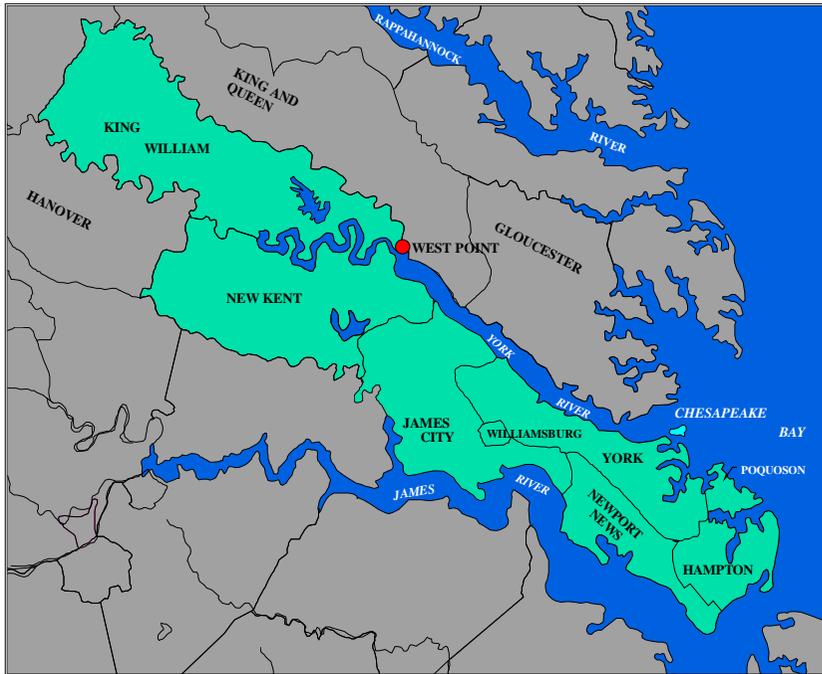


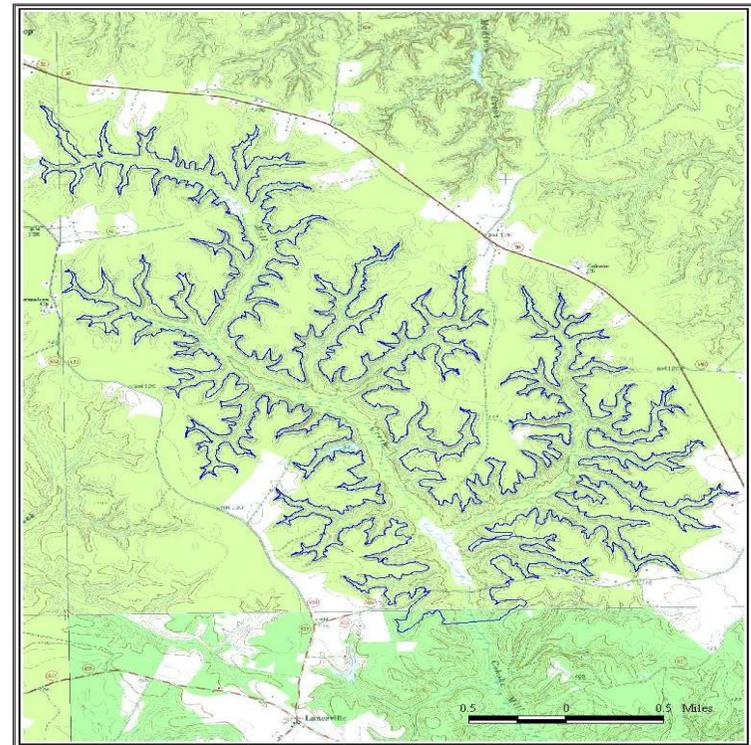
# Permitting a Reservoir Project in VA Coastal Plain

