

Lower Savannah-Salkehatchie River Basin Council

**December 5, 2024 Meeting Minutes**

**RBC Members Present:** Sara O'Connor, Dean Moss, Courtney Kimmel, Bill Wabbersen, Jeff Hynds, Brian Chemsak, Kari Foy, John Carman, Ken Caldwell, Brad Young, Leslie Dickerson, Heyward Horton, Taylor Brewer, Reid Pollard, Lynn McEwen, Will Williams, Larry Hayden, & Brandon Stutts

**RBC Members Absent:** Pete Nardi (Sarah Hickman, alternate, present), Danny Black (Kathy Rhoad, alternate, present), Austin Connelly, Sam Grubbs, Tommy Paradise, Brad O'Neal, & Joseph Oswald

**Planning Team Present:** John Boyer, Tom Walker, Brooke Czwartacki, Joe Koon, Scott Harder, Jeff Allen, Leigh Anne Monroe, Kirk Westphal, & Hannah Hartley

**Total Present:** 30

1. Call the Meeting to Order (Kari Foy, RBC Chair) 10:00–10:10
  - a. Review of Meeting Objectives
  - b. Approval of Agenda
    - i. Agenda approved
    - ii. Ken Caldwell – 1<sup>st</sup> and Dean Moss – 2<sup>nd</sup>
  - c. Approval of November 7<sup>th</sup> Minutes and Summary
    - i. Minutes approved
    - ii. Dean Moss – 1<sup>st</sup>
    - iii. Bill Wabbersen – 2<sup>nd</sup>
  - d. Newsworthy Items [**Discussion Item**]
    - i. Lowcountry Sentinel Landscape
      1. Map of region
      2. Goals: climate resilience, support imperiled species, protect source water quality and supplies through landscape-scale conservation, conserve and protect working landscapes, local, state, and federal partnerships
      3. Federal agencies able to match funds
      4. Could reference this program in the RBP
      5. Q: does SC have any other sentinel programs? A: no
      6. Q: PFAS being used for water quality specific to this one or used across the nation? A: across the nation
      7. Not worth doing groundwater yet
  
2. Public and Agency Comment Period (John Boyer) 10:10–10:15
  - a. None

- b. Compiling all policy, regulatory and legislative recommendations that other RBCs have made and sending them to WaterSC
  
- 3. November Meeting Review (John Boyer) 10:25–10:35
  - a. Drought response RBC decisions and recommendations
    - i. DRC structure and communication plan
    - ii. Drought recommendations
  
- 4. Review of Policy, Legislative and Regulatory Recommendations Developed by other RBCs (John Boyer) [**Discussion Item**] 10:35–11:00
  - a. Planning process, technical and policy, legislative and regulatory recommendations
    - i. Can include
      - 1. Suggestions for improving the river basin planning process
      - 2. Considerations for additional technical info or tools
      - 3. Potential changes to state policy or to the existing regulatory or legislative environment that would benefit the water planning process
  - b. Policy, legislative or regulatory recommendations
    - i. May include
      - 1. Modifications to existing state or local laws, regulations, or ordinances
      - 2. New state or local laws, regulations, or ordinances
      - 3. Ideas for recurring funding for water planning work
      - 4. Restructuring existing groups or agencies
  - c. Surface water law refresher
    - i. SC Surface Water Withdrawal, Permitting, Use, and Reporting Act passed in 2011
    - ii. Establishes a system for permitting and registering withdrawals over 3 mgm
    - iii. Existing, new, agricultural
    - iv. Safe yield: amount of water available to be permitted
    - v. Minimum instream flows: amount of water to remain instream
    - vi. Existing withdrawer
      - 1. Not subject to 20-30-40 MIF regulations
      - 2. No public notice requirements
      - 3. Accounts for 94% of permits
      - 4. Most permitted for designed capacity of the intake structure
      - 5. Q: When did these people get permitted, and when do they expire? A: go for 30-50 years from 2011
      - 6. Q: do permits allow for storing water long term? A: not part of the permit, but don't see why we wouldn't allow for onsite storage

