: Mark Aakhus, Laura Bagwell, John Bass, Kirk Bell, David Bishop, Joel Duke, Richard Hall, John Haralson, JJ Jowers, Hugo Krispyn, Alta Mae Marvin, Michael Mosley, Eric Odom, Charles Shugart, Hank Stallworth, Jason Thompson, Alex Tolbert, Jerry Waters, Landrum Weathers

RBC Members Absent (Excused): Trey McMillan (Tres Dausey, alternate present), Jeremy Walther (Anthony Walther, alternate present), Natalie Tarpein

Planning Team Present: Jeffery Allen, Scott Harder, Thomas Walker, Andrew Waters, John Boyer, Alex Butler, Chikezie Isiguzo, Vincent Leon Guerrero, John Boyer, Joe Gellici, Ken Rentiers, Rob Devlin

Total Present:

1. Agenda Item: Call Meeting to Order (John Boyer, Facilitator)

John called the meeting to order at 9:03 AM. He reminded everyone the meeting is being recorded.

a. Review of Meeting Objectives

John reviewed the meeting objectives from the Agenda.

b. Approval of Agenda

Meeting Agenda was approved with 13 “yes” and 0 “no” votes.

c. Approval of July 15th Minutes and Summary

Minutes were distributed to the council prior to the meeting. Agenda was approved unanimously.

John added that two members still need to identify an alternate. Kirk Bell and Joel Duke. He asked everyone to make sure they identify an alternate. Alternates are encouraged to attend all RBC meetings so they are knowledgeable about council activities.

John reported that chair and vice chair do have to be selected under Open Meeting guidelines based on consultation with DNR legal staff. DNR legal counsel will tentatively be on hand for the next meeting.

2. Agenda Item: Public Comment

John asked members for public comments. No public comments were submitted. Tom Walker reported no public comments were received in writing after the last meeting, July 15, 2020.

3. Agenda Item: Edisto RBC Survey Results and Draft Phase 1 Schedule

John Boyer presented results of the RBC survey collected following the last meeting.

- The majority of RBC members wanted to continue under virtual format until in-person meetings were possible.
- Some members reported experiencing challenges participating in online meetings but most did not. We will continue in this platform for the time being.
- Half of the group suggested two meetings per month. One third recommended one meeting per month. We will discuss a compromise of a meeting every three weeks later in the meeting.
- Members expressed interest in the drought response act, low flow characteristics, growth projections, connections between groundwater and surface water. We will try to address these topics in the next few meetings.
- Members generally were interested in field trips if and when possible.
- The majority of members wanted to hold off on selecting the RBC chair and vice chair until in-person meetings were possible.
- The majority of members felt they had a good understanding of the planning framework and RBC bylaws.
- John reviewed miscellaneous suggestions and feedback recorded in survey results.

Based on feedback, the planning committee is proposing meetings every three weeks and John presented a tentative schedule for the next four meetings. We will focus on informational topics for the time being and hold off on electing a chair and vice chair for now. We will provide opportunities for group and breakout discussions when possible. The planning committee will reassess the plan after Phase 1 is completed (anticipated for mid-November). John asked for feedback on proposals.

Hugo Krispyn: Does delay in electing chair and vice chair delay Phase I activities? John replied that we can accomplish Phase I activities without a chair or vice chair.

Richard Hall: Noted November 11 is Veteran's Day Holiday. John replied we will probably move that date. We will continue to schedule meetings on Wednesday mornings for now.

4. Agenda Item: Edisto RBC Open Seats (Scott Harder)

Scott said Larry Yonce withdrew his council membership. We currently have 3 slots open: 1 for water-based recreational interest; 2 for industry and economic development-based interest. The application announcement and form are posted on DNR hydrology website. Applications are due September 8. We'll select members from applications after September 8. If no applications are submitted, solicitation will remain open until applications are received and approved.

5. Agenda Item: Surface Water Legislation and Permitting (Review and Discussion) (Rob Devlin)

Rob shared with the council a powerpoint presentation:

- One of 3 water quantity programs at DHEC. Program has been in effect since 2012.
- 3 types of surface water withdrawers: 1. Existing, 2. New, and 3, Agricultural
- Initially had 179 grandfathered permits. 10 new permits active (5 public water supplies and 5 golf courses). Initial agricultural registrations were 90, and 21 since then.
- Grandfather permit: existing permit on Jan. 2011, or already had application approval on or about that date. Grandfather permits were required to get approval on design capacity. They are also required to submit operation and contingency plans below minimum stream flows.
- Agricultural registrations: Not permits. Given for amount requested provided it is within safe yield requirements. Must report their water use.
- New or Expanding Surface Water Withdrawers: Must be evaluated for reasonableness. Subject to minimum instream flows. Safe yield is only one factor considered. Subject to public notice for 30 days.
- Term varies on designation of users for permits. Agricultural registrations do not expire.
- Withdrawals: Agriculture done by safe yield analysis. New and existing: May be subject to FERC license. Once FERC approval is received, DHEC gives permit for FERC approved amount.
- Operation and Contingency Plans: Grandfathered plans typically only address industry standards.
- Water conservation measures: Vary according to plans. Range from minimize car washing, trench flushing, leak detection and elimination, reduce river water consumption, etc.