## The King William Reservoir Project



**EVGMA**  
**Work Group #1 - Alternatives**

## Lessons Learned



# Peninsula Water Supply

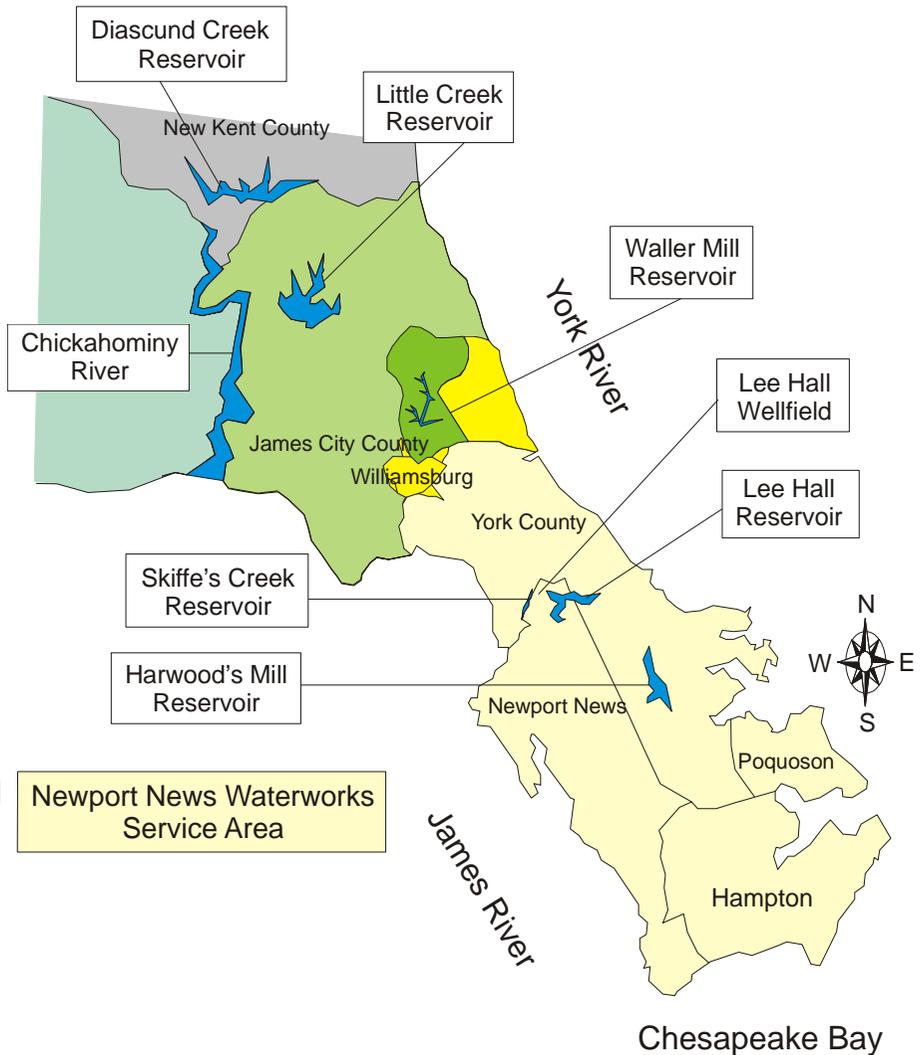
## Existing Systems - 10 years ago

➤ **NN Waterworks - five Reservoirs, Chickahominy River & brackish groundwater desalting**

➤ **Williamsburg - Waller Mill Reservoir + supplemental groundwater**

➤ **York County\* - Fresh groundwater**

➤ **James City County - Fresh groundwater + brackish groundwater desalting**





# Water Supply Planning

## Determine Planning Assumptions

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- **Begin by defining the region and establish base of interest [6 cities and counties (initially) + 8 federal facilities]**
- **Determine planning horizon (50 years)**
- **Forecast future needs for region:  
Forecast Demand - Supply = **Deficit** or **Surplus****
- **Determine all conceivable alternatives to meet defined need (37 alternatives identified)**
- **Work through federal and state processes:**
  - **Federal = NEPA, NHPA, ESA, CWA-Sec 404, CZMA**
  - **State = VWPP, CZMA, VMRC**