7. Q: Are the organizations subject to these laws self-reporting? If so, is there an audit mechanism? A: is self-reporting, have an e-permitting system. Can go on site and check water use records
  8. Q: at the end of your permit duration, do you follow under the new permit, or are you grandfathered in? A: if you're a grandfather existing permit, once the permit expires, you would just reapply to renew the permit for the same quantity regardless of usage
  9. Q: where's the management in the process? A: there is no law. That's one of the biggest challenges. They are required to tell DES how they are going to measure usage. The user submits usage.
  10. C: don't know if data is reliable if self-reported. A: no benefit to not telling us how much they use and can determine if new users can come in
  11. Q: is there work being done to revise the process? A: Surface Water Study Committee is looking into making revisions
  12. Q: is there a standard for the amount of uncertainty or error in the measurements? A: no
  13. Majority of permits were issued for 30 years, and a select few were issued for 40 years
  14. In LSS, no new permits since 2011 for surface water
  15. Q: do permits go with the land? A: permits can be transferred, only like for like. Ag registrations can't be transferred
  16. Q: if there is a new owner, do you have to get a new permit? A: no if permit is by the organization, yes if made by the person
  17. Q: what about water suppliers? A: can't change intake
- vii. New withdrawer
1. Subject to MIF requirements
  2. Safe yield calculated at the point of withdrawal
  3. Additional contingency planning shall be required to consider withdrawals more than safe yield
- viii. Agricultural registration
1. Safe yield is calculated at the point of withdrawal and is the maximum amount that can be registered
  2. Not subject to MIF or reasonable use requirements
  3. Not required to include any best management practices
  4. Surface water
  5. Also have to report use, don't have to meter
  6. Most part ag usage is typically lower than permitted usage
  7. Demonstrate reasonable use
  8. Q: to what extent does this permit process lend itself to monetizing the value of these permits? A: The permit is not tied

to the land; it is tied to the applicant. Not Western-type of permits

9. Q: is it hedging against future surface water withdrawals? A: on Edisto, primarily done as a conservation measure
10. Q: if all of the water is allocated under the registration process, it defers back over to permits? Is there a division of how much water is registration vs permit? A: no, registration and permits all go to the same safe yield of the basin. Permits have different requirements
11. Q: How did Edisto plan to deal with this situation? A: plan didn't deal with it directly
12. Q: are overallocations used for conservation, or is Big Ag trying to block other Big Ag from moving in? A: conservation purposes
13. Q: can the organization sublet the rights? A: no, they can't be transferred that way.
14. Q: is there any value to the registrant to overstate how much water they're going to use? A: have to look into that more
15. Q: how do you comment on a flawed process? Process needs to be changed

d. RBCs most common/ similar recommendations

- i. SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to surface water withdrawals/ SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to NEW surface water withdrawals
  1. C: very little data showing exactly what the actual flows are at various points in the system
  2. Q: would either of these recommendations address expiring permits becoming new? A: higher level concept about reasonable use
  3. Other RBCs haven't gone into as much detail, want to stay higher level
  4. C: all groundwater users have permits if in a capacity use area if above 3 mgm, less than that gets a registration
  5. Q: is there a situation in which registrations get revisited? A: sure, if there's a law change
  6. Q: why does permitting cost more than registration? A: reasonable use determination. New permit \$7500 plus \$1000 annual fee by intake. Registrations don't pay a fee
  7. Q: why do we have separate permitting vs registrations? A: originally ag wasn't accounted for and they needed to be included. Fees agreed on by stakeholders.

8. Q: what would happen if the reasonable use criteria got added to registration? A: could do if laws got rewritten
  9. C: could charge for reasonable use A: not really a cost, judge based on info from application
  10. C: ensure the rest of the state doesn't get over-allocated
  11. Q: how big does a farm have to be before they use 3 mgm? A: depends on crop.
  12. Leigh Anne is back from maternity leave!
- ii. Improve the current laws that allow for regulation of water use so they are enforceable and effective
    1. Highest level. Water use is so grandfathered that there's no effective mechanism to manage it
    2. C: need umbrella and use construct to fix specific issues
    3. Have recommendation and background
    4. Q: why is enforcement in there? A: enforcement is a management tool. Enforceable is a specific word for laws
    5. Q: what is the penalty for withdrawing more water than your permit allows? A: up to \$10000 a day for violations. Get in touch and figure out what happened to them- Reel it in or get an expanded permit. The increase is subject to new permit requirements. Case by case, we also have to prove it causes detrimental effects to the environment. Costs money to irrigate, not going to overwater
    6. Q: permits are most likely overstated based on what their usage would be. What happens to the unallocated water? A: use USGS data, withdrawals and discharges are inherent in the flow data.
    7. C: would be reasonable to recommend that DES develop an active and formal relationship with states that we share water resources with. A: Ag in NC can't release their data. Some collaboration with GA and NC
  - iii. Water law and implementing regulations should not distinguish between registrations and permits
    1. Edisto felt that ag is its own thing and needs to be separate, Broad didn't care because there's little agricultural use
  - iv. The SC legislature should authorize recurring funding for state water planning activities including river basin planning
    1. Needs to be a process to fund ongoing planning
  - v. The SC legislature should establish a grant program to help support the implementation of the actions and strategies identified in each RBC's RBP
    1. Setting up seed grant program

