

Lake Maumelle Watershed Management Plan Policy Advisory Council Meeting Summary August 17, 2006

Attendees

See Attachment A.

Introduction

Following roll call, Trevor Clements of Tetra Tech announced that this was the tenth meeting of the Policy Advisory Council (PAC) and that the PAC will have completed its first year of service by the end of August. Trevor reviewed the objectives for the meeting, relating their context to the overall planning project and schedule. The PAC is helping to refine management and implementation components to be included in the draft management plan, which Tetra Tech will be sending to PAC members prior to the October PAC meeting. Trevor indicated that the meeting agenda was very full with several items that will shape the contents of the plan. In order, the meeting covered:

1. Update on public input from additional survey submittals following the July public meetings.
2. Consideration of a “No Wastewater Discharge” resolution.
3. Reports from the “Exemptions” and “Lots and Menu” subcommittees regarding discussion to date and additional issues to address.
4. Discussion of Development or No Development in Critical Area A.

Trevor reminded the group that although there are many issues where PAC members have different perspectives, we are working toward a common set of goals and objectives that the PAC endorsed as a group. Council members need to find solutions that meet the goals and objectives and that everyone can live with. He reminded PAC members that they are not at the table to represent a single interest. Rather, PAC members signed on to be part of a collaborative process, agreeing to work with fellow council members to move toward a plan that’s better than what is currently in place to protect Lake Maumelle and that meets the other objectives as well. Trevor asked that members keep this in the forefront of their minds as discussion continues through some challenging issues.

Trevor also mentioned that in the process of going through management options, Tetra Tech has been presenting legal questions to CAW for clarification. Over the two days preceding the meeting, Tetra Tech received information with potentially significant implications [Note: Attorney responding was Tad Bohannon]. Trevor indicated that he and co-facilitator Kimberly Brewer would cover that additional information during discussion of those related areas.

Public Input Update

Kimberly then provided an update on the feedback from the public regarding the Survey on Options for Managing New Development. Although many people attended the meetings, Kimberly stated that not many responded to the survey. Tetra Tech received 17 total responses: 11 from watershed landowners, 5 from ratepayers, and 1 other (marina user). The bottom line was that the comments were very similar to the mix of oral responses that we received at the meetings. Of the 11 responses from watershed landowners, 7 did not support any management and 4 were split evenly across the non-engineering and performance standards approaches. Tetra Tech was not able to interpret what some responders meant by their numeric rankings for options. Watershed owners generally supported the additions exemption, but

only somewhat supported the subdivision exemption. Ratepayers showed a higher percentage favoring the non-engineering approach over the performance standards approach for Critical Area B and the Upper Watershed, whereas there was mixed response in Critical Area A from no development to support of performance standards. Overall, there were no surprises and no new issues were raised.

Consideration of No Wastewater Discharge Resolution

Next, Trevor asked PAC members to locate their copy of the proposed resolution for “no wastewater discharge.” He reminded members that, based on the results of the Baseline Analysis, Tetra Tech demonstrated to stakeholders that potential future contamination from direct surface water discharges of treated wastewater (even at best available technology) poses the greatest threat to Lake Maumelle water quality. In working with state staff of the Arkansas Department of Health and the Arkansas Department of Environmental Quality, it has become clear that it will take considerable time and be quite challenging to establish regulations that would prevent direct discharges of wastewater in the watershed. Given that it is a foundation recommendation for other management components under consideration, Tetra Tech is requesting that the PAC endorse this component formally so that actions can get started in what is likely to be a lengthy process.

PAC Discussion

Randy Wilbourn wanted to know why the PAC is being asked to make this decision now; it “seems like we’re putting the cart way ahead of the horse.”

Tetra Tech responded that this is a critical recommendation regardless of the other management decisions yet to be made. Since it will take considerable time, CAW would like to get started now.

Chuck Nestrud asked why interested parties couldn’t simply move forward without a PAC vote. He indicated that watershed landowners have been told that they would be able to see the full plan and its benefits before having restrictions imposed. A decision to go forward on this one action while asking them to wait for the rest of the plan is not consistent and he cannot support the resolution.

Trevor asked if any other members had similar concerns. After receiving no response, he then asked if anyone wanted to provide a response to these concerns or alternate points of view.

Pat Dicker said that she understood how adopting the resolution would help achieve more serious attention from executive management in the state agencies.

