

**Flint River Basin Plan  
November 14, 2005**

**Meeting Summary  
Stripling Irrigation Center  
Camilla, GA**

**Attendees – Stakeholder Advisory Committee:**

James Lee Adams  
Dan Bollinger  
John Bridges  
Thomas C. Chatmon, Jr.  
Charles (Chop) Evans  
Vince Falcione  
Tommy Greggors  
Chris Hobby  
Hal Haddock  
Bubba Johnson  
John Leach III  
Janet Moehle-Sheldon  
Mike Newberry  
Steve Singletary  
Jimmy Webb

**Technical Advisory Committee Members:** Steve Golladay, Kerry Harrison, Woody Hicks, Jim Hook, Mark Masters, and Rad Yeager

**Georgia Environmental Protection Division:** Rob McDowell and Cliff Lewis

**Facilitators:** Dennis Epps, Louise Hill and Courtney Tobin (Fanning Institute, University of Georgia)

**Unable to Attend – Stakeholder Advisory Committee:**

Lucius Adkins  
Kim Rentz  
Marcus Waters  
Joe Williams

## **Introduction**

Following an opening prayer by Mr. John Bridges, the stakeholders reviewed the November 4 meeting summary, the November 14 meeting agenda, and the stakeholder recommendations for regulatory and statutory reform developed during the November 4 meeting.

## **Permitting Recommendations**

The group first discussed the request they made to EPD for a recommendation to replace the 7Q10 standard for low flow. Rob reviewed the current status of 7Q10 and noted that the DNR Board recently adopted a 30% average annual discharge for municipal and industrial users. There is general consensus that the 7Q10 standard is not adequate to protect aquatic life, and the scientific community is moving away from that standard. Implementation of a regulation such as the 30% requirement on farms and in low flow streams that regularly run dry may be problematic. However, Rob noted that it still would be helpful for the stakeholders to adopt a recommendation on low flow protection.

Stakeholders asked Rob about EPD's apparent lack of authority to protect aquatic life. Rob commented that EPD is attempting to provide guidance to help protect aquatic life in order to prevent federal regulators from regulating waters in Georgia.

Another stakeholder asked a question about irrigation's impact on streams and the scientific data supporting that allegation. Rob pointed stakeholders to prior scientific data presented to them during the process, indicating irrigation has had an impact on stream volume in the Flint River basin. Stakeholders then asked how the impact on habitat is decided and the criteria or threshold used to make the decision. The U.S. Fish and Wildlife Service's policy has been to avoid the expensive process of establishing designated critical habitat protection. A recent lawsuit mandated that a critical habitat designation process must be established for areas of the southeast. The stakeholders then discussed the mussel population in Spring Creek, expected changes to the federal Endangered Species Act and the legally protected status of mussels.

The stakeholders then discussed the Flint River Drought Protection Act and the stream protection mechanisms needed when the Act is triggered in March. Rob observed that a low flow protection plan should be considered every year, although it may not work everywhere and will need to be implemented by sub area. Dr. Couch noted that mussels need water at certain times of the year, but the best we know today is that we need to leave a certain targeted amount of water in certain streams at certain times in terms of duration and flow. The draft stakeholder recommendations currently incorporate the concept of using hydrologic criteria, including the calculation of different flow conditions. For Spring Creek, this doesn't work very well, but for most other areas, we have indicators that work fairly well. All that we have currently in the state rules is the 7Q10 standard.

A modest and reasonable improvement for 7Q10 would not require flow in creeks that lose all flow anyway. The best we can do is maintain some flow where there is typically flow. Where we have documented historically low flow and no flow conditions, the 7Q10 standard is not necessarily going to fit. Habitat planning would address some of these issues – some mussels can live up to 40 years, and it can take them a while to become reproductive. They are on the edge, but we can't say exactly how close. The burden is on EPD to work within the statute and new rules and allocate permits upstream to ensure there is water downstream.

Rob suggested that the stakeholders consider targeting the major tributaries which do not go dry every year, using a 30% mean annual flow/average annual discharge standard. The group discussed the standard and remained concerned about the lack of current information about what a 30% standard would mean vis a vis 7Q10. One of the Technical Advisory Committee members suggested that the stakeholders only recommend requiring a low flow plan with respect to the larger tributaries, the most dependable sources for water. Stakeholders also discussed the small numbers of measuring gauges and noted that the Iron City gauge is not an accurate measurement for all areas for Spring Creek – there's a stretch in the middle of Spring Creek that no one can measure.

The existing statute provides that EPD must protect downstream users, meaning that EPD should consider the effect of new wells on existing wells. Rob asked the group to keep the guiding principals in mind, particularly the one about lifting the moratorium credibly.

