

**JOINT MEETING OF THE ALBEMARLE COUNTY BOARD OF SUPERVISORS,
ALBEMARLE COUNTY SERVICE AUTHORITY BOARD OF DIRECTORS,
CHARLOTTESVILLE CITY COUNCIL, AND RIVANNA
WATER & SEWER AUTHORITY BOARD OF DIRECTORS**

APRIL 18, 2005

**REVIEW OF THE COMMUNITY WATER SUPPLY PROCESS WITH REGULATORY
AGENCIES OF INTEREST**

**LIST OF PREPARED QUESTIONS FROM LOCAL BOARD MEMBERS FOR
REGULATORY AGENCIES**

Questions received from Ms. Sally Thomas and Mr. David Wyant of the Albemarle County Board of Supervisors on April 11, 2005 (Note: This list expands and incorporates questions submitted by Mr. Dennis Rooker, Chairman of Albemarle County Board of Supervisors on April 5, 2005)

To the regulators, via Rivanna Water and Sewer Authority from David Wyant and Sally Thomas, ad hoc water supply committee of Albemarle County Board of Supervisors.

First, "thank you" to RWSA and to the regulators for agreeing to this meeting and for arranging schedules and finding the time to meet with us. We appreciate the huge effort involved in coming together to meet with us.

We may share some background from our perspective at the meeting, and we hope to have a dialogue rather than a stiff question-and-answer session. However, to give an indication of the issues on which we will focus, here is a list of questions.

1. For each regulatory agency, "What role will your agency play in the application process?" (Regulators answering this question should include the Albemarle County Community Development Office.) Is there one agency that determines or controls the final answer more than other agencies?
 - a) What is the timeframe for federal and state review and approval, once a complete application is received? Are the reviews by the regulatory agencies concurrently or in succession?
 - b) Is VDOT another agency that will need to have input at the same time as the other regulatory agencies? What role do they play, especially in the Ragged Mountain reservoir option?
2. Can we obtain an extension on the deadline date for the Ragged Mountain Dam replacement decision? If so, what do we need to do to obtain the extension? As elected officials, we feel public pressure to complete the planning process and we have little desire to prolong it, but we do want to have the information in hand that will make our decision an intelligent one and allow time for citizen input.

Regulators may want to discuss with us alternatives to having our planning time line driven by one specific facet (the spillway's condition).

- a) **Are there interim safety measures and/or other good faith efforts that this community can undertake to warrant a request for an extension of the Ragged Mountain permit?**
 - b) **We understand that there are anticipated changes to the state's dam safety regulations. Will those impact our situation and/or the deadline?**
 - c) **Some of us are aware that the long-range water supply permitting/planning process is being revised this fall, but we don't know if the proposed changes are impacting our own planning process and its time line. We'll appreciate the regulators discussing this issue and any other pending issues of which we should be aware that may impact our planning process.**
- 3. What is the definition of "practicability?"**
- a) **Is "practicability" determined solely by the applicant, or do state and federal regulators participate in determining the "most practicable" solution, such as by analyzing cost estimates?**
 - b) **If regulators participate in determining practicability, is it a requirement that the most practicable project be used? If it's not a requirement, what do regulators allow as arguments for a project that is not the "most practicable?"**
- 4. Is the community locked into filing applications which are based upon a fifty-year time period? Can we use a thirty-year time period?**
- a) **Since both bodies of elected officials previously adopted the 2002 Multi-step Integrated Water Supply Strategy plan proposed by RWSA, a plan that developed a phasing of future water-supply projects, is there any regulatory reason why such a plan could not be approved? The Plan included a commitment to Integrated Resource Planning, watershed management, demand management, and early warning drought management response and efforts to balance water uses to protect natural resources. We understand that some of the previous plan's yield figures now appear to have been incorrect, but is there any other reason why the approach taken in that plan is unsatisfactory? Do regulators look for components such as these in a long-range plan? What do you look for in the application?**
 - b) **Since in 35 or 50 years technology will change and experience will create new solutions, such as recycling waste water, do regulators require 50-year plans as if all options are already known? Do not the regulatory agencies want some flexibility in the community plan to allow for the impact of some of these improvements, technological advancements, etc., over the next 25 -30 years?**