Trevor followed that if direct point source discharges are allowed in the watershed, then that changes how new development should be managed because it takes such a large portion of the allowable contaminant load to the lake. If the PAC can move forward with this resolution, it provides the building block for allowing the currently proposed new development options.

Randy Wilbourn indicated that he believes that no discharge is the right approach, he just doesn’t understand why we are taking one issue and pulling it out of the process.

Trevor responded that prohibiting discharge in a water supply watershed would be setting a precedent for Arkansas, so we want state officials to see that there is consensus support among the diverse stakeholders represented by the PAC.

Chuck Nestrud stated that the state agencies have staff represented on the Technical Advisory Council (TAC) and that they don’t need the PAC to tell them it is important. He said that he agreed that a no discharge approach is important, but that it would be bad public relations for the PAC to move to put this out now ahead of the rest of the plan.

Glen Hooks indicated that he disagreed that it was bad timing. He views this as a building block for the plan. It allows the PAC to go forward in a direction if this prohibition is in place. If we don’t have

agreement on this basic element, then it changes the rest of the plan. He will vote to support the resolution.

Kate Althoff asked if the resolution is not voted for, would the computer model become irrelevant?

Trevor responded “No.” The computer models have demonstrated that surface wastewater discharges will impact the lake negatively, and that the wastewater would take up the assimilative capacity for runoff from new development such that the targets could not be met.

Herb Dicker asked if the resolution doesn’t pass and discharges occur to the lake, will development then have to be further limited around the lake?

Tetra Tech responded that an offset for the additional contamination would have to be established. Even with best available technology on the waste treatment, surface discharges will take on the majority of the load such that you could not meet the water quality targets with the combinations of lot size, impervious caps, undisturbed areas, and BMPs currently being discussed. It would likely require more land acquisition and less development.

Wally Loveless stated that he could understand how passing the resolution would provide more credibility with the resource agencies. On the other side, he sees how this could be perceived as piecemeal.

Marge Brewster made the point that currently there are no direct surface discharges permitted in the watershed. If the rule can be implemented soon, then the need for grandfathering could be avoided and there would not be a precedent that might make implementation of the rule harder in the future.

Kate Althoff asked whether not prohibiting discharge would change all of the provisions currently being looked at so closely by the subcommittees.

Tetra Tech responded that “Yes, it would change things dramatically.”

Chuck Nestrud said he thought that agency staff would help sell the approach to those higher up the ladder. The PAC has to look at more, selling the overall plan watershed-wide.

Glen Hooks responded that he thought adopting the resolution would provide CAW with the ability to stop discharges before they occur and since there aren’t any now, what would be the harm with moving forward?

Pat Dicker reiterated that if someone came to the Quorum Court with such a resolution, the matter would be taken more seriously.

Larry Hedrick said that he sees this as an important building block; “the linchpin.” If there is agreement on the measure, then timing shouldn’t be an issue. He will vote for the resolution.

Another member stated that this was based on the consultant’s study and that we have been talking about it for a long time. It is a building block that provides for an equitable way to allow development in the watershed, too.

Steve Owen asked to clarify if the resolution is not passed tonight, it doesn’t mean that the Council is voting down the management option, just delaying the timing, correct?

Kate Althoff asked how the community would view the fact that the Council could not come to consensus on this basic building block for the plan? How can the PAC sell to the community that it is at the table working together?

Kimberly Brewer stated that we have and will continue to bring components along the way for the PAC to review and consider, building as we go.

Randy Wilbourn said that he was concerned that the group was departing from the process that it said it would use.

Chuck Nestrud asked whether Tetra Tech and CAW could just start working with the agencies and let the PAC know if a problem arises?

Trevor asked whether that was the way that the PAC wanted Tetra Tech and CAW to proceed?

John Bentley expressed concern that Tetra Tech and the subcommittees were working very hard to come up with variables for exemptions considering values that protect the lake. If wastewater is not excluded, then all of that work would be for naught.

Tetra Tech clarified that the process did include bringing components to the table to consider along the way. This resolution is considered a foundation building block. Tetra Tech called for a decision, looking for consensus. One member objected, so the resolution did not pass.