# Initial Regional Planning Assumptions

1988-1999

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- **Project purpose: long term, safe and adequate supply of drinking water**
- **Planning area includes: 6 cities and counties, 8 federal installations**
- **1991-92 - Population and demand forecast:  
Future Population  $\approx$  630,000 by 2040**
- **Future need - 39 MGD (unconstrained)**
- **Future need – 33 MGD w/ water conservation/restrictions**
- **VDH Mandate for adding supply - reaching demand of 80% of capacity for 3 consecutive months**



# Revised Regional Planning Assumptions

2000-2006

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## Regional Projections

### Current population

- 450,000

### Projected 2050 population forecast

- low estimate 562,500
- most likely est. 644,050
- high estimate 845,100

### Projected Water Supply Deficit (w/conservation)

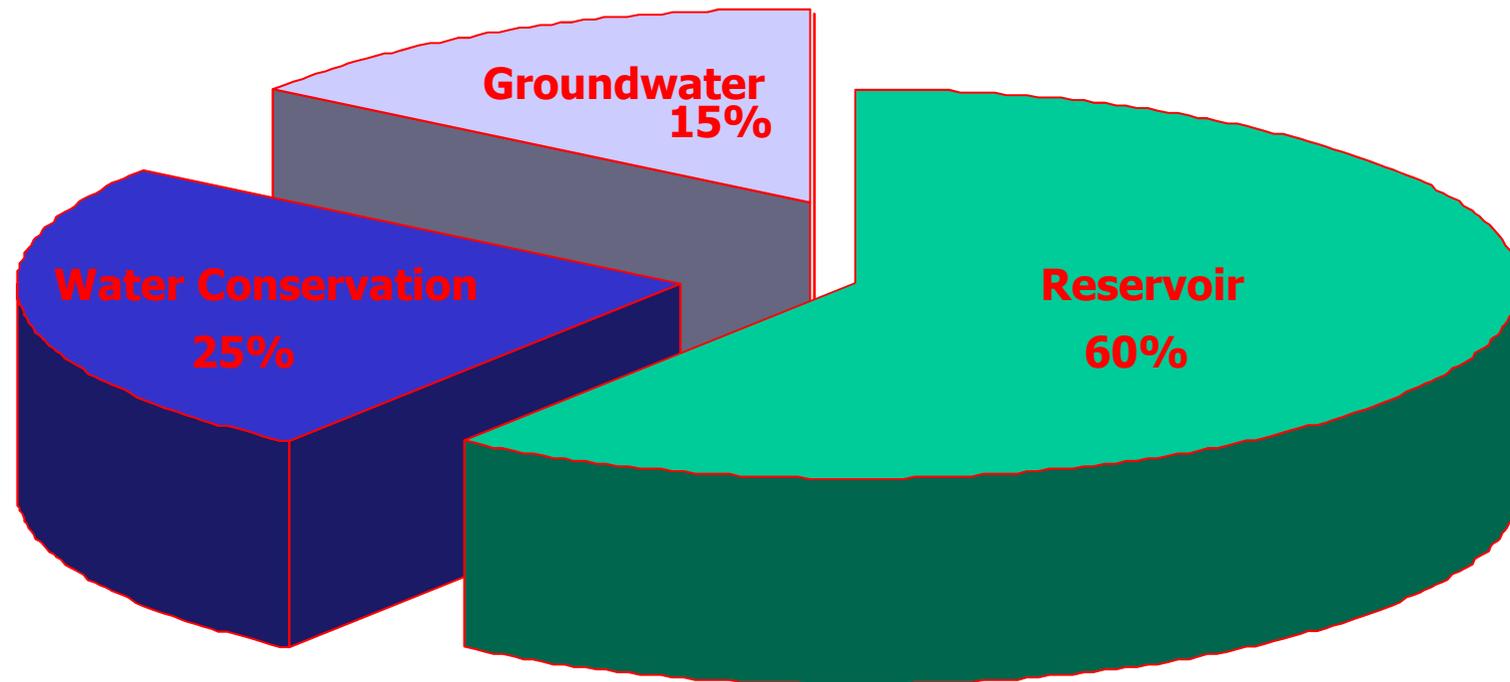
- low estimate 22 MGD
- high estimate 27 MGD