Discussion:

John Boyer asked Rob to speak directly to recent applications in the Edisto Basin.

Rob: Department will do safe yield determination for agricultural facility requests. Recent applications have caused permits to be issued to safe yield max. Opinion of DHEC is that they can't issue any more registrations but applicants can still apply for permits.

Anthony Walther: Do new registrants have to show they are using registrations?

Rob: DHEC is still trying to determine. DHEC can withdraw registration if they don't construct a withdrawal system within the next 365 days.

Hugo Krispyn: What proportion of all withdrawals are subject to permit criteria?

Rob: About 96% do not fall under minimum instream flow criteria.

Hugo: How do you do a safe yield evaluation for agricultural applications if safe yield is fully allocated?

Rob: They can still get a permit, but must go into a contingency plan if safe yield is in effect.

Landrum Weathers: If safe yield is allocated, what will future applications be asking for? How does reasonableness criteria affect agricultural registration?

Rob: Reasonableness criteria does not affect agricultural registration. In some of the smaller streams, applications will be more difficult to use water under safe yield criteria. Registrants on the main river probably won't be as impacted.

Landrum Weathers: Have existing agricultural registrations limited other industries or agricultural registrations?

Rob: No, but new applications have to meet all criteria.

Landrum: If all safe yield is registered, what's the need for other groups to apply for permit?

Rob: Safe yield has been fully allocated; but there is still water in the river. Difference is between theoretical and actual uses.

Alex Butler: You can still apply for a permit at point of river, but functionality of permit might be affected by safe yield allocation being taken.

Jason Thompson: Safe yield is already unavailable at certain times of year. Now we're talking about giving permits out above allocated safe yields. As we allocate withdrawals to new permittees above safe yield, when curtailment times come, do permittees who were approved after safe yield was allocated get curtailed before others who were issued before?

Rob: We are trying to avoid point where we are only permitting resources that are available. We don't have a good idea now of what the minimum level is. Hard to answer question without this data.

Jason: Problem is cumulative number of registrations and withdrawals. If you acknowledge safe yield isn't available all the time, what priority do you give to tenure of permits? Is there anything in the law that covers that now?

Alex: Allocation is adjusted for normal flow situations. Once flows go into drought conditions, then restrictions kick in. Permit is evaluated to determine how it will affect existing permittees/registrants. There is more flexibility in the permit process to structure low flow withdrawals.

Hank Stallworth: Question is are we going to consider ourselves as prior appropriation: "first in time, first in right," or are we going to use riparian approach, that all are entitled to reasonable use?

Rob: We will be modified riparian for existing users today. You can't ask for water if you don't have access to it. Modified riparian aspect is that we will protect current users as new permit applications/registrants come in. Difference is that everyone has to make adjustments during drought periods, as opposed to western water policy, where first users have enhanced use rights.

Hugo: Comments don't discuss protection of water resources?

Rob: The whole point of the process is to protect water resources but the point is well taken.

Anthony Walther: Do registrations have to show they have the ability to pump the amount they are allowed to pump?

Rob: Regulations don't specify they have to have capacity to pump registered amounts.

Jason Thompson: Concern is that as withdrawals exceed safe yield, how do we equitably curtail during low flow conditions among all the withdrawals. Obviously, the more withdrawals we have, the greater the amount of curtailment for all entities. So, the ability to exceed safe yield is concerning part. People assume they will be able to use the resources they are permitted to use.

Rob: Grandfathered permits and registrants have to follow their existing plans but they may not be equitable with new permits and registrations.

After this discussion John Boyer acknowledged Jerry Waters for a comment about chair and vice chair. Jerry was unable to be recognized during this discussion earlier in the agenda.

Jerry: Can we identify who is willing to serve as chair or vice chair with resumes so that we have that information when we're ready to select?

John: Planning team will consider that suggestion.

Meeting took a 5-minute break.

John asked questions that were put in chat during discussion:

Can grandfathered permits be bought and sold?

Rob: Permits and registrations can be transferred for the same use but not for different use.