Subcommittee Reports

Kimberly thanked members of the subcommittees for working very hard on the issues at hand. She told the full council that the subcommittees were working shoulder to shoulder at meetings as well as corresponding through numerous email messages to search for consensus options. They have been reviewing technical reports and memos, and subcommittee reports were sent to all PAC members summarizing where the discussion is currently headed. Kimberly clarified that while Tetra Tech was helping to facilitate the subcommittees, the recommendations were those of the subcommittees. She summarized work of the Exemptions Subcommittee first:

Exemption #1 – Additions to Existing Houses and Driveways

Tetra Tech had received lots of comments about the wording of qualifications previously included in the draft language. The subcommittee helped refine the language to meet the intent while addressing concerns. The subcommittee also reached consensus that the exemption should apply to the limited number of homes in Critical Area A, but that implementation must be accompanied by strict sedimentation and erosion control.

A question had also arisen on how to handle parcels straddling the watershed boundary. Subcommittee members recommended redrawing lines for administrative ease (i.e., using parcel boundaries, roads, etc.). They requested that Tetra Tech research this and provide recommendations for criteria.

One issue was raised that needed further research and consideration: should this exemption apply to existing businesses in addition to existing residential buildings?

Exemption #2 – Small Subdivisions

The subcommittee was in general agreement that this exemption for allowing existing landowners to hand down some small property areas to children for legacy or to provide supplemental income should be allowed. They recommend that it be owner-based rather than parcel-based (i.e., one exemption per landowner), and that it only apply to non-business family landowners (to include family Limited Liability Corporations and trusts).

The subcommittee addressed the issue of offsetting the additional pollutant loading from the land that is exempted. The group reached general consensus that there must be a guaranteed phosphorus mitigation offset in order to provide this exemption. Further, subcommittee members thought that the burden for mitigation should be shared by ratepayers and landowners. They recommended if possible to develop a hybrid option that combines CAW paying for land acquisition with slightly increased landowner development requirements (e.g., larger minimum lot sizes, such as 5.5 acres instead of 5 acres on low slopes).

One issue is whether the hybrid option can be developed in the very near term in policy by landowners and CAW. If not, could they provide the offset in the short term through stricter requirements on new development.

Subcommittee members also thought that there should be equity for similar landowners in Critical Area A. While this is tied to resolution of the issue regarding development in Critical Area A, the subcommittee recommended considering options be extended to those landowners to sell to developers in Critical Area B or the Upper Watershed Area. For example, this would allow a developer – for each option purchased – to add one additional unit to their development (i.e., three options would be equivalent to adding three houses).

The subcommittee is still evaluating how many lots and the maximum area to include in the exemption option. That decision depends on the resolution of some other issues.

Kimberly summarized the new legal information obtained during the week. The advising attorney indicated that the plan would need to provide an exemption to all landowner types, not just non-business owners. However, it would be OK to limit the exemption to Critical Area B and the Upper Watershed since the sensitivity of Critical Area A sets it apart. Counsel also advised that if legacy is the stated reason for the exemption, then limiting the exemption to landowners of 5 – 10 years or more would bolster the legal standing for the allowance. This would also address the issue of a potential rush to create new landowners which would create large impacts and undermine what the exemption is trying to achieve. Kimberly indicated that since this legal interpretation affects the analyses to date, the group will refine its analysis and bring back any refined recommendations at the September meeting. One PAC member commented that making the landownership requirement greater than 5 years as opposed to 2 years would have a big impact on landowners.

Exemption #3 – Nonconforming Lots Created Prior to Effective Date

Kimberly clarified that nonconforming lots refers to those of smaller lot size than the plan recommendations. There was general consensus that lots created prior to the plan’s effective date should be grandfathered. Lots created after that effective date would have to go through an appeals process, since they would have been aware of the plan at the time.

The effective date for triggering parcel exemption has become an issue. Tetra Tech had recommended establishing an effective date of July 1, 2005 (the inception of the watershed plan), but counsel has advised that backdating the plan would not be allowable. However, restricting what exemptions apply is allowable (e.g., limiting exemptions to landowners of 5 years or longer).

Kimberly then summarized the work to date by the Lots and Menu Subcommittee:

Issue #1 – Oversight and Administration

An issue arose as to whether administration and enforcement requirements were significantly different between the Large Lots or Menu option. After review, it was determined that administration and enforcement requirements are not expected to be significantly different for the two options; both are expected to require about 10 to 20 percent of one person’s time. However, regardless of which option is selected, there was consensus that oversight and administration and enforcement are critical to success of the plan.