# King William Reservoir Project

## Water Supply Planning – Three Part Solution

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**Integrated approach:**



# Groundwater

## Brackish Groundwater Desalting



**Newport News in 1998, JCSA in 2005**

# Little Creek Reservoir

Example of similar river-skimming / storage concept

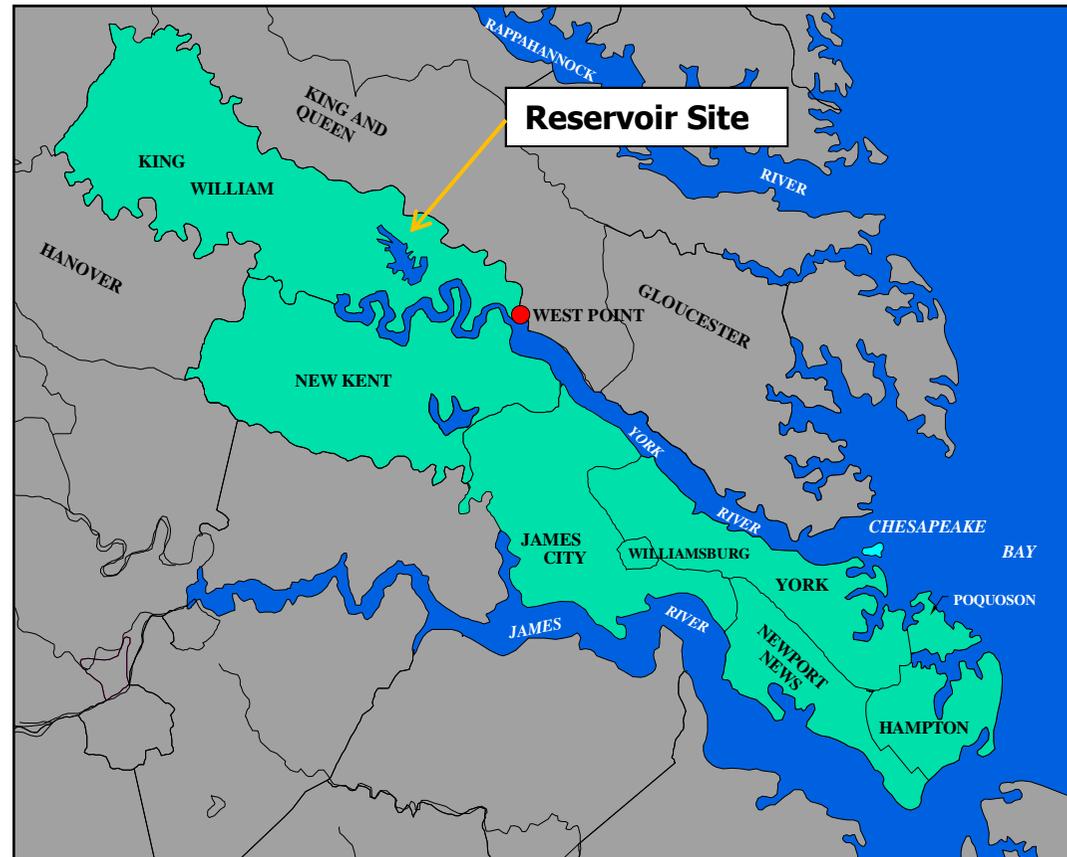
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# King William Reservoir Project

