

MEETING MINUTES

Agriculture Water Quality Authority

Thursday June 4, 2015 - 9:30 am

Sixty-Fifth Meeting

In Attendance: Kim Richardson, AWQA Chair and Director, DOC; Dr. Amanda Gumbert, UK-DOC; Karen Woodrich, NRCS; Warren Beeler, KY Department of Agriculture; Allen Kyle, member-at-large; Peter Goodmann, Director, DOW; David Rowlett, President, KACD; Chuck Taylor, Kentucky Geological Survey; Kevin Jeffries; member-at-large; Corrine Mulberry, Environmental Groups; Larry Thomas, KY Farm Bureau; Leah MacSwords, DOF; Lee Robey, member-at-large; Angela Billings, DPH-EMB; and Barbara Pauley, OOS.

Also in Attendance: Sandy Gruzesky, Deputy Commissioner, DNR; Johnna McHugh, Assistant Director, DOC; Dawn Riley, Monty's Plant Food Co; Dr. Steve Higgins, UK; Ernest Collins; Maury Cox and Bob Kliengfus, Kentucky Dairy Development Council; Jack Stickney, KRWA; Paul Buszka and Mac Cherry, USGS; David Wayne, KY Dept. of Ag; James Edington and Hunter Easterling, KDA; Jon Cambron and Jim Rowe, DOW; Joe Cain, KY Farm Bureau; and Jeffrey Reed, DOC.

Quorum was met.

Review of Pre-Meeting Discussion - Ms. Kim Richardson, AWQA Chair, began the pre-meeting by reiterating that the public is always welcome to attend the pre-meeting and/or the regular meeting. After thanking those in attendance Ms. Richardson outlined the goals of the first AWQA pre-meeting: 1) Discuss the vision for the Authority and 2) Discuss the draft of the AWQA Operating Guidelines.

Ms. Barbara Pauley, legal counsel for the cabinet, who raised the necessity of the Authority having operating procedures in writing at the February 5th meeting, was on hand to help facilitate the discussion. The following lists some of the highlights of the conversation which ensued: 1) As far as AWQA is concerned there is no difference between by-laws and guidelines. 2) Section 8 of the draft of AWQA Operating Guidelines requires that a two-thirds (2/3's) vote, *of those present*, would be required to approve operating guidelines. The Authority currently has fifteen (15) voting members but may have a maximum of seventeen (17). This means that at present, quorum would be eight (8) or one (1) more than half of the voting members. 3) In Section 3 of the Operating Guidelines draft it was confirmed that "the designation of a proxy for any Authority member shall be in writing..." may be done by e-mail. And along the same lines, an e-mail message will be sufficient for Section 8 of the draft where it states, "...provided notice in *writing* of the proposed amendment, addition, or repeal..." 4) Elected officers will remain unchanged until a finalized Operating Guidelines document is in place. 5) The Silviculture Committee needs to be added as a standing committee under "Section 6. Committees". This committee would be the thirteen (13) members of the Forestry Best Management Practices Board who are appointed by the Governor, as established under **KRS 149.350**. 6) Should the procedures of how to present changes to BMP's or Ag Water Quality Plan's be included in the guidelines? And if so, what exactly would those procedures entail. 7) The differences between special and emergency meetings should be more clearly defined. 8) Does there need to be 2 agriculture producers present in order to have a meeting or conduct business?

Due to the numerous comments regarding the Operating Guidelines draft, and the limited amount of time, Ms. Richardson proposed that all suggestions and comments be submitted to her in writing by July 15th so that these may be compiled and presented in writing to all board members prior to the next meeting when they may be further discussed. The need for extending the September meeting agenda into the afternoon was presented, thereby allowing adequate time for the discussion of these important topics without disrupting the normal business which needs to be conducted at the regular meeting. It was also suggested that **KRS 224.71** be revisited and looked at in depth to better understand what exactly the Authority was created to do. And in line with the knowledge of Authority objectives it was suggested that the assignment of roles would be useful to

insure that these goals were actually being accomplished. It was requested that the statute be sent out to all the members prior to the next meeting.