Kimberly noted that Tetra Tech is recommending one full-time person to handle other enforcement/administration duties as well as including coordination of a Stewardship Council (mechanism for long-term oversight and policy decision-making on plan implementation and adaptation), outreach to help build additional support for the plan, tracking of performance, etc.

Questions were raised by some members regarding funding, and enforcement authority being tied to where the administrator was situated. One member stressed the importance of having an independent oversight authority.

Issue #2 – Preference for Fixed Large Lot or Menu Option

More subcommittee members are in favor of a menu approach over the fixed large lot option. There was general consensus that the menu approach could include a cluster option that maintained the same effective lot size for the development as a whole.

Issue #3 – Choices on the Menu

At issue are what and how many choices to offer on the menu option. The subcommittee members sought advice of realtors in looking at what menu items were practical considering market demands. Several realtors have been contacted and responses will be considered at future subcommittee meetings.

Issue #4 – Choices for Commercial Development

Subcommittee members raised the issue of how commercial development, though expected to be limited, would be handled. This will be considered in the coming month.

Issue #5 – How should the two different subcommittees reconcile recommendations for stricter requirements for the mitigation offset for exemptions?

Stricter requirements for everyone in exchange for subdivision exemption for some landowners poses an equity issue. It was recommended that both subcommittees consider this issue together.

Kimberly clarified that, in response to one member's concern that the performance standard option had been removed from short-term consideration, the option had not been taken off of the table. Rather, the Implementation Strategy for the Watershed Management Plan will detail how to move forward with evaluation and development of a performance standards program.

Marge Brewster recommended that the two subcommittees be combined to address the overlapping issues. Given overlapping membership and issues, the PAC agreed. The combined subcommittees will continue to meet and bring back final recommendations at the next meeting.

Discussion on Development or No Development in Critical Area A

Trevor reminded PAC members of the definition of consensus: when all members present can “live with” the outcome or proposal being made. It does not necessarily mean that everyone gets everything that they want. Rather, the consensus process allows for collaborative problem solving. Trevor advised members to look at where your colleagues are on an issue and if the majority is going in one direction, determine if you can live with that. If not, can you propose a compromise solution that meets the goals and objectives and that your colleagues can support.

Trevor acknowledged the new legal information and indicated that Tetra Tech would not force a vote on the issue of development or no development in Critical Area A if the PAC members felt they were not ready. One option would be to have another meeting in two weeks, or members could also reach consensus on the steps they would like to take to address this issue in the future.

Before discussion, Trevor first reviewed background information on Critical Area A and input that Tetra Tech received from the TAC regarding previous concerns raised by PAC members on this issue. Of the approximately 3,600 acres in Critical Area A, roughly 2,450 are defined as undevelopable (for example, already owned by CAW or too steep to build on). 1,174 acres were deemed potentially developable, comprising the parcels of 48 landowners. The majority of that land (about 1,000 acres) is owned by two entities, Deltic Timber and Rick Ferguson. Many of the remaining parcels are very small. Of the 46 other landowners, 35 have a combined property total of only 24 acres. Many of these have small portions of their property straddling the watershed boundary.

Background on Critical Area A

Trevor then reviewed what level of development is being considered for Critical Area A. Under the Non-engineering/Land Conservation Option, development could occur at 1 house per 20 acres. Additional requirements would include 92 percent undisturbed area, a 2.2 percent impervious cap, and professional wastewater management. Trevor indicated that this option, including consideration of existing non-conforming lots, would result in an estimated 68 new houses.

The Performance Standards/Land Conservation option would require a minimum of 70 percent undisturbed area, a maximum of 6 percent impervious surface, conservation design to avoid sensitive environmental areas, and engineering best management practices (BMPs) to meet the proposed performance standards for post-construction pollutant loading and runoff detention. Under this option, wastewater would need to be collected and pumped out of the watershed, and the system would require professional wastewater management. Tetra Tech estimates that under this option, an estimated 230 to 240 new houses would be added to the area (assuming housing density was capped at 1 house per 5 acres on average).

Trevor then said that the legal counsel had indicated that the requirements for 70 to 92 percent undisturbed area might be considered by the court to be so onerous as to constitute “a taking” of property, thereby requiring compensation. One PAC member stated that it would not be a taking if the landowners agreed to the conditions. Tetra Tech pointed out the difference between a condemnation taking and a regulatory taking.