## More Planning Assumptions

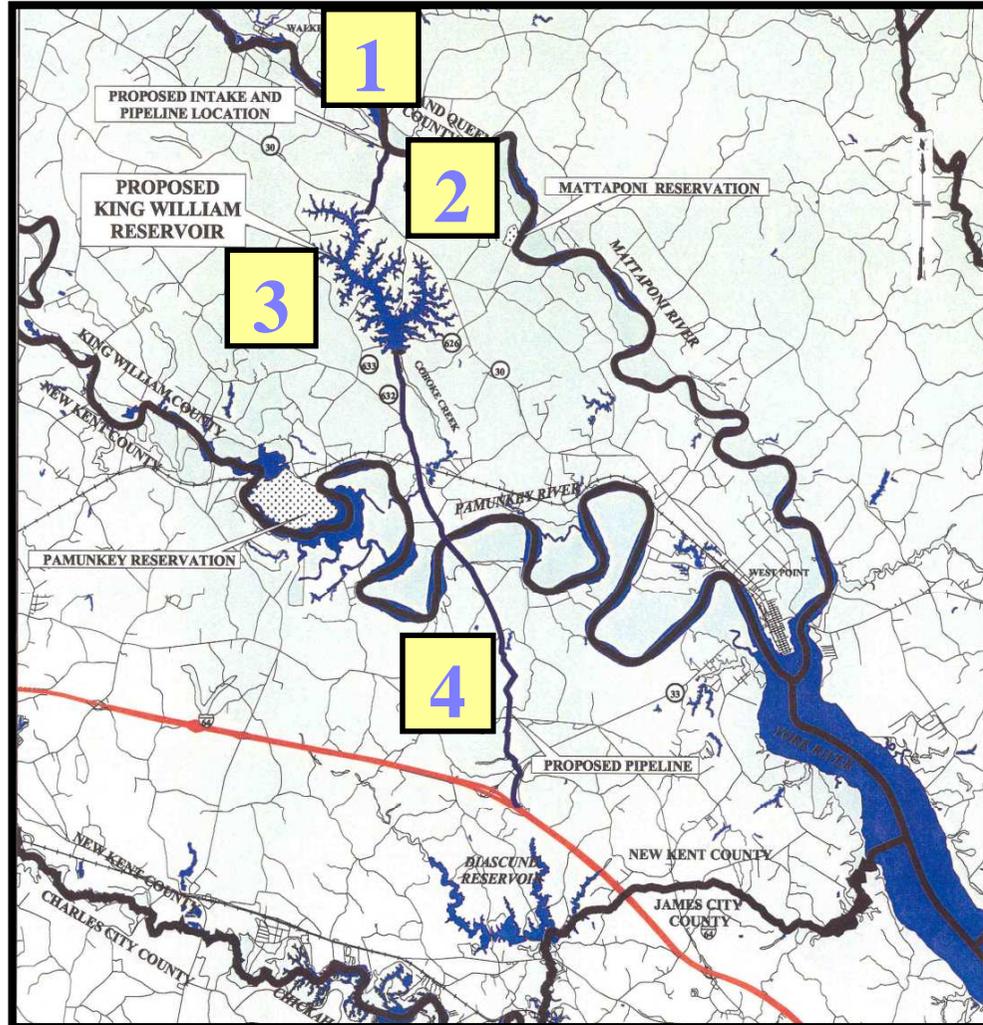
- Project alternatives must include host community needs as well as the core planning area's needs
- KWR project beneficiaries included 8 cities and counties and 8 federal installations