6. Agenda Item: Groundwater Legislation and Permitting (Review and Discussion)

Alex Butler made a presentation on groundwater permitting:

- Permits issued in designated areas of the coastal plain for 3 million gallons per month. Law was overhauled in 2000. All registered groundwater users provide use annually to DHEC.
- Unlike the surface water act, the ground water act has legislated declaration of policy. Resource is to be fully developed but also preserved and protected.
- Issue permits in capacity use area--places where excessive groundwater withdrawals pose significant threat according to DHEC designation.
- In the Edisto Region, most groundwater permits are in the upper part of the basin.
- Regions are required to develop groundwater management plans in conjunction with DHEC. Reason for the local plan is because conditions vary across the state.
- Once plans are in place and approved by DHEC board, each withdrawer makes an application for withdrawal permit, which is approved in accordance with the plan.
- Permits try to avoid an unmanaged system where wells interact in multiple aquifers. Permits try to allow users to get water they need from an appropriate aquifer.
- Permits try to maintain groundwater balance so resources are effectively managed and keep negative impact to a minimum.
- Permitting Process: include application and required documents. DHEC performs administrative review and technical review. All new permits require public notice with the 30-day comment period. Planning group is notified of new permit applications. Permit to construct is issued separately from permit to withdrawal. Construction permit must be reviewed, approved and inspected before withdrawal permit is issued.
- Recent push is for permits to use surface water if available and rely on groundwater as reserve.

Alex asked for questions on presentation:

Hugo: How are surface water withdrawals calculated if permits are combined?

Alex: DHEC is still trying to develop a system for calculating and regulating dual impacts.

Jason: What about when low flow conditions reduce groundwater conditions?

Alex: That condition does not typically occur in South Carolina.

David Bishop: How long does it take to recharge aquifers?

Alex: Depends on where you are in the aquifer.

7. Agenda Item: Discussing Path Forward (John Boyer)

Topics and speakers have been set for the next four meetings. John reviewed upcoming meeting topics (listed in meeting materials).

John asked members to provide feedback on topics from the next four meetings by email.

8. Member Breakout Discussion

John asked members to discuss priorities for RBC to be used in formulating Vision Statement and Goals. Today's assignment: break out into groups; brainstorm priorities for the basin. Priorities will be compiled and presented at a future meeting to help develop Vision Statement and Priorities. Each group is to compile 5 to 7 priorities to report to the council. Groups should introduce themselves to one another and select a spokesperson.

Breakout Group Reports:

Group 1: Laura Bagwell reporting:

- Want to see and understand more about development of a robust model for the entire river basin that incorporates baseline withdrawal data (real data that are reported on an annual basis by registrants or permittees, with monthly level of detail). Model would have a setting that accurately reflects current withdrawals but is also sensitive to "What if " conditions so you can plug into the model what are the higher volumes that registrants and permittees are approved for. So, the model should show actual and total permitted withdrawals. Would like to see those models presented seasonally to assist water planners.

Group 2: David Bishop

- Group should look at the optimal balance of water for people and nature.
- Also want to look at the intersection of surface water and groundwater available.
- Wants more clarity about what the goals are for the IRB from PPAC.
- More clarity about switching between ground and surface water resources.

Group 3: Eric Odom

- Priority is having an improved monitoring system for surface and groundwater. Would like to see additional gauges and monitoring system(s) for additional data.
- Priority is trying to rectify the over-allocation on the Edisto and any potential consequences of over-allocation.

Group 4: Hugo Kirspyn

- Talked about priorities of what should be embodied in RBC output.
- Sustainability--important that what we do leads to sustainability.
- Quality and quantity--both are key concerns for water resource issues. Both should be priorities.
- Clarify “reasonable use.”
- Implementability should be key. RBC recommendations should result in actions and accomplishments.
- Consensus—RBC should strive for consensus in what we propose. Includes ability to help implement recommendations.
- Concentrate on best practices, including water efficiency and recycling. Should set out a process to get to best practices.
- Clarity, in terms of who has authority and responsibility for carrying out the plan, also in the product that the RBC produces as well.

Group 5: Jason Thompson

- Less fingerpointing, more collaboration. Everyone enthusiastic about the local collaboration approach.
- Need understanding of standard of “reasonable” allocations.
- Prioritize having resources to implement recommendations.
- Prioritize data-driven decisions. Includes a system of presenting available data clearly.
- Focus on the 50-year horizon we were tasked to focus on. Can't just focus on today's problem.
- Concerns regarding the safe yield definition.
- Importance of all water uses.

Group 6: Alex Butler (Public Group)

- There needs to be a balance between ecosystem services and other users of the river. Use should be equitable and include instream uses.
- We need more data collection to inform decisions.
- Can data from the Adopt-a-Stream program be used in process?

8. Agenda Item: Meeting Conclusion

- John asked members to review Planning Framework Section 6.4 pages 88-89 prior to the next meeting.
- Asked members to keep thinking about field trip ideas.
- Next meeting is September 9.

Meeting was adjourned at 11:17 AM.

Minutes: Andrew Waters, Vincent Guerrero, Chikezie Isiguzo, and Tom Walker

Approved: September 9, 2020