

**Removing Barriers Sub-Task Force Committee
March 27, 2008 Meeting Minutes
Department of Ecology**

Attendees

Craig Riley, Dept. of Health
Bill Clarke, Assoc. of WA Business
Walt Canter, WA Water & Sewer Assoc.
Don Perry, Lakehaven Utility Dis.
Kathy Cupps, WQP Ecology
Kathleen Emmett, WQP Ecology
Lynn Coleman, WR Ecology
Bill Peacock, City of Spokane
Penny Mabie EnviroIssues
Jennifer Busselle, WQP, Ecology

We began with introductions and reviewed the agenda.

The Committee agreed the term “scalping” may be insensitive with respect to Native tribes. Using the term “sewer mining” or “satellite facilities” is recommended.

Agency staffing levels

Kathleen Emmett of Ecology presented a graph of existing and projected reclaimed water projects and provided a summary of projected workload organization and staffing needs.

The graph showed a steady increase of more than one reclaimed water project per year since 1992 (21 projects in 16 years). Ecology noted that at this rate the number of reclaimed water projects will double by 2020. However, 2008 is showing a sharp increase in projects – 3 out to bid and 2 already started this year.

Committee members also noted that there is no reason to think that staffing needs will go down due to increasing demand for potable water, green projects and wetland protection.

Grants processing will be included in the staff needs.

Craig Riley of Health explained that staffing will be split between the Office of Drinking Water and Shellfish & Water Protection. In agreement with Ecology projections, he predicts these needs will go up. There are many Class A reclaimed water systems and the number is increasing. Craig averages just over 13 document or report approvals in a year (typically there are multiple documents or reports that are reviewed for any specific project), the most he has done is 18. The Office of Drinking Water is divided into regions similar to Ecology's. He projects there will be a need for 2 FTE's in DOH.

Lynn Coleman provided staffing estimates for Ecology's Water Resources Program based on 1-2 reclaimed water projects per year needing attention on water rights issues. WR management does not have a problem with staff doing the work, but workload is an issue. WR program staff estimates the number of hours to half to one full FTE, but this is not a management approved estimate.

Funding is very different in each program. DOH has a fee for service that partially supports 2 FTEs dedicated to reclaimed water work. One is permanent one is non-permanent. WQ has general fund and permit fee funding currently supporting 7 FTEs, five non-permanent and two permanent positions. WR was provided general funds for reclaimed water in 1999 but has no current funding for reclaimed water. If they are busy with other projects then they are not able to work on water right issues for reclaimed water projects. Sometimes project proponents hire consultants do the water rights work.

Many projects are driven by reclaimed water. If reclaimed water is not a part of the project they would be stopped or die.

There are many more projects on the west side of the state, partly due to the grants allocated for the Puget Sound basin, even though there are a number of projects on the east side.

Will there be a backlog of projects as the project load increases? Craig responds that if he could focus on just those [RW] projects he could do much more. If WQ is able to reassign work from existing positions once the rule is written they will also be able to manage more projects. WR currently has a backlog that will probably increase if they are given more projects to review.

Recommendation

Not providing adequate staffing at Ecology and Health will serve as a barrier to increased reclaimed water, therefore we recommend:

1. Ecology and Health retain current funded positions as base-level staffing (permanent) in order to review and manage projects in a timely fashion. (Rule development positions will be converted to project reviewing etc.)
2. Base-level staffing identified by Ecology and Health is funded by general fund.
3. Any additional staffing is provided by fee-based legislative approval for Ecology and Health to recover those needs.
4. Providing a sustainable funding mechanism.

Bill Peacock, Walt Canter and Kathleen Emmett agreed to refine the messages into palatable language for recommendations to the Rule Advisory Committee (RAC) and if approved, to the legislature.

Coordinated planning

Developing a universal water reuse check list was discussed in follow-up to last month's discussions on the DOH Water Use Efficiency Guide. The Committee agreed the development of a straw dog that combines water plan components of general sewer plans, watershed plans, GMA plans and DOH water plans into one checklist makes sense.

Water rights committee also supports this basic idea of one universal checklist when you are looking at the feasibility of a project. This includes information from all statutes. It would be helpful for agencies to create a checklist so that public can interpret it easier. The Committee supports this unanimously.

Kathy suggests we give this to Jim McCauley's reclaimed water workgroup to develop in coordination with Bill Zachmann from Ecology SEA program, Lynn Kohn and Tim Gates from CTED and Mike Dixel from DOH. The group will report back when they have something developed.

Harmonizing - We have had no response from the governors' office on our suggestion to develop an executive order. Kathy will continue to follow-up.

Draft language for executive order

Ecology presented draft language for use in an executive order designed to help harmonize the development of water supply regulations and guidance documents to promote the use of reclaimed water.

Members will take this home to review the language and send in wording changes to Kathleen.

Regional water supply

Committee members agreed that the intent of RCW 90.46.120 was not to drive mandatory updates or to change regional water supply boundaries, as set through previous negotiations.