Summary of PAC Comments

Trevor next summarized the comments provided by PAC members after the July PAC meeting regarding their concerns about development or no development in Critical Area A. Seven main concerns were raised, which were subsequently sent to the TAC for review and discussion:

1. No development provides certainty against threats from new development-related activities in the near intake area. On the other hand, uncertainty regarding drinking water protection from new development-related activities in the near intake area is associated with development design, development construction, and long-term maintenance of development management practices.
 - a. There are no guarantees that development can be safely constructed and maintained.
 - b. Over the long-term, properties will change hands, rules will be lost, forgotten or not communicated, creating the opportunity for mistakes that will impact water quality.
2. The risks to the water supply outweigh any benefit that development might bring.
 - a. The soils, slopes, and location leave no margin for error for development.
 - i. The short distance and time-of-travel to the intake pose a greater risk.
 - ii. Landscape alteration on steep slopes is difficult to manage; it is very difficult to control subcontractors and workers on every project. Erosion and sediment transport/turbidity plumes are likely, potentially threatening the intake water supply.
 - b. Increased human activities near the lake and intake increase the threats to water quality.
 - i. More people bring more pets, more lawn maintenance, more cars – all potential sources of pollution located near the intake. These activities change the water quality running off the land.
 - ii. There is likely to be temptation to remove trees and natural growth over time to provide better lake views.

- iii. Roads built closer to the lake are pollution sources and provide easier access to land close to the intake.
 - c. Catastrophic events (for example, extreme rain events, ice storms, fires) do occur and the presence of developed area that can be impacted by such events poses a greater threat.
 - i. What happens if wastewater treatment/conveyance systems are not working properly and go undetected for an extended period of time?
 - ii. No development builds in capability to minimize risks associated with catastrophic events.
 - d. From a risk perspective the PAC should not just look at the impacts on one or two developers. The plan needs to be looking out for the thousands of people that depend on this water every day.
3. No development in Critical Area A provides a cushion of safety against changes in regulations or other unknowns.
4. Treat the large developer separately from the small property owner.
 - a. Don't destroy the dreams of small landowners who bought property with the intent to build their home there.
 - b. The large development acreage under condemnation in Critical Area A could provide mitigation acres to offset the impact of the small number of new residents.
 - c. The large development acreage under condemnation in Critical Area A could provide mitigation acres to offset the impact of small landowner exemptions.
5. How can development activities be monitored and enforced over the long-term?
 - a. Who will be responsible for ensuring a developed area is properly maintained in all respects for its lifetime whether 30 years from now, 75 years, or longer?
 - b. If major problems develop with technology, construction, or management, who will be responsible for bringing it under control? (The developer or subsequent entity should be responsible, not the ratepayers; what happens if an entity becomes bankrupt?)
 - c. What is the cost to CAW to cover more oversight for this area? They will be called to respond to runoff events and to constantly monitor potential threats.
6. If development is allowed, it should be very restrictive because the land is very close to the water supply intake.
 - a. What types of securities would the developer need to provide to insure that what limited development is allowed would always meet the standards now and in the future?
7. If no development in Critical Area A is being considered because of risk, then this level of risk should be compared to other risks in the watershed. For example,
 - a. The risk of spills from accidents along the Highway 10 crossing.
 - b. The risk from unregulated development along Spillway Road and Lake Vista Drive.
 - i. There are currently no restrictions who and what can drive on these roads.
 - ii. Sewage from these homes is not pumped out of the watershed.
 - iii. There are currently no restrictions on land use and maintenance of herd animals.
 - c. The risk associated with boating and boat access.

- i. Boats are moored in the lake adjacent to Critical Area A.
- ii. Inspections of boats hauled to and launched in the lake are currently not performed.

Summary of TAC Input on PAC Concerns

Trevor stated that the TAC had met on August 15 to discuss the PAC concerns. They were not asked to reach consensus, rather to provide individual comment on technical perspectives that they thought the PAC should consider in its deliberations. A summary of the TAC input is provided as follows:

Modeling

Modeling was heavily discussed as the technical basis for judging the impact of development on Lake Maumelle and the water supply.