Ms. Corrine Mulberry made the motion to dedicate the entirety of the next meeting to reviewing the statute **KRS 224.71** and to have an outside facilitator assist in guiding the discussion in determining the Authority's vision and direction. Mr. Warren Beeler seconded the motion. In discussing the motion, Director Leah MacSwords, DOF, stated that before the next meeting the Silviculture Committee may have some recommendations for the Authority's consideration, therefore she is not in agreement with dedicating the entire meeting to this discussion alone. Director Peter Goodmann, DOW, agreed with amending the motion on the floor because he too is aware of some upcoming recommendations that will be coming out of committee therefore he would like a portion of the next meeting to be dedicated to regular administrative duties. Mr. Kevin Jeffries also expressed his disagreement of not attending to regular business. Both Ms. Mulberry and Mr. Beeler were in agreement of rescinding their motion. Mr. Kevin Jeffries then proceeded to make a motion that the agenda for the next AWQA meeting be as follows: 1) the regular business of the Authority be conducted first, during a morning session, 9:00 a.m. to 12:00 p.m., and 2) return after a lunch break to discuss the Authority's vision and operating guidelines during an afternoon session, 1:00 p.m. until finished. Mr. Allen Kyle seconded the motion. **Motion carried.** *The AWQA pre-meeting ends at this juncture.*

Meeting Called to Order - at 9:53 a.m. by Chair Kim Richardson. Ms. Richardson began by apologizing for the late start and then proceeded to welcome, as well as thank, all those in attendance.

Swearing In of Reappointments - Mr. Lee Robey and Mr. Kevin Jeffries were sworn in by Assistant Director Johnna McHugh, DOC.

Approval of Minutes from February 5, 2015 Meeting - Motion to approve the minutes as written was made by Mr. Allen Kyle. Motion seconded by Mr. Warren Beeler. **Motion carried.** Mr. Kevin Jeffries, due to his absence at the February 5th meeting, abstained from voting.

Review of Proposed Farmstead BMP #5 - Water Harvesting - Dr. Steve Higgins, UK, gave the talk which included an overhead presentation. Dr. Higgins began by saying he views this water harvesting BMP proposal as an educational opportunity to better prepare livestock producers for drought situations. One of the key elements to this proposal is to control and limit the traffic of the livestock (i.e. keeping the animals off of wet saturated soils).

Water harvesting, as defined by Farmstead BMP #5, "is the collection of water from farmland or farm buildings for utilization by livestock or crops." Some of the benefits of using harvested rainwater are: 1) comes without charge, is sodium free, is soft, has an almost neutral pH and is superior for livestock, crops, and landscape irrigation; 2) supplements city water supply; 3) reduces water that may become contaminated by animal confinement areas; 4) reduces storm water runoff thereby reducing the potential for soil erosion.

Dr. Higgins recommended to the Authority that water harvesting be a Best Management Practice (BMP) under the Farmstead BMP because the farm and its buildings are being utilized to harvest the water. Dr. Higgins believes that approving proposed BMP #5 may promote additional voluntary conservation management practices such as rotational grazing, proper stocking density, and riparian areas and filter strips. It would also be beneficial to livestock producers because currently they are not taking advantage of irrigation because at present they do not have access to funding to do so.

Ms. Corrine Mulberry stated that the proposal certainly qualifies as a BMP; however, in her estimation it does not read as a Water Quality BMP. She suggested that water harvesting be tied in with other appropriate (i.e. already existing) BMPs as an AWQA recommendation rather than make it a stand-alone BMP. Ms. Mulberry continued by questioning whether the proposal was a "Farmstead fit." Dr. Higgins responded by saying that "Farmstead" covers the farm and the farm buildings. He pointed out that the proposal utilizes both the land, by harvesting water from the watershed, and from the buildings. Dr. Amanda Gumbert, UK-DOC, stated that the water harvesting proposal should be approved as a stand-alone because as past experience has shown when practices are presented to farmers as recommendations they see the title of the practice and don't always read through the actual body of the BMP description, and therefore she is afraid the proposal would be lost there. Mr. Kevin Jeffries added that he too felt the proposal met the requirements for a Water Quality BMP and that it would be appropriate to add it to the Farmstead Section as a stand-alone BMP. Mr. Jeffries continued by saying that the Water Management Task Force