5. Are acres of impacted wetlands and feet of stream inundations the only environmental impacts that will be considered in evaluating our application? If not, what other environmental impacts will or may be considered in the evaluation?
 - a) To some of us, proposals that allow us to weaken our stewardship of our watershed (such as getting water from outside this watershed) should be regarded as potentially environmentally damaging. Can regulators either correct this assumption or suggest ways in which it can be inserted into the permitting process?
 - b) Since relying on James River water for use in times of drought decreases the need for, and interest in, protecting our existing reservoirs from siltation and other degeneration, is this abandonment of our present infrastructure (in whatever form and to whatever degree this takes place) considered when regulators evaluate environmental impacts? Since some of this abandonment can take the form of land-use, zoning and storm water decisions that are not under RWSA's direction, do regulators take into account the effect on such city and county decisions? We are aware that EPA is supportive of the type of land-use decisions called "Smart Growth." Does that support play any role in the long-range water supply permitting process? What other land-use decisions that can be implemented by a locality are being promoted by the regulatory agencies?
6. How do the estimated environmental impacts for the four-foot crest option compare with the other water supply expansion projects which have been approved elsewhere?
 - a) Is selecting the "least environmentally damaging" option required, or is there leeway for selecting other options, assuming there are legitimate environmental reasons for doing so?
7. Can we get "environmental credit" for wetlands created, stream improvements made, conservation easements, maintaining the health of our existing reservoirs, etc., if we were to choose adding the four-foot crest on SFRR and/or maintenance dredging as part of our water supply solution?
 - a) Many of us are convinced of the value of living within the resources of our own watershed and being good stewards of our present watershed and our present infrastructure. We have prided ourselves in the care we have taken of our watersheds. We have developed sediment and erosion, storm water, land use, zoning, and Comprehensive Plan measures over the years that indicate our community's commitment to watershed protection. To some of us, the "compensatory mitigation" measures that would be required to counter stream and wetland impacts seem extensions of, and increased funding for, measures already being pursued. Is this inaccurate?
 - b) From a regulator's perspective, is it preferable to live within our own watershed's resources if possible?
 - c) It has been suggested that projects that require substantial mitigation will fail the "least environmentally damaging" test. Does the regulatory framework

recognize the positive value of stewardship and maintenance of our own watersheds?

- d) **How do the regulatory agencies take into account in their decision the positive impacts of a decision, e.g., flooding of an area destroying certain habitat but increasing the habitat in nearby areas?**
 - e) **Do regulators have suggestions for how Buck Mountain land, owned by RWSA, could fit into compensatory mitigation?**
 - f) **Can endangered species be moved to allow construction?**
 - g) **How might the regulatory agencies work with this community, as partners, to develop and implement a water supply plan that has as its foundation a commitment to local-source water use and watershed protection? Can you refer us to other water supply systems that have taken an innovative or integrated management approach to address their water needs while protecting the environment?**
8. **Under what circumstances can we do dredging in the South Fork Rivanna Reservoir without obtaining permits? If a permit is required and issued, how long will it be valid?**
9. **Can we obtain permits for maintenance or opportunity dredging of SFRR in order to maintain the health of the reservoir? If so, should we file such an application separate from our application(s) related to the long-term water supply applications, or as a part of those applications?**
- a) **If reservoirs are not dredged and silt builds up possibly forming new wetlands or flooding upstream, is this viewed as a negative environmental impact? Where would that issue appear in the permitting process?**
 - b) **Albemarle County, the Thomas Jefferson Water Resources Advisory Committee, and consultants have studied the source and composition of sediment that is filling the Rivanna Reservoir, but all studies point to a need for more information if sedimentation is to be reduced and/or dredged spoils are to be put to constructive use. Do state and federal regulators encourage further study? Does pinpointing the sources of sediment qualify for expenditure of mitigation funds? There is a concern that without study, traditional stream-bank restoration, for example, may be minimally effective in reducing siltation. Or, without further study, the cost of dredging may be inaccurate due to uncertainty of a market for the dredged material.**
 - c) **Do regulatory agencies ever require maintenance dredging, e.g. if needed to maintain infrastructure? If maintenance dredging is not allowed, then what means are the regulatory agencies allowing localities to use to keep all water supply impoundments in the USA from becoming unusable?**
10. **Do any of the regulatory agencies have data which include broad spectrum (all contaminants) test results from water in the James River and/or the other rivers in**