- One perspective was that Tetra Tech, with advice from the TAC, agreed upon a technical approach for evaluating impacts to the watershed and lake. Calibrated, quality assured models were developed. Some of the application assumptions were conservative which addressed uncertainty in the modeling predictions. For this TAC member, the bottom line was that the project team, TAC, and PAC should stick by the modeling results which indicate that the lake water quality targets can be met for the established post-construction indicators.
- Another perspective held by several TAC members was that models are helpful but not perfect. There is uncertainty with every model. There is high variability in some parameters (for example, runoff concentrations of bacteria can vary by orders of magnitude). Additionally, there is lack of local data to verify BMP performance in this relatively steep topography and grouping of soils. The modeling performed addressed long-term post-construction impacts, but did not include event-based impacts during construction phases of development. Also, it was pointed out that the model was calibrated to existing, undeveloped conditions such that greater uncertainty exists when applying that model to future highly developed conditions outside of the calibration data set. These members also stated that you cannot model everything (for example, lack of administrative infrastructure to oversee and enforce requirements). The bottom line for this contingent was that you need to consider uncertainty and other factors in addition to modeling results.
- Another perspective was that modeling verification should continue during initial plan implementation. This member warned against committing too early to development options where it will be difficult to undo things once decisions are made. He recommended that the team formally establish instream and inlake phosphorus targets, and monitor the system response to development in Critical Area B and the Upper Watershed Area before making a decision on whether development should be allowed in Critical Area A. Model uncertainty would be better known, and tools could be refined as necessary to help inform the decision.

Considering Critical Area A in Isolation

Many TAC members expressed that it was difficult for them to consider Critical Area A separate from the rest of the watershed. Because the lake will be affected by other activity in other parts of the watershed, they believe that the decision on Critical Area A should be in the context of whole watershed management. One example that was cited was, "If standards are never implemented in the Upper Watershed Area, how will management need to be adjusted to meet targets?"

Considering Development Review and Enforcement Capacity

Several members of the TAC felt strongly that the lack of current capacity for development review and enforcement of performance standards and development requirements should be considered. Better oversight and enforcement capabilities need to be in place before any development starts. It was noted that there are only 12 inspectors statewide for sedimentation and erosion control. Local governments can be more rigorous than the state, which could be important for management within the watershed. One pointed out that it often is cheaper to pay the fines than to comply with the regulations, which provides a disincentive for proper management. One solution suggested was to establish requirements for developers to post higher performance bonds up front that could be used to address problems that are not acted upon appropriately by the developer. A local government representative pointed to a practical consideration: enforcement is resource intensive and the historical practice of enforcement in the region is not strong. It takes a lot of effort to ensure compliance on a relatively small area.

Miscellaneous Points Made by the TAC

A few other key points were made by TAC members:

- One TAC member believed that it would be significantly cheaper to manage the temporary impacts of the construction phase of development than to buy all of the land in Critical Area A.
- Another member thought that the PAC must also weigh non-technical issues such as public perception of the integrity of the water resource.
- Several members thought that a number of the issues raised should be addressed in the plan regardless of any decision on Critical Area A. Specific items cited included: spill risks; relative risk of boating activities and management of marina operations; impacts of aquatic weed infestation (for example, *Hydrilla*); and administration and enforcement.

TAC Input Summary – Three Different Big Picture Views

Trevor reminded the PAC that TAC members were not expected to reach consensus on their review of the PAC concerns. In general, however, three different big picture views were expressed.

1. Hold the Decision, More Work is Needed: A majority of TAC members indicated that they thought that there were good implementation questions being asked for which answers were still being sought. They felt that there was not sufficient technical basis yet for either taking development of Critical Area A off of the table or keeping it on the table. Their recommendation was to wait and allow work to continue to answer outstanding questions before making this decision.
2. More Work Needed – Apply a Development Moratorium in the Interim: A couple of TAC members supported the contention that there is more work needed to answer questions and reduce uncertainty. They felt strongly that a temporary moratorium on development should be imposed until ordinances and additional trained personnel are in place, pilot projects are completed, etc.

Tetra Tech noted that it had asked for a legal opinion on a moratorium and that counsel had indicated that development moratoriums are very rare in Arkansas. The only known applications are for cases where there is an infrastructure issue (for example, there is not sufficient infrastructure to provide adequate water or sewer service).

3. No Development: At least one TAC member thought that there was an argument for no development. Reasons cited were that more people brought more risk, that there was inherent uncertainty in the impact analysis, the burden of administration and lack of local capacity, the practicality of enforcement, and the negative perception of the water supply users regarding the impacts on water supply quality.