met yesterday and recommended that this proposal be added as BMP #5 under the Farmstead Section. State Conservationist Karen Woodrich, NRCS, stated that the majority of the practices that Dr. Higgins referenced today are slated to meet NRCS standard requirements. She added that the most recent water harvesting attachment is clearly tied from practice standards to water quality as well as quantity. Ms. Mulberry suggested Dr. Higgins rework the description and go beyond saying that water harvesting is the collection of water. She continued by saying that the proposal should be tied in more with other existing BMPs. Lastly Ms. Mulberry recommended that the benefits to both ground and surface water quality be clearly articulated.

Dr. Higgins stated that he has presented a BMP to the Authority which he believes is a good idea. He added that he has presented his work into the format he felt it needed to be but now the decision rests with the Authority as to what it wishes to see become of this proposal. Mr. Jeffries restated that yesterday the Water Management Working Group voted to highly encourage AWQA to consider adding the proposed Farmstead BMP #5 - Water Harvesting, as outlined by Dr. Higgins, to the toolbox as a voluntary practice. Mr. Jeffries then proceeded to make the motion to add Farmstead BMP #5 - Water Harvesting, as a voluntary practice. Mr. David Rowlett seconded the motion. Before a vote was taken Ms. Mulberry restated that she believes Dr. Higgins' proposal needs to be "tightened up", with more of a water quality benefit tied in. She said that as it stands she could not give her vote of approval. She added that she has concerns with how the Authority approves BMPs and would like to see them placed on the website for public review and comment (i.e. someone other than the Authority making observations and giving opinions). Dr. Gumbert commented that an outside entity, Water Management Group, did review the proposal and gave it their approval. Director Pete Goodmann, DOW, added that BMPs which have been approved have come to the Authority out of committee. The only exceptions would be amendments the Authority have made to existing BMPs and the Streams and Other Waters BMP which came out of a committee of one (1). Mr. Goodmann suggested, if the Authority felt it needful, to send the BMP #5 proposal to the Farmstead Committee for refinement. He added the qualifier however that even though the Farmstead Committee is supposed to be a standing committee, at present, there is no such committee established. Mr. Goodmann continued by saying the Authority could correct this (the lack of a Farmstead Committee) but for now the absence of this committee does create an issue. Mr. Jeffries, as the originator of the motion, asked the Chair, Ms. Kim Richardson, if the Authority could go ahead and proceed with a vote on BMP #5, citing the straightforwardness of the language used in the proposal, and determine if the proposal currently has enough support for approval. It was clarified that the motion on the floor is to add Water Harvesting to the Farmstead BMPs as #5. The motion also recommends that the BMP #5 proposal be approved as written. After additional comments from the Authority Mr. Lee Robey moved a question on the motion and the second to the motion. At this point Chair Kim Richardson proceeded to call for a vote. **Motion carried** with one (1) dissenting vote by Ms. Corrine Mulberry and one (1) abstaining vote by Mr. Pete Goodmann, owing to the fact that the Division of Water has final approval per the statute and Mr. Goodmann is the Director of DOW.

It was decided that at the next meeting the Chair, Kim Richardson, will appoint a chair and members to comprise the Farmstead Committee.