our watersheds? If so, can we obtain these data? There are many questions regarding the proposed James River pipeline.

- a) **From regulators' perspective, does our community have to "lay claim" to James River water by some specific time?**
 - b) **During a drought of record, what actions might state or federal regulators take to limit withdrawal from the James River? Can we assume that withdrawals will be allowed up to maximum permitted volumes at all times? Does use of the James River free the community from having a drought management plan that might restrict some uses during a drought of record?**
 - c) **Are there records regarding James River water quality during the last drought? Should any treatment plant for river water be designed to deal with a decreased quality of water in a drought (since the river water will not be needed during normal rainfall years)? In addition to the Virginia Department of Health's determination that water meets safety standards, do state or federal regulators deal with issues of water quality and treatment requirements and costs, and if so, in what way? (We know that we as rate-payers will have an interest in those costs and as water-drinkers in issues such as taste, but we are unsure if the regulators are interested in these issues.)**
 - d) **Are there regulations regarding the introduction of lower quality river water into a higher quality river system, such as may be the situation when putting James River water into Ragged Mountain reservoirs? (Some data suggest James River water is inferior in hardness, alkalinity, pH, suspended solids, Total Organic Compounds, and Pharmaceuticals and Personal Care Products. Future deterioration of this raw water, derived from a large watershed not under our control, is also possible.)**
 - e) **Does the importation of water into a basin necessitate a regional plan in which all communities in the Rivanna River basin have input? Will the proposed Rivanna River Basin Commission be recognized by the regulators as having a role to play in the planning process if and when it is constituted?**
 - f) **How much input do the regulatory agencies have in a cooperative arrangement among localities? Who is the primary contact-locality from the regulatory agencies' perspective, the end user, the processing locality, or the supply locality?**
- 11. Are we locked into measuring demand based upon a starting point of 12 MGD, when actual system-wide demand (including Scottsville) has been averaging less than 10 MGD for two years? Why can't we use the historical data available to us?**
- a) **From regulators' perspective, is a drought management plan taken into account in demand projections? Since we have experienced an ad hoc drought management situation in which consumer use was reduced almost 20%, we suspect that a well-designed drought management plan can significantly affect water demand in a drought of record. Are we limited to assuming only a 5% reduction due to a drought management plan?**

- b) We have also seen a yearly decrease in water usage, partly due to conservation measures such as low-flow toilet rebate programs. Do regulators take into account the effect of water conservation programs on projected demand?
12. Is there a regulatory reason we can't consider the Beaver Creek Reservoir as part of our long-term supply solution?
- a) The Mechums River pump [station] would possibly make Beaver Creek water more fully usable in time of drought; what is the permit status of the pump station?
13. Will regulators look at the recharge rate for facilities proposed? Is it not best to have a large drainage area with many springs above an impoundment to keep the water level as stable as possible during a drought?

Questions received from Mr. Ken Boyd of the Albemarle County Board of Supervisors on April 11, 2005

1. How much influence does the desire of the community, as professed through the local elected officials, have with [the regulators'] decision? Especially since local officials have a better handle on land use policies and planning. I think this is embedded somewhere in Sally's questions, but I would like to hear a direct answer as to where our input ranks in the decision process. If what we want is irrelevant, [the regulators] need to let us know.
2. What do we need to do to get a reservoir approved at Buck Mountain where we bought land years ago?