

New Hampshire Drinking Water and Groundwater Advisory Commission

RSA 485-F:4 – SB380 – Chapter 11:2 – Laws of 2016

Regular Subcommittee Meeting Minutes

MEETING DATE: 9:00 a.m., Tuesday, December 19, 2017, SH 103

Members of the Committee Present: Richard Russman (State/Regional Land Trust), Rodney Bartlett (Public Member), Paul Sanderson (Fish & Game Designee), Bernard Rousseau (Public Member), Clark Freise (Governor’s Designee), David Paris (NH Water Works Association).

Members of the Committee Not Present: Tim Vadney (NH Water Pollution Control Association), Rachel Miller (State Treasurer Designee).

Audience Members Present: Dijit Taylor, Rick Skarinka, Bill Hounsell, Deidra Winterburn, and Jennifer Palmiotto.

Meeting Discussion:

1) Welcome – Senator Rick Russman, Chairman

Senator Morse said there is a profound public interest in the rules of the NH Drinking Water & Groundwater Trust Fund (DWGTF). As the rules are set up, the applicants need to know that the bulk of the work is placed on them. The DWGTF will not work if the onus of the work is on the Commission. It is the responsibility of the applicant to draft a plan and present it to the Commission. The Commission will then review the application and make a determination on funding. The state should not be doing the projects. They are local issues. If municipalities need help, they can apply to the DWGTF and they must make their application as attractive as possible. NH Land and Community Heritage Investment Program (LCHIP) has a great model and the Commission should emulate it. There are limited dollars for numerous projects. The DWGTF needs to be sustainable and ensure that the money is not spent in a couple of years. Grants and loans need to be part of the DWGTF.

2) Discussion of Water Supply Land Protection Grant Program strawman application

Paul Susca said there are three types of land that are eligible for the program: 1) High Priority Water Supply Land (HPWSL), 2) land identified by a public water system or municipality and 3) land eligible for funding under NHDES Water Supply Land Protection Grant Program.

A discussion took place on having land that is not restored (garbage, contamination, etc.) be eligible for funding in order to conduct a restoration. Manchester Water Works is looking at purchasing a property, restore it, and conserve it. The current NHDES program does not grant eligibility to land that is contaminated. Commissioner Friese said the DWGTF is meant to attract other money sources. If Manchester were to get funding for the clean-up elsewhere, the DWGTF should entertain the idea of aiding in the purchase of the land or in its conservation.

Paul Susca discussed the mandatory requirements of the DWGTF to ensure permanent conservation: 1) conservation easement to be held by a land trust or municipality, with third-party right of enforcement by

State of NH, 2) deed restrictions with right of enforcement by the State, and 3) grant agreement recorded at county registry.

Other criteria for eligibility for projects include 1) the eligible project value being proportional to the eligible land as a percentage of the acreage of all parcels in the projects, 2) public access to land protected with grant money is not required, but will increase scoring/ranking, 3) the land or conservation easement shall be obtained only from a willing seller.

The eligibility criteria for applicants include: 1) public water systems, 2) municipalities, and 3) land trusts and other non-profit organizations that have adopted and implement Land Trust Alliance Standards and Practices, or are accredited by the Land Trust Accreditation Commission.

Match requirements include: 1) grants may fund up to ½ of total project value (1:1 match), 2) eligible project costs to be considered in determining total project value and therefore match amount required to be based on rules for NHDES Wayter Supply Land Protection Grant Program and Aquatic Resource Mitigation Fund Program (ARM), and 3) no restrictions on the sources (s) of the match. Could be bargain sale, in kind, federal, state, local, foundation, etc.

Commissioner Friese said land trust work goes on, but there has not been funding for a long time. There are not shovel ready projects. Stakeholders believe in setting up a separate fund to help towns get access to trust funds. A discussion took place where the subcommittee felt it was not appropriate to set up a separate fund to allow applicants to work with trust funds and find land to conserve. Linda Orel from the audience supported a separate fund that will help getting access to trust funds. There needs to be a consistent source of funding.

