



“Envisioning Our Future”

Water Supply

Session C on Tuesday, April 9, at 4:15 – 5:30 p.m. in Moody Hall, Activities Room

Environment Virginia Symposium 2013

Conveners: Melanie Davenport, DEQ, Water Division Director
The Hon. John W. Daniel, II, Williams Mullen, Former Secretary of Natural Resources

Sub-issues suggested by stakeholders in previous interviews with DEQ staff:

- Clean, safe and adequate supply of drinking water
- Cooling water for power plants and other industries
- Salt water intrusion
- Longer usage projections in planning and permitting for ground water and surface water withdrawals
- Statewide ground water and surface water mapping; scientific evaluation of existing resources & usage
- Improving understanding of the ecological effects of flow alternations in rivers and streams
- Statutory change to implement ground water (and surface water) management area statewide
- Monitoring of private wells for quality and sufficiency of quantity
- Party(ies) responsible for ensuring quality of private well water and associated costs
- Potential legal liability for local governments if treatment facilities have problems that result in unsafe water
- Sufficient clean water for recreation
- Sufficient clean water as habitat for aquatic species
- Sufficient water for agriculture
- Balance all beneficial uses of water (surface & ground water)
- Banking of raw water in existing quarries and other structures
- Efficiency in water usage & pricing (e.g., lower price for using non-potable to water lawns, flush toilets, etc.)
- Water ethics (everyone is entitled to clean water for drinking & personal use? how to provide at reasonable cost)
- Grandfathered ground water withdrawals (e.g., Tidewater)
- Alternative onsite septic systems (consumer education about; inspections & repair)
- Greater use of alternative sources to meet needs other than drinking water.
- Prioritization of use for highest quality available supplies
- How to deal with projected water shortages
- If/how to price water to reflect true cost

If you have further ideas to contribute, please email them to carol.wampler@deq.virginia.gov.

Thank you for contributing to the dialogue on our FUTURE.

ENVISIONING: WATER SUPPLY CONVENERS

MELANIE D. DAVENPORT

Melanie Davenport is the Director of the Water Division at the Department of Environmental Quality, a position she has held since May of 2011. From 2008 to 2011, she was the Director of Enforcement at DEQ. She had previously worked for the State Water Control Board and DEQ as the Enforcement Manager, the Assistant Air Division Director and as a special assistant to the Secretary of Natural Resources.

Melanie also worked for the Virginia legislature, serving three years as the Virginia Director of the Chesapeake Bay Commission. Prior to returning to DEQ in 2008, she spent 10 years practicing environmental law at Troutman Sanders.

The Hon. JOHN W. DANIEL, II

John W. Daniel, II, a partner in the environment and natural resource practice of Williams Mullen, has experience in all aspects of environmental law and has dealt with the siting, permitting, compliance and enforcement of energy projects. He has served as Assistant Attorney General, Deputy Secretary of Commerce and Resources, and Virginia's Secretary of Natural Resources. He maintains a significant legislative and lobbying practice representing clients on environmental, energy and resource issues.

John has advised clients on numerous large water supply projects and currently represents Henrico County in the development of the Cobbs Creek Reservoir.

John has been recognized by several top ranking publications, including Chambers USA's America's Leading Lawyers, Virginia Business Magazine's "Legal Elite," Virginia Super Lawyers, and The Best Lawyers in America.

REPORTER:

Tammy Stephenson, Department of Environmental Quality, Program Coordinator, Office of Water Supply

Session Notes

Carol Wampler welcomed attendees on behalf of DEQ and introduced reporter Tammy Stephenson and the session conveners. She explained that the Envisioning Our Future sessions are part of DEQ's seeking stakeholder input regarding future environmental and energy priorities. The Virginia General Assembly formed DEQ in 1993 by joining four agencies – State Water Control Board, Department of Air Pollution Control, Department of Waste Management, and Council on the Environment, which was responsible for long-range planning. Now, at Environment Virginia, expert conveners will facilitate discussion among attendees to get information on how DEQ and other parties should plan for the next 30-50 years. The reporter will capture comments. Summaries will be posted on DEQ's and VMI's websites and will form the basis of white papers to be submitted to DEQ's Director and the Secretary of Natural Resources.