- vi. Water withdrawal permitting process should specifically assess the permit application's alignment with RBP/ Water supply info should be considered when evaluating the feasibility of new industries
  - 1. DES should use RBPs to decide about permits
  - 2. Q: what's the water supply for the car manufacturing facility? A: Blythewood area. Probably from city or county. They don't have a permit. Discussions prior to building
  - 3. Q: at what point is a farm large enough to be an industry? Maybe the registration system should only apply to smaller farms. A: The statute defines agricultural use, doesn't matter how big or small
  - 4. Q: so, if Cargill comes in, they would just get a registration? A: yes.
  - 5. Q: if someone has a couple of hundred-acre farm, they're using a ton of water. A: yes.
- e. Other notable Edisto and Pee Dee Recommendations
  - i. The Surface Water Withdrawal, Permitting, Use and Reporting Regulations should use median instead of mean annual daily flows to determine safe yield/ seasonal minimum instream flows
  - ii. A cost-share program should be developed to drill deeper wells into aquifer units with less development pressure
    - 1. Encourage deeper water withdrawals
- f. Saluda Recommendations still being discussed but appear to lack consensus
  - i. Require permits statewide before all existing and new water withdrawals over 3 mgm including those before 2011 and all registered users
  - ii. Remove safe yield as a metric
  - iii. Revise minimum instream flow standards based on the best available science to adequately protect designated uses and recognize regional differences

*Break*

*11:00–11:10*

- 5. Discussion and Development of Policy, Regulatory and Legislative Recommendations (John Boyer) [**Discussion Item**] 11:10–12:00
  - a. Recommendation topics to consider
    - i. Reasonable use
    - ii. Grandfathered vs new users
    - iii. Treat all users the same or distinguish by use
    - iv. planning and implementation funding
    - v. Alignment with RBPs
    - vi. Other topics?
    - vii. Move water management strategies to next meeting
  - b. Green, yellow, red bucket approach

- i. Green- recommendation needing only minor revisions, clear RBC consensus
- ii. Yellow- not full RBC support, may revisit, may move to green if RBC majority approves and there is a desire to keep
- iii. Red- minimal RBC support, no clear path to consensus or majority, drop
- iv. Is it important to have a complete consensus or go with the majority?
  - 1. Might not be 100% behind recommendation but you can live with it
  - 2. Draft plan vote 1-5
  - 3. Q: Does a different variety of uses affect whether people agree?  
A: Edisto ag vs everyone else, but generally consensus
  - 4. C: adopting the majority recommendations and explaining 2 positions allows us to have a greater impact.
  - 5. If we don't have consensus, well see if it's a majority and can document it
  - 6. If we agree, well put in yellow and revisit when ag is here
- c. SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to surface water withdrawals/ SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to NEW surface water withdrawals
  - i. In favor of the first one
  - ii. Q: can we agree on the concept now and wordsmith later? A: yes, can present an overview to WaterSC
  - iii. SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to surface water withdrawals- green
- d. Improve the current laws that allow for regulation of water use so they are enforceable and effective
  - i. C: doesn't say it is eliminating the grandfathering. A: Broad wasn't ready to go there
  - ii. Reasonable use doesn't eliminate grandfather
  - iii. C: should have a definition section that defines the words that are used.  
A: the law does have a definition section, will use that
  - iv. Does the law need to be improved?
  - v. Broad mainly focused on grandfathered people with no regulation and new people have regulation but they wanted to keep it general
  - vi. Works for now
  - vii. C: move grandfathered to a separate recommendation
  - viii. Changed to improve the current laws to allow regulation of water use to be more effective for water management
  - ix. Q: how much of some of these things are true as a result of inadequate measuring?
  - x. C: this should be the top recommendation
  - xi. C: effectiveness should come first then enforceable