Regional Conservation Partnership Program (RCPP) Update - Ms. Kim Richardson, AWQA Chair, introduced this discussion by explaining the team effort from KY DOC, NRCS, KY DOW, KY Assoc. of Conservation Districts, UK, KY Dairy Development Council, and the KY Beef Network to put together a proposal entitled, "Managing Poo." This is a project which promotes the adoption of nutrient reduction (i.e. management) and conservation practices. To date, everything has been approved through Washington D.C. with the main emphasis now being focused on studying and working with the criteria to be used for ranking. Ms. Richardson sees this as a very important key program in working with the AWQA since nutrient management is an issue in KY. State Conservationist Karen Woodrich, NRCS, added that the new round for funding pre-proposals has been announced. The deadline for the submission of these proposals will be July 8th. Anyone who is interested in finding out more about the program is encouraged to contact the local NRCS office or conservation district office. Executive Director Maury Cox, KY Dairy Development Council (KDDC), closed out this section by addressing the importance of getting more of the producers, "on the ground", to implement already established nutrient reduction plans. As it stands currently only around twenty-six percent (26%) of the producers are putting these plans into practice. Ms. Richardson reiterated how important it is for the success of RCPP to have groups such as the KDDC as partners due to their working relationship with the farmers and landowners.

Update on Working Groups

Forestry BMP - Director Leah MacSwords, DOF, gave the update. Ms. MacSwords stating that the Forestry BMP Board will meet again on July 14th. She is hoping that they will finalize their decision on updating the "Streamside Management."

Water Quality and Data - KY Ag Science and Monitoring Committee (KASMC) - Mr. Mac Cherry, USGS, gave the update, which included an overhead presentation, for Mr. Pete Cinotto who was not in attendance. Mr. Cherry began with KASMC updates. The summer meeting is currently in the planning stage. The last meeting occurred on March 11th at Kentucky State University. All of the discussions and notes from the last meeting may be accessed on USGS's website. Also, USGS now has a Facebook page. KASMC has formed a new work group with KY Farm Bureau who has been a big supporter of KASMC's three (3) year plans. And lastly, The KY Governor's Office of Agriculture Policy (KY GOAP) has approved funding for two (2) super-gauges. One (1) will be placed on the Green River at Spottsville and the other on the Ohio River at Greenup. Mr. Cherry, on behalf of USGS, thanked the AWQA for writing a letter to GOAP in support of USGS for this funding. The total funding from GOAP was approximately five hundred thousand dollars (\$500,000), with USGS contributing approximately three hundred and thirty thousand dollars (\$330,000). A copy of a fact sheet addressing KY and IN super-gauges was made available to any interested individuals. Note: a super-gauge is a continuous water quality gauge which measures stream flow, elevation of water levels, nitrate, and phosphate, multiple times throughout the day, every day. The data is available to the public, at hourly interval updates, on the internet.

Mr. Cherry gave a brief overview of the SPARROW Model (developed by USGS in 2008) which looks at the loading of nutrients to the Gulf on a national scale and which may be broken down to a state by state study (KY is currently listed as one of the top nine (9) contributors). While this model is a valuable tool it does have some drawbacks. One being, for a site to be considered for monitoring it has to meet certain requirements. Kentucky only has fifty-two (52) sites that qualified. This means that based on the numerous qualifying sites the contiguous states have, when collecting data for KY there will have to be a "filling in of blanks." One of the challenges that USGS is facing is attempting to create more monitoring sites in KY. Director Pete Goodmann, DOW, stated the problem is not that KY does not have monitoring data but that it does not have *qualified* monitoring data.

The project goal is to ascertain what nutrients are coming in and going out of the state. Mr. David Rowlett questioned how USGS could determine, at the Western KY location for example, what amount of nutrients KY is contributing and what amount the adjacent states north of KY are contributing. Mr. Cherry stated that it could not be accurately determined. Mr. Warren Beeler, KY Dept. of Ag, stated he believes agriculture gets the majority of the blame concerning the nutrient problem without sufficient evidence to support this accusation. He added that he was not aware of any farmer who is purposefully wasting nutrients. While it is good to see what is coming in and going out of Kentucky, he continued, the Ag Development Fund was more interested in what is coming in and *where it is coming in*.