# King William Reservoir

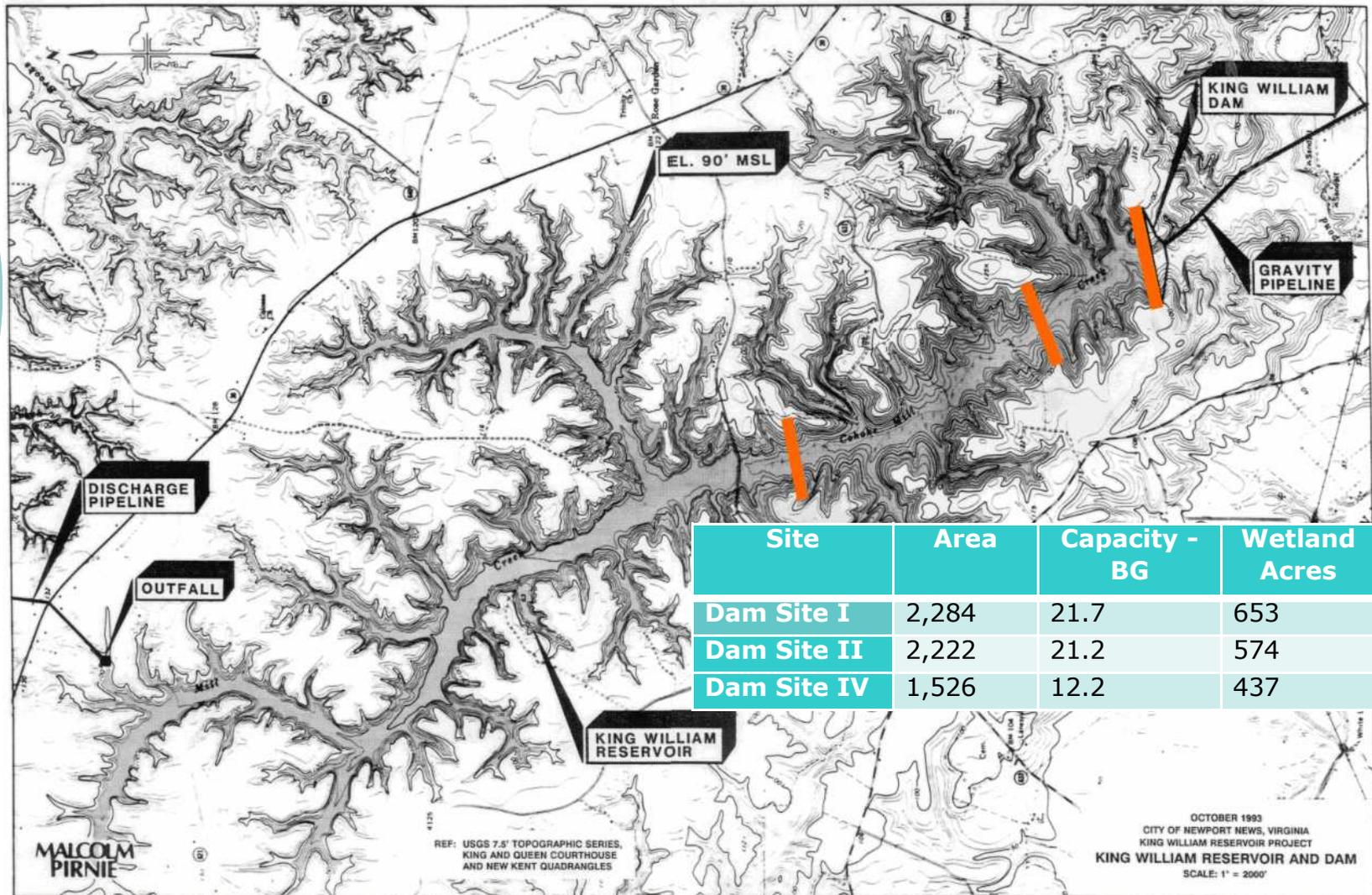
## Project Features

- 1 **75 MGD Mattaponi River pumping Station**
- 2 **1½-mile Mattaponi River Pipeline**
- 3 **1,526-acre, 12.2 BG King William Reservoir**
- 4 **11.7-mile Pipeline to Diascund Reservoir**



# King William Reservoir

## Reductions in size to save wetlands



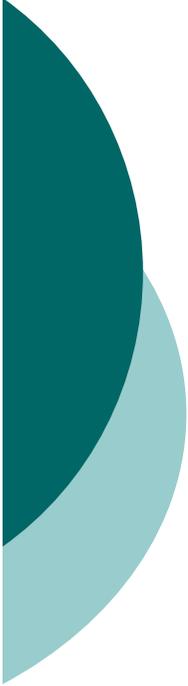


# Federal Agencies

## Coordination & Approvals

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- **Pre-application consultation (1989)**
- **Joint Permit Application (+ revised twice)**
- **EIS: 1)Draft, 2)Supplement, 3)Final**
- **Endangered Species Act**
- **National Historic Preservation Act**
- **EPA “veto” authority**
- **Coordination with Fish & Wildlife Service**