Dr. Couch offered further explanation about the proposed 30% standard and its background. The original low flow policies that the DNR Board used centered around this 30% standard, but it was used because it was shown to be the amount of water necessary in a creek to dilute pollution. The state of Georgia recently completed another stakeholder process which ultimately demonstrated that, while the 30% standard may be sufficient for reducing waste water impact, it is not sufficient for protecting fish and wildlife. That stakeholder process targeted an average 7 day flow. Currently, the 30% is voluntary – this group is not going to be the one that solves it, but one thing that may help focus our discussion is putting in place parallel analysis to the groundwater permit. Putting in place a parallel analysis for surface water makes sense. EPD would need to determine by considering current permits if there is sufficient water for downstream users. EPD can do that, but it doesn't address mussels, it addresses existing downstream uses.

A motion was made and seconded to add two phrases to permitting recommendation number 2 – “both groundwater and surface water” following “applications” and after adjacent stream adding “ or surface water withdrawal point” Although stakeholders still had concerns that they don't know exactly how to do this, the motion passed unanimously.

The stakeholders also wanted to return to the issue of renewable agricultural permits. The issue in the discussion at the prior stakeholder meeting was local control. Stakeholders

noted that most in the agricultural community would never agree to relinquish a permit unless without the right to transfer that permit. Several stakeholders noted that people should not be able to continue to hold permits if housing development are now on the property, for example. They also discussed pond permits that have not been used for 20-25 years; that owner is not being denied reasonable use. If there is no well associated with a ground water permit, EPD considers that permit to be null and void. If someone has a permit for a pond on their property but no longer uses it, this will be a significant issue in other basins. Currently, EPD has to protect these non-use permits when they are considering existing permit holders. Can these be retired or transferred somehow?

A motion was made to add a recommendation that agricultural permits could be canceled or revoked with the permission of the owner if not utilized in five years. The motion died for lack of a second, with stakeholders noting that EPD can already do this. The motion was revived and seconded, but it failed for lack of a majority.

### **Drought Year Scenarios – Regulatory Reform Recommendations**

Rob reviewed the statutory priorities for water uses and the guidelines used by EPD for competing water permits for surface water use. The EPD director has the authority to suspend water usage in an emergency situation; however, farm use can continue during the appeal process even in a emergency water use situation. Federal law would override state law in this area.

Rob framed the discussion by asking the group to discuss scenarios relating to the Flint River Drought Protection Act, including a drought declared after March 1, and a drought declared prior to March 1 but without funding. The group discussed how the funding provisions of the Act currently operate, with Dr. Couch noting that the Act is currently funded with One Georgia money, not in a designated account. Concerns were expressed that if the legislature found an opportunity for farmers to fund the drought protection Act, then the Act will always be funded that way.

After further discussion, a motion was made to include ground water users in the FRDPA where the best available science indicates hat they would directly impact stream flows at the same payment rates as surface water users. The motion was seconded, but failed due to a lack of a majority.

Additional discussion ensued regarding the surface water and ground water withdrawals and options of managing water resources. Rob expressed concern regarding the stakeholders' limitation of management options in critical areas such as Spring Creek. Some stakeholders responded by expressing concern on the dependability of the scientific data and hydrology regarding Spring Creek flow. A member of the Technical Advisory Committee noted that if every surface water withdrawal permit in Spring Creek participated in the FRDPA, it would probably not affect the water flow because of the limited number of users.

Interruptible permits were discussed, but the stakeholders indicated this is not an option they want to pursue.

One stakeholder proposed the following scenario to EPD: assume a drought is declared by March 1, an auction is conducted under the FRDPA, but by July there is no stream flow in Spring Creek. What would EPD do? Dr. Couch responded that, if EPD has adopted rules to allow it to be more effective and take inefficient water use out of play, and EPD used the best possible low flow protections, EPD has done everything it can. The state is vulnerable because Georgia doesn't have regulatory standards for critical habitat. The group then discussed the consideration of groundwater in the Spring Creek basin. The distinction between surface and groundwater is artificial in the Spring Creek sub basin because there is no real separation between the two; Spring Creek is really an underground river, and we are at higher risk in the Spring Creek area.

One stakeholder cautioned the group to think about the bigger picture and be careful not to ask for too much for any one interest group. The stakeholders need to be careful to protect their credibility by not asking for too much.

A motion was made and seconded to give the EPD director all the tools she needs by recommending a change to the FRDPA to allow consideration of ground and surface water permits in the auction process. The motion passed unanimously.

### **Other Changes to the Recommendations/Plan**

Several of the Technical Advisory Committee members recommended a summary/conclusions section and a recommendations section that would identify salient points, technical issues, and how the stakeholders responded with their recommendations. A stakeholder cautioned against placing anything in the recommendations that was not approved by a majority of the stakeholders to avoid confusion. The group also recommended that anything that looks like meeting summary minutes be deleted. The group generally concurred that the science sections should remain, as they describe the best available science and the group generally agrees with most of it (not all of it). The group also recommended some additional changes to the executive summary.