In summation Mr. Cherry reiterated that a top priority for KY is to increase the number of monitoring sites. Also long term, continuous, monitoring is needed rather than a hit and miss approach. Long term models give more accuracy and reliable data. This data would also help determine trends and show how effective nutrient management practices actually are. From a question that was presented concerning where the existing data gaps actually are, it was suggested that possibly at the next AWQA meeting USGS could address this in more detail.

Mr. Goodmann in answering some concerns stated that the current narrative nutrient criterion for waste water treatment plants is being looked at more closely. There are numerous factors which have to be considered such as: the size of the plant; the technology the plant uses; type of stream; and the condition of downstream water. Mr. Goodmann also touched on the tremendous cost involved when an established plant is required to change its wastewater load. While there is an enormous responsibility to feed the world, there is an equal responsibility to have a sustainable water source. We must find the balance between the two.

Livestock - Mr. Lee Robey stated that there was nothing new to report.

Education and Outreach Committee - Mr. Allen Kyle stated that there was nothing new to report.

Pesticides - Mr. David Wayne, KY Dept. of Ag, presented the update. At the Pesticide Committee meeting the overall goals of the group were discussed. Also, the need to revise the existing BMPs was talked about. Mr. Wayne stated if anyone was interested in being a part of this committee to please contact him.

Authority Member Comments - AWQA Chair Kim Richardson stated that this time has been set aside for any additional comments or issues the Authority members wish to discuss.

Director Pete Goodman, DOW, mentioned he is in the planning stage for a future conversation that he hopes to have with Dr. Steve Higgins at an upcoming AWQA meeting, concerning watering issues and cross connection - top potentials of public waters and back flow devices.

Mr. Goodman also stated that the Water Quality Standards Rule for EPA is coming out in June. At this point Mr. Goodman is not sure whether this rule will have any direct impact on agricultural activities, but it is something he is watching and will report on at a later date.

The Waters of the U.S. Rule was released last Thursday (May 28th) by EPA. This new rule appears to expand on what is currently being done and will affect KY. For example, there is language about nexus and four thousand (4,000) feet and how biological nexus is viewed next to waters. There is also language about adjacent waters, particularly wetlands along the Ohio River, being under jurisdiction. This presents a couple of concerns for agriculture. First, there are vagaries in the language concerning normal farming practices. The language as such leaves the farmer with less certainty about what activities put them in jeopardy concerning jurisdictional waters. And second, it opens the door for third party litigation.

Mr. Goodman also reported that the Nutrient Reduction Strategy is still being fine-tuned but should be released soon for public comment.

Members please note that at all AWQA meetings there is a hard copy of the Water Quality BMP's available for reference. It was suggested by Mr. Goodman that all members download a copy of this on their iPads and laptops as well.

Comments from Interested Parties

Mr. Jim Rowe, DOW, reported that by the next meeting a good quality draft of Streams and Other Waters BMPs should be ready for presentation.

Deputy Commissioner Sandy Gruzesky, DNR, reminded everyone that by going to DOC's website you will find a link to AWQA with helpful information (i.e. Authority's purpose, minutes from previous meetings, etc.).

Next Board Meeting - The next meeting is scheduled for Thursday, September 3rd, 2015 at 9:30 a.m. The meeting will be held, pending room availability, in the Animal Health Building located off of I-64 in Frankfort. Mr. Warren Beeler and Mr. David Wayne will check into reserving the room for this date and report their findings back to Chair Kim Richardson. Ms. Richardson reminded all members that at the next meeting regular Authority business would first be discussed and that an afternoon session will begin immediately following a lunch break.

Assistant Director Johnna McHugh, DOC, distributed copies of the statutes pertaining to AWQA, to all of the members, for their review prior to the next meeting.

The Forestry Committee will possibly have some BMP's to present for review at the next meeting.

Director Pete Goodman, DOW, suggested it might be appropriate for him to present an update on point source.

Adjournment - AWQA Chair Kim Richardson adjourned the meeting at 11:48 a.m.