- xii. C: maybe the recommendation could be to have a plan developed that would move all the grandfathered users into the current system sometime. A: not rewriting the law
    - xiii. Combined “Improve the current laws that allow for regulation of water use so they are enforceable and effective”/ “SC Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to surface water withdrawals” green
- e. Water law and implementing regulations should not distinguish between registrations and permits
  - i. Yellow
- f. The SC legislature should authorize recurring funding for state water planning activities including river basin planning
  - i. Not as important to WaterSC
  - ii. Q: what would RBCs do in the future? A: RBCs could continue to meet to work on aspects of their implementation plan
  - iii. C: find it self-serving
  - iv. C: we should comment on the worthiness of planning and take out the funding part
  - v. C: should put aside some money
  - vi. Yellow
  - vii. Continue state water planning activities including river basin planning-green
- g. The SC legislature should establish a grant program to help support the implementation of the actions and strategies identified in each RBC’s RBP
  - i. C: RBPs are not legislative. Water agencies/ utilities need the money
  - ii. Talk about water management strategies and select which ones we want to recommend
  - iii. Q: grant program to help support the implementation of actions and strategies identified in each RBP, but it’s not statutory so how would it work?
  - iv. Changed RBP to state water plan
  - v. Q: is it the intent that the legislature adopts the state water plan and approves it? A: that’s the hope
  - vi. State water plans for MO and CT were officially adopted by the legislature
  - vii. Added approved state water plan
  - viii. C: need to be specific about the fact that the expectation is that the state legislature will stand up for the water plan
  - ix. GA seed grant is modest but has visibility, and enough funding to get things moving
  - x. C: could change it identify funding sources to support public law. A: could make it a separate recommendation
  - xi. Making a recommendation for the legislature to establish a grant program



- xii. Key thing is the funding, maybe not say establish a grant program, just say they should support it
  - xiii. C: need a statement like this, otherwise runs the risk of being aspirational
  - xiv. C: could do a water resources-specific grant that local governments, utilities, other water users could leverage
  - xv. C: change it to SC legislature should aid in funding actions and strategies identified
  - xvi. C: people on the ground are the ones who are going to have to do it
  - xvii. The SC legislature should establish a grant program to help water users implement the actions and strategies identified in each legislatively approved state water plan- green
  - xviii. Q: are grant programs the only funding? A: No there are other funding mechanisms
- h. Water withdrawal permitting process should specifically assess the permit application's alignment with RBP/ Water supply info should be considered when evaluating the feasibility of new industries
- i. Q: what is alignment? A: open to interpretation
  - ii. C: make second one the bold and first one the explanation. A: They're different, and not sure how to interpret it without knowing the discussion
  - iii. C: think it's considering the safe yield
  - iv. C: you would think a new industry would always check to make sure there's enough water available
  - v. Q: is the state water plan that's going to be approved by the legislature going to have some chapters with statistics? A: if it's written based on the outline and the planning framework, won't be divided by river basin
  - vi. C: first bullet saying that they're suggesting the law be changed to say they need to reference the most current RBP
  - vii. C: instead of saying RBP, say state water plan. In theory what will emerge out of the state water plan will be a compilation of the consistent recommendations from the basins
  - viii. C: if the state water plan does not have the individual areas separated, the state plan isn't going to be specific enough
  - ix. Contemplated that the RBP will be updated every 5 years, unknown whether it can happen
  - x. Q: if this was written in the law, would the first bullet be doable? A: would have to be stated in regulations. Recommendation would be to include a change to the regulation that would include adding the review to the RBP. With the current legislation I wouldn't be able to do that.
  - xi. C: seems like a complex issue
  - xii. C: if the legislature approves it, DES is going to have to rewrite the regular regulatory program to accommodate those things

- xiii. Water withdrawal permitting process should specifically assess the permit application's alignment with the legislatively approved state water plan- green
- i. Desire to develop a recommendation to focus on basin planning with GA (Coastal GA Regional Water Planning Council)
  - i. C: largest cities/ users are on the GA side and we don't talk about them at all
  - ii. We haven't made a recommendation about legally binding that connection
  - iii. US was discussing doing some type of collaborative planning with the Savannah Upper Ogeechee council
  - iv. Catawba Water Management Group is an example because it includes NC and SC
- j. Q: at what point is it worth considering parsing out corporate ag from small ag? Planning and permit
  - i. C: They don't use all the water they're permitted
  - ii. Double back in January or February and also consider planning process and technical recommendations
  - iii. Want to see what other RBCs have done. Maybe see them second after we talk about it
  - iv. Homework: go back to first meeting where we talked about issues that might spur some recommendations. Bring recommendations
  - v. Email earlier

*Lunch*

*12:00–12:25*

- 6. Discussion, Selection, and Prioritization of Water Management Strategies (John Boyer)
  - [Discussion Item]** 12:25–1:50
  - a. Moved to next meeting due to discussion on previous agenda items
- 7. Upcoming Schedule and Discussion Topics 1:50–2:00
  - a. Tentative RBC planning process schedule for completion
    - i. Finish recommendations by March
  - b. Field trips?
    - i. Put field trips between meetings
    - ii. Maybe visit Savannah River Site in March to May timeframe
      - 1. Need to connect with external affairs people
      - 2. Have to resubmit paperwork
  - c. Early January for IRC meeting
  - d. January meeting 9th

Meeting adjourned: 2:05 PM

Motion to adjourn: Kathy Rhoad – 1<sup>st</sup> and Bill Wabbersen – 2<sup>nd</sup>

Minutes: Taylor Le Moal and Tom Walker

Approved: 1/9/25

**RBC Chat:**

10:22:03 From larhayden to Everyone:

Do these permits allow for storing water -long term?