The Removing Barriers Sub Task-force agreed that RCW 90.46.120:

- Was not intended to drive mandatory updates or new plans
- Was not intended to change or otherwise modify the currently established regional water supply boundaries
- Directs that when reclaimed water is considered as a new water supply, any water supply plans that are being developed or that need to be updated, have to include a consideration for that new use of reclaimed water.

A clarification of the language of 90.46.120 should alleviate many concerns over what "regional" really means, if stakeholders agree to the above concepts.

Affected Plans

Reclaimed water references (explicit or inferred) in planning statutes include:

- Water Code (RCW 90.03)
- Water Pollution Control (RCW 90.48.112)
- Public Water System Coordination Act of 1977 (RCW 70.116.060)
- Regulation of Public Groundwaters (RCW 90.44.430)
- State Board of Health (RCW 43.20.230)
- Water Resources Act of 1971 (RCW 90.54.020)
- Watershed Planning (RCW 90.82)
- Growth Management Act (RCW 36.70A)

Recommendation to RAC

The committee recommends that new reclaimed water be addressed in scheduled updates or revisions to sewage and water supply plans and that the following clarifications are made: RCW 90.46.120

- Does not require an update or a new plan.
- Does not change established regional water supply boundaries.
- Does intend that reclaimed water be considered as a new water supply when plans are developed or updated.
- References utility water supply plans, sewer plans and watershed plans to address reclaimed water.

Sewer Mining

Sewer mining occurs when local entities that deliver wastewater to a regional wastewater system divert their effluent flows from the regional system to local reclaimed water facilities and uses. The Committee discussed the issue of sewer mining and came to the following conclusions:

- One issue is whether a proposed "local" reclaimed water project is cost effective, which should be described in the local entity's relevant planning documents.
- There will likely be local agreements or codes that will govern under what circumstances such diversions can be allowed in order to ensure that the regional system is not harmed, and issues such as cost allocation and stranded investments are addressed.
- Is there a state need to include guidance in the new RW rule to address such local agreements?

Permitting within the rule

Dave Monthie suggested that, on the issue of regional wastewater systems and the availability of the wastewater to local wastewater entities and potential local reclaimed water facilities, the state could have a role:

- requiring the local system to have complete documentation in a sewer plan, per existing tech requirements or new rules, of the feasibility, etc., of the local use; and

- addressing the permitting issue as it currently exists, where only the NPDES permit holder being able to get the reclaimed water permit

Dave said that King County would be addressing this situation as part of a reclaimed water comprehensive plan that King County will be developing and hopes to complete by 2010. If other areas of the state have similar issues then they should discuss with the RAC on what they would like the state to do for them.

Incentives to promote RW

Eugene provided an overview of the incentives identified in the ELI Report and the 2003 Workshop Report to refresh the RBSTF member's memories on incentives identified. The members began deliberation on the list and started to characterize the incentives as carrots and/or clubs. The members agreed that the task to identify whether an incentive was a carrot or a club was more complex than originally thought and wanted a more information about the identified incentives before they could characterize and recommend a particular incentive. The list below is the initial attempt to characterize the incentives:

Environmental Law Institute recommendations:

- Mandates - club
- Development and Regulatory - club
- Guidance training/technical assistance - carrot
- [Reducing] Fees and Taxes - undecided
- [Locally] underwriting Insurance - carrot
- Regulatory Simplification - carrot
- Watershed-based ecosystem service districts - carrot/club

2003 Workshop Report recommendations:

- Develop state policy instruments - carrot
- Pollution credits - carrot
- Permitting or regulatory credits - carrot/club
- Discount program for RW users (use of demographics to I.D.) - carrot
- Integrate purple pipe into DOT transportation project ranking – more information needed

- Provide preferential sites (elaborate more) – carrot
- Public Utility tax incentives (elaborate more) - carrot
- Tax breaks (*The tax incentive looks doable, and it makes sense to use what has already been established (a focus sheet on Ecology's website* describes a public utility tax used in 2003 - carrot*
- Utility tax breaks to local government - carrot
- Fee elimination (elaborate more) - carrot
- Encourage the building RW facilities close to large industrial water users - carrot
- Rebates for hook up - carrot
- Insurance for health liability (elaborate more) - carrot
- Part of state \$\$ allocation is used to advertise and encourage demand for RW (elaborate more) -carrot

ACTION ITEMS

- Provide agency staffing resource draft language for Removing Barriers Sub-task Force (RBSTF) recommendations to the RAC – Bill, Kathleen, and Walt.
- Present recommendations for clarifications to RCW 90.46.120 to RAC; if they concur, then develop language to reflect the intent.
- RBSTF members are to review the straw dog of the executive order and provide Kathleen with comments and suggested changes.
- Ecology will distribute an enhanced and clarified list of incentives by email for RBSTF members to prioritize - Eugene. They are also to provide their view on whether the incentive is a "carrot," a club," or both -RBSTF

There were no outside participants in the audience to provide comments or feedback to the Removing Barriers Sub-task Force.