Commissioner Friese said it may make sense to set up a separate fund to help smaller towns fund an asset management plan. Smaller towns do not have the personnel or the knowledge in setting up source protection. The subcommittee felt that a grant would require an asset management plan. If an applicant gets an award, it is expected they have an asset management plan. There may be merit in setting up a separate fund to give smaller towns technical expertise.

The process for the DWGTF Land Protection Program would emulate that of LCHIP. One grant round occurs per year. Program staff reviews the applications according to criteria in rules (to be developed), and notify applicants of that determination. The program staff scores the applications. The review panel provides an award recommendation to the Advisory Commission. The Advisory Commission makes the final determination on awards.

There was a discussion on the cap of a project. There was a consideration of whether to include a cap in the rules or make it a commission policy to not breach a certain limit. The subcommittee believed the Commission can possess the flexibility to set an indirect cap, with the ability to break it if an important project came along. The NHDES Program has a cap of no more than 30% for one project of the total amount of money available in the grant round. LCHIP has a \$500,000 cap, but the board can waive it by a supermajority. The subcommittee decided to verbalize a \$500,000 cap to applicants, but left the Commission with the ability to break it.

There was a discussion of commercial use on conserved land. Would the extraction of water be considered commercial use? There are certain types of restrictions and conversations will need to be ongoing with land trust and conservation communities. Local restrictions do drive some of the restrictions.

There was input from individuals: Linda Orel, Jennifer Palmiotto, Bill Hounsell, and Jim O'Brien.

A discussion took place regarding the ranking criteria. Some believed points 3, 4, and 5 should be weighed less (13 point total) and point 19 should be weighed more. Paul Susca said those points are meant to encourage sustainable water sources so they do not deteriorate. They are practices that ensure sustainability of water systems. While there is a ranking and scoring, the Commission makes the final determination.

3) Discussion of Infrastructure Projects Grant and Loan Program strawman application

The program will emulate the State Revolving Fund (SRF) and LCHIP. The eligible projects for this program will mimic those eligible for SRF. The eligible applicants are public water systems and municipalities. The match requirements have no restrictions on the sources of the match for grants – federal, state, local, or in-kind. Loans can fund up to 100% of the project. The process will be similar to that outlined in the Water Supply Land Protection Grant Program.

The ranking criteria will retain the criteria from the SRF program, along with additional criteria such as energy efficiency, water efficiency, source water protection, asset management, sustainability, and funding. It also includes other criteria to be considered by the Advisory Commission – geographic distribution, for projects that extend distribution systems into currently unserved areas, economic impact, and proof of thoroughness.

There was a discussion about having loans paid back over a period of 40 years. Mr. Rousseau commented that depreciation schedules for projects tend to be around 40-50 years. If there was a longer payback, more people can apply. The loan time is tied to the asset that the applicant is paying for.

The subcommittee discussed if entities can pay an impact fee for hooking up to a water system that is funding by the DWGTF. Commissioner Friese stated it would be best to have the applicant detail how to reimburse the DWGTF for whatever development occurs. All communities are different.

Eric Law from the USDA Rural Development stressed the need to leverage as many dollars as possible. A discussion took place concerning incentivizing applicants to take advantage of federal dollars (SRF, RDA) in order to get a better grant/loan from the DWGTF. The worry is that applicants will game their applicants to take advantage of DWGTF dollars, leaving federal dollars unspent. Commissioner Friese said it is vital to spend all federal dollars every year. The interest paid on SRF loans pay for the DES staff that supports the DWGTF. There was discussion of a base 25% grant, but going above should be based on need.

The subcommittee outlined their hope to have DES make edits to the applications. The edited applications will be the focus of the discussion at the next meeting. These finalized applications would be brought before the next full Commission meeting.

4) Adjourn.

Next Meeting(s): Friday, January 12th, 2017 at 9:00 a.m. in SH 100.

GJR