Convener Melanie Davenport explained her early work in development of DEQ from the other four agencies, concerns that were voiced at that time, some about the potential loss of long-range planning. Water supply planning is a very long-term issue. Ms. Davenport said we need to make sure we make the

right decisions now to ensure we have the resources we need in the next 30-50 years. Format today is a bit different than any of the others today.

Convener John Daniel said that all the water in the Commonwealth belongs to all the people. With that comes a public trust and fiduciary responsibility to the benefit of the owners, the people. This falls to DEQ. He listed many of the beneficial uses. How we allocate water for competing interests seems to be a topic of this group.

1. What is it that ties planning for the future to the past? Gov. Holton developed the Council on the Environment in 1972.
2. Where is it you want to go with WSP? Status quo? If you don't know where you're going, you might end up some place else.
3. Is there a better, more cohesive, systematic way to allocate public resources? With regard to ground water and the Ground Water Management Area, does the current arrangement really suffice for the next 50 years? Do we really account for the ground water?
4. So what? Looking at all uses, current and future, etc., do an analysis for future planning.
5. Where in the world is the money for this type of analysis and planning coming from? Some funding needs to come back to DEQ for this exercise and planning. We are at that fork in the road.

Ms. Davenport added that hopefully Mr. Daniel said some things you can think about, agree with, disagree with, debate. Where do we see ourselves in WSP in 30-50 years?

A utility company representative said she agrees that now is the time for water supply planning, but suggests we take a broader look, looking at top environmental issues and prioritize them. Spend the environmental dollars on those top priorities. We're not sure we know our top priorities. Then, how do we devote our limited dollars to these.

A consultant said he agrees with this point. Total watershed management makes sense. Looking at water supply consumptive use, etc., you have great supply. Nutrients are the problems. Water supply management – TMDL's, where and why are resources stressed? Look at broader scale, storm water is one piece. Water supply could be municipal, private, irrigating golf courses. Total watershed management seems the way to go.

Ms. Davenport said there are unique challenges, as we have historically been a water-rich state. We don't have the water in the places we need it, or we have a growing population that stresses the resource. We can't sustain the way we've always done business.

An attorney asked what we value when it comes to water supply. The law establishes some of these priorities – drinking water, other beneficial uses. What do we value in these beneficial uses in that region? We're going to have to make some choices. We haven't been pushed like we're going to be pushed to make these decisions.

A wastewater treatment director said they have done water supply planning and know they don't have enough water. The plans don't talk about erosion and sediment, flooding, etc. Need leadership from DEQ and ACR.

An attorney was wondering if anyone knows the role local governments would play and how would you reconcile the disparity?

A local government representative said we can't grasp what we don't know yet. We need leadership from the state, and resources from the state.

Ms. Davenport added that one of the problems is that you have established uses that predated permitting by the state. Some uses are grandfathered by statute. We can see the resource isn't always going to be there.

An agency representative commented that, from a retail standpoint, challenges come from the general public. They don't understand that there may be quantity and quality challenges out there. Regulatory schemes lag behind public sentiment by 5-10 years. It's hard to move the ball forward.

Another speaker said there are ways to educate people on the new technologies, through pricing, etc., people are going to realize the value.

Ms. Davenport asked if government should be putting dollars into that education.

An attendee said people would be more innovative, resourceful.

A consultant said we should look at allocation, are there ways you can reduce or mitigate demand. Is allocation the issue? Quantity? Are there cultural practices that can be done? Do you make someone justify their withdrawal? Just because they've been there for 50 years using the same amount of volume, shouldn't they change, look at new technologies to reduce water usage? Other states have looked at allocation, dictating withdrawal.

A local government representative said they talked about problem stated by Middlesex board member, whose suggested solution to problem was to pump wastewater and re-use it. This board member believes water reuse is an important piece of the solution. But current regulations make water reuse difficult. How to we reinvigorate the state, get the attention of everyone?

An attendee from Norfolk added that he thinks we had better get cracking and assess where we are on the supply of water. There is a suggestion that Virginia is water rich. His concern (and others') -- there is plenty of proof already that drought, water supplies -- we don't have the water resources. We need a good assessment of what water we have. Climate change. If we don't get a handle on this now, we'll find ourselves a day late, dollar short.