### **Discussion with Dr. Couch**

The stakeholders spoke with Dr. Couch, who requested the group's final recommendations no later than Dec. 16. Dr. Couch noted that a number of the recommendations will require changes to the FRDPA. The DNR Board makes the rules, and EPD would like the Board to adopt new rules that could be implemented by March 1. The DNR board meets monthly, and the DNR Board could be presented with a formal recommendation to adopt new rules at the late February meeting. Prior to this time, draft rules must be presented in brief to the DNR before a formal, public comment period of 30 days. The proposed language must have broad consensus to avoid changes and requiring a second public comment period. To implement this timeline:

1. The public comment period for the proposed rules must end by February 15. Rules must be drafted and ready for public comment before January 15. Once Dr. Couch has the stakeholders' final recommendations, EPD staff will begin drafting a set of rules based on these recommendations. When Dr. Couch receives the stakeholders' final recommendations, they become public and will be posted on the EPD website. This will be an additional opportunity for the public to provide comments to EPD.
2. Dr. Couch would like to get an informal set of rules out for public comment to make sure there are no significant issues. She requested the stakeholders' assistance in letting their respective constituencies know that a draft set of rules will be available on the website. She promised to send the draft rules to the stakeholders via e-mail and asked for their input.
3. Dr. Couch give a brief presentation to the DNR Board on December 6 on the stakeholder process, and the Board will be asked to convene by conference call later in the month to hear about the draft rule.
4. Dr. Couch committed to sending the stakeholders a memorandum detailing all of these dates and benchmarks.

In response to a question on the potential effectiveness of the draft recommendations, Dr. Couch responded that the recommendations will advance EPD's ability to protect the system under periods of extreme drought conditions, and she believes they are helpful and on-target. The modeling indicates that EPD has the ability to be effective at these points. She noted that there are issues still on the table that cannot be implemented under current statutes, and expressed her appreciation for the stakeholders' attention to these issues. The upcoming statewide water planning process is specifically intended to address these issues. The group for the Flint River basin may not be this exact group, but there will be active engagement by many of the groups represented on this stakeholder group. She acknowledged the need to incorporate U.S. Fish and Wildlife's recommendations on low flow protection, and she noted that the state as a whole needs to have an ongoing discussion on low flow protection, fish and wildlife conservation and species protection.

The stakeholders then asked Dr. Couch whether EPD would be able to lift the moratorium with these recommendations. She said yes, she would be able to – with credibility. Rob asked the stakeholder group to be ambassadors in the community and help discuss the recommendations with their colleagues, particularly if they perceive problems with any of the recommendations. Several stakeholders commented that they all need to support each other and promote these concepts, noting that it is 'part of the job we took on as being part of the committee.' Others recognized the need to emphasize that the recommendations and plan are theirs – they were not coerced by EPD, and the ideas are not those of EPD but of the stakeholder group. Dr. Couch asked them to let her know how she can help.

A motion was made and seconded to adopt the recommendations (a copy of which is attached to this meeting summary) as a body and transmit them to Carol by memorandum. The motion passed unanimously.

Several stakeholders expressed concern over possible lack of funding for an auction in a drought scenario – others shared the concern, but the majority did not want a recommendation on this issue. Still other stakeholders noted the need to discourage litigation and try to work things out in any way possible. They noted that this stakeholder group is influential in many areas and should help limit litigation to the extent possible. Another stakeholder congratulated the farm community and EPD on a successful process, and commended that this has been a learning process with integrity. He noted that the farmers have moved progressively and substantially to sitting at the table on issues that impact them more than anyone else. The group has demonstrated a trust in Dr. Couch and her position that didn't exist 12 months ago. EPD has been supported by the agricultural community, and now EPD needs to be sure it doesn't leave agriculture behind.

A final stakeholder commented that it would be the height of irresponsibility for the legislators to not fund the FRDPA. Others noted that they all need to talk to their legislators to ensure this is successful.

### **Public Comment and Future Meetings**

The meeting adjourned at 1:30. All future meeting dates, summaries, times, locations and directions will be posted on the Flint River Basin Plan website, [www.gadnr.org/frbp](http://www.gadnr.org/frbp).

The website and e-mail for the project are as follows:

WEBSITE: [www.gadnr.org/frbp](http://www.gadnr.org/frbp)

E-MAIL: [frbplan@dnr.state.ga.us](mailto:frbplan@dnr.state.ga.us)

\*\* Any questions about or corrections to these meeting notes should be directed to Dennis Epps (706) 542-6244 ([epps@fanning.uga.edu](mailto:epps@fanning.uga.edu)), Louise Hill (706) 542-7026 ([lhill@fanning.uga.edu](mailto:lhill@fanning.uga.edu)) or Courtney Tobin (706) 542-7149 ([ctobin@fanning.uga.edu](mailto:ctobin@fanning.uga.edu)), meeting facilitators, Fanning Institute, University of Georgia.