10:22:31 From Jeff Hynds to Everyone:

Are the organizations subject to these laws self-reporting? If so, is there an audit mechanism?

10:26:35 From Jeff Hynds to Everyone:

Are there regulations on the measurement systems organizations use to report usage?

10:31:17 From Jeff Hynds to Everyone:

Is there a standard for the amount of uncertainty or error in the measurements

10:39:00 From Jeff Hynds to Everyone:

So would it be a correct summary to say that organizations self-report usage as measured by one of the approved methodologies with unknown accuracy, however, the State can review how the company measures and reports their data.

10:46:02 From Jeff Hynds to Everyone:

Can the applicant sell the right to use water they have registered, but will not use.

10:56:23 From Leigh Anne Monroe - SC DES to Everyone:

I just looked and the larger registrations we were discussing are on the South Fork Edisto before the confluence with the North Fork, not after.

10:59:35 From Thomas Walker to Everyone:

thank you Leigh Anne

11:03:15 From Jeff Hynds to Everyone:

Do we know the rationale for having separate permitting and registration systems.

11:07:49 From larhayden to Everyone:

Can you estimate what the effect would be on an Ag registrant if they had to comply with reasonable use?

11:13:04 From Jeff Hynds to Everyone:

How big does a farm have to be before they use 3 MGM

11:17:03 From larhayden to Everyone:

Thanks Leigh Anne. That answers my question

11:20:21 From Thomas Walker to Everyone:

10 min break until 11:30

11:35:37 From Jeff Hynds to Everyone:

What is the penalty for withdrawing more water than your permit allows?

11:51:20 From Jeff Hynds to Everyone:

At what point is a farm large enough to be considered an industry. Perhaps the registration system should only apply to smaller farms.

11:53:07 From Jeff Hynds to Everyone:

Power plants are classified as major generator or smaller generators, major facilities have to address more regulation and spend more to get licensed.

11:53:31 From Jeff Hynds to Everyone:

Perhaps the registration process could be set up in a similar manner

11:55:53 From Will Williams to Everyone:

Scout Motors is adjacent to Blythewood. Along I-77 above I-20

11:56:14 From Will Williams to Everyone:

Building is under construction

12:05:33 From Thomas Walker to Everyone:

lunch break restart at 12:25ish

12:33:33 From Jeff Hynds to Everyone:

I think the approach of adopting majority recommendations and explaining the two positions in the plan allows use to have a greater impact than if we restrict ourselves to only recommendations that have consensus.

12:35:40 From larhayden to Everyone:

I agree with the comment above. Concensus is difficult to achieve

12:36:27 From Thomas Walker to Everyone:

thanks Larry

12:37:08 From larhayden to Everyone:

Can we agree in concept now but wordsmith later?

12:38:37 From Jeff Hynds to Everyone:

Restricting reasonable use criteria to new withdrawals greatly limits the impact of the proposal, much in the way that grandfathering make managing water much more difficult.

12:39:02 From Jeff Hynds to Everyone:

Top

12:39:19 From larhayden to Everyone:

ok

12:39:23 From Taylor Hudson Brewer to Everyone:



12:44:46 From Jeff Hynds to Everyone:

Improve the current laws to allow regulation of water use be more effective for water management. Move grandfather to a separate recommendation

12:56:24 From Jeff Hynds to Everyone:

Have the State develop a plan to move all grandfathered users to the current system over some period of time

13:01:26 From Jeff Hynds to Everyone:

I'm for everyone playing by the same rules

13:20:39 From larhayden to Everyone:

also look at Sentinel Landscape funding opportunities

13:27:28 From Jeff Hynds to Everyone:

I can live with it

13:28:42 From larhayden to Everyone:

ok. but are grant programs the only funding op

13:43:23 From larhayden to Everyone:

Seems like the River Basin Plan feeds into the State Water Plan. The State water plan would feed the legislation

13:45:35 From larhayden to Everyone:

yes

13:52:05 From larhayden to Everyone:

Brad. Your messages are going directly to me. Click on the TO: button and click on everyone

14:05:24 From Thomas Walker to Everyone:

adjourned