An attorney commented that the Virginia Water Supply Plan Advisory Committee and others have stated we need more information on water supply, particularly ground water. We need to make sure we have good scientific basis for making decisions. He knows DEQ is working on a model of different flows in the state.

Ms. Davenport said the truth is, to adequately support stream gauging systems, ground water monitoring, etc., the state needs resources. These are dollars that have been taken from our budget. We don't fully know the quality or quantity of ground water.

A consultant asked if anyone ever thinks of desalinization.

Ms. Davenport replied that there are some in Hampton Roads already doing this.

An attorney noted that most of the projects mentioned today are single projects. What do Lake Moomaw and Gathright Dam mean to Richmond? He asked Ms. Davenport if she could see DEQ being an advocate for large projects to secure our water future. Can DEQ play a part in that?

Ms. Davenport said she thinks DEQ has been an advocate for some of these projects. There would have to be some state investment. How do you transcend the locality boundaries? State Water Authority looking for great places to build reservoirs? They have to have money.

A wastewater director said the Corps of Engineers has the responsibility. He didn't think it had to be the state.

Another attorney added that the water resources report the state is putting together will help put together these types of things. When you look at the alternatives, gives you a good reason to ask folks to work together, trying to find these types of places.

An attendee from Norfolk asked if the concerns of the last two sessions and this session be conveyed to all our General Assembly members? They should have it to review, or lead staff to review so they can get a real feel for the issue. There is a potential that we'll be in a dire situation in 10-15 years.

Ms. Davenport said they need outreach and education, a clear message from today.

A utility representative noted that water supply issues are linked to the other issues being discussed in the Envisioning track – e.g., climate trends, water quality. Ms. Wampler said that this point is well taken. We just divided topics so they could be discussed in smaller sessions. We understand and expect there to be considerable overlap among the session topics. The issues are inter-related and should ultimately be addressed as a whole.

Mr. Daniel added that the point about regional, large-scale projects was well taken; small localities can't do these large projects alone. Water supply is a business issue, somehow there's a disconnect on that point.

An attendee from Norfolk mentioned bullet points 11-13 (from handout – sufficient water for recreation, habitat for aquatic species, agriculture) – get their attention by going to those for whom these uses in the Commonwealth are important.

Ms. Wampler awarded Cabell Brand's book as a door prize to John Aulbach.

Mission H2O submitted the following additional comments following the session:

Water supply planning is an important issue that needs to be addressed through the efforts of local, regional and state officials with the input of the community and businesses. Continuation of the state water supply advisory committee would be an effective means of involving stakeholders in the water supply planning process.

1. Virginia is fortunate to be a water-rich state. But there is a need to be vigilant about the impact other regulatory programs can have on the availability of our water resources. The inclusion of a cumulative impact analysis requirement in the most recent amendments to the water reclamation and reuse regulation is a good example of taking such impacts into account.
2. Effective water supply planning will help ensure that Virginia will continue to be a water-rich state. Where local resources are insufficient for proper planning, regional and state resources must step in to assure a comprehensive approach.
3. Although state involvement and coordination are critical to comprehensive water resource planning, local and regional plans should be relied upon for optimal solutions. The state's role should be one of oversight and cumulative impact analysis. The state can also aid in ensuring that stakeholders are communicating about a shared resource.
4. The Commonwealth should support and encourage regional planning efforts, such as the ICPRB [Interstate Commission on the Potomac River Basin], as such efforts are ultimately the most cost-effective solutions for the citizens of the Commonwealth. A similar planning effort for the James River should be encouraged.
5. We have heard for several years now about critical shortages in ground water in the eastern part of the state. Rather than continuing to address this situation through a piece-meal, permit-by-permit approach, DEQ should convene a meeting of stakeholders in the area to determine opportunities for optimization of the resource. That was the concept behind formation of a ground water management area. MH2O would be willing to partner with DEQ in such an effort.
6. Evaluation of alternative water sources must be evaluated on a case-by-case basis. Tools such as water reuse should be implemented where local conditions require, but not as an incentive-based, preferred solution throughout the Commonwealth.
7. The availability of GIS-based DEQ database of discharges would aid in water resource planning.