# Commonwealth of Virginia

## Primary Approvals Required

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- **VDEQ Water Protection Permit ( also served as State's 401 certification) (December 1997)**
- **VMRC Subaqueous Bottoms Permit (August 2004)**
- **VDEQ concurrence with applicant's Coastal Zone Certification (CZMA) (December 2004)**

# King William Reservoir Project

## Permitting Timeline

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**March 1993 - permit application filed (Colonel Perkins)**



**February 1994 - Draft EIS (Colonel Perkins)**



**December 1995 - Supplement to Draft EIS (Colonel Reardon)**



**January 1997 - Final EIS (Colonel Reardon)**



**December 1997 – SWCB issues VA Water Protection Permit**



**June 1999 – Colonel Carroll suspends processing of permit**



**September 2002 - General Rhodes resumes permitting**



**August 2004 – VMRC issues permit**



**July 2005 – General Temple issues Record of Decision\***



**November 2005 – General Grisoli issues Sec. 404 permit**



# King William Reservoir

## All permits received by Nov. 2005

### What Happened?

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- **Mattaponi Tribe and Alliance to Save the Mattaponi appealed Corps of Engineers decision to US District Court for D.C. (one of three possible choices) (Mid-2006)**
- **Judge Kennedy's decision (March 2009) - remanded to agency to provide more backup in two areas (Alternatives & Need)**
  - **a) Justice Dept. (Solicitor Genl.) chose not to appeal decision**
  - **b) Corps chose not to defend their permitting decision.**
  - **c) Corps chose to suspended permit (April 2009)so that need and alternatives could be re-examined – again. (Expectation of another \$5M and another 2-3 years)**
- **Suspension put other permits in jeopardy – COE said they would not commit staff to work on State permit requirements**
- **City chose to terminate the project (May 2009)**



# Lessons Learned

**Always be aware of opposition groups  
and their ability to derail the project**

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- **Opponents can lose countless times but they only have to win once. You have to win every time! Their goal is to win by losing slowly.**
- **Lawsuit that led to project suspension was filed against the Corps of Engineers, not the City of NN or it's partners.**
- **Plaintiffs in the law suit in many respects have separate interests yet combined forces on this project.**



# Lessons Learned

**Invest in the time and money to develop and keep public support for the project**

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- **Public relations/information is key – it's important to show benefits – but keep it simple**
- **Difficult to counteract negative and/or inaccurate statements made by others – better to be proactive not reactive – remember, no one can prove the negative**
- **Show the public the benefits from the project and how you will mitigate the detriments to the project**
- **If the public is only hearing from opponents, then they have but one view on issues relating to your project**



# Lessons Learned

## Develop and maintain political support

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- **Support at all levels of government and across jurisdictional boundaries is key**
- **Especially true for a long-range project of this nature**
- **Keep all parties abreast of project expenditures and schedule for transparency**
- **The influence of stakeholders, whether pro or con cannot be underestimated**



# Lessons Learned

## Never Assume that Decisions are Final

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- Be careful how money and time are spent i.e. don't be led down a bottomless rabbit hole – you'll only lose time and spend more money.
- Know the compliance issues for all permits and how they relate and ensure you remain in compliance.
- Be aware of permit renewals that might be required particularly in long-range projects – consider timing of compliance elements and coordinate appropriately.
- Negotiate permits to limit additional performance conditions.
- Time is not your ally!



# Lessons Learned

## Dealing with Regulatory Agencies

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- **Standing:** Never presume that as a local government you have any special standing with state or federal agencies
- **Prior findings and rulings:** Never rely on prior rulings or previous positions of agencies to carry the day for you – applications are decided on case-by-case.
- Never assume that issues are completely resolved. Expect to retake ground that you once thought was secure
- Offering proffers can just be a good way to raise regulatory expectations rather than a means of expediting your project
- Beware of “institutional amnesia”

# King William Reservoir Project

## The cost of getting a final answer

### KWR spending summary

**\$52.8 M** (Sept. 2009)