PAC Discussion

Prior to beginning discussion, Trevor reminded members to consider the goals and objectives that they had endorsed together, and to put solutions on the table that everyone could “live with.” A summary of the discussion follows:

Herb Dicker stated that, looking at the past record of development in the region, developers regularly disregard regulations to control stormwater runoff and protect adjacent property. Oversight agencies are short-handed and always playing catch-up. When officials do take enforcement, fines are often small and don't provide much of an incentive for being compliant. He believes that the community cannot risk developers impacting water quality near the water supply intake that supplies approximately 400,000 people. Given these doubts, he recommends that the PAC vote to not allow development.

Sue Corker stated that some development can be done very well; Chenal was cited as an example. However, she wondered when Deltic Timber had purchased its property. She said that she found out that a significant amount of land was purchased in the mid-80's when the lake and water supply had been present for about 30 years. She wanted to know whether Deltic had conferred with the water supply utility about potential plans for development, or was the original use just for timber.

Chuck Nestrud (representing Deltic Timber) responded that he knew that some land was purchased in the 50's and that some was bought in the 80's. He had not talked with anyone about the 50's purchases. He stated that Deltic has always been in the timber and development business, and that they typically keep land in timber until a development opportunity arises.

Glen Hooks stated that he has been working on the Lake Maumelle protection issues for the past two years, and he believes that the management decision boils down to political will. There has been considerable discussion as to whether we should treat certain areas of the watershed differently, and in his mind the answer to that is, “yes.” However, there is a lot of work to build trust to be able to get buy-in from local communities for protecting the Upper Watershed Area and parts of Critical Area B. He believes that there is a lack of political will to manage those areas now, but that it is different for Critical Area A. Events over the last two years in the community and state legislature demonstrate that there is political will to act in the near intake area. He believes the time is right to act and will vote to prohibit development in the area.

Wally Loveless said that if we are going to vote to take the property, then we should expect to pay a premium to the owners. If science justifies a decision of no development, then explain this to the landowners and provide a premium level of compensation.

Trevor reminded the group to place comments in the context of the goals and objectives. Wally's response is an example of trying to get there by acknowledging both sides and looking for a possible solution. He encouraged members to build on this approach or offer other possible solutions.

Ruth Bell stated that the source water supply is vital; 400,000 people depend on it. She doesn't believe we should take the risk of potentially impacting the water supply by allowing development in Critical Area A.

Randy Wilbourn replied that if CAW wanted to fully avoid risk, it could have purchased all of the property when the lake was built. Unfortunately, it did not, so now we have to weigh the odds.

Kate Althoff said that she agreed with Randy – if the land had been purchased when the lake was built, then we wouldn't be in this situation. However, science is not perfect and cannot answer everything. Common sense tells us that, with the short travel-time in Critical Area A (less than 1 hr during a large storm event to the edge of the lake, and less than 5 days to the intake – shorter for some) and the record of failed technologies, we would be risking the water supply to allow development in this area.

Pat Dicker stated that there are 12 existing homes in Critical Area A. Whatever the PAC decides, she recommended that those homes be grandfathered. However, new development will bring threats from sediment.

Trevor again reminded members to look for solutions that meet all goals and objectives.

Marge Brewster indicated that she was not ready to vote on the issue. She would like time for the subcommittees to continue to meet to address the outstanding issues and to consider the new legal information. She doesn't think that the PAC should separate the decision on Critical Area A from other issues in the watershed. She was disappointed to hear during the last TAC meeting that local government staff didn't believe that adequate enforcement can take place regarding development impacts and compliance with potential requirements. She also believes that the plan should distinguish between small landowners and large corporate landowners and developers.

Wally Loveless responded that he thought there could be just as much impact from 40 small developments as 2 large developments, and that the real key was establishing adequate administration and enforcement for whatever the size of development.

Glen Hooks asked Tetra Tech how the technical questions could be answered if there is uncertainty in the models.

Tetra Tech responded that it has developed calibrated watershed and lake models for long-term post-construction conditions. Where we are more challenged is when we ask questions that the modeling framework was not set up to answer (for example, a short-term impact during a storm event on turbidity in a localized zone of the lake). Although additional analysis can provide further insight, we caution members that there will always be some uncertainty for the reasons covered earlier during the TAC input review. We are confident in stating that there is more contamination running off of developed land than from undeveloped land; the question is whether the additional risk from development is manageable and that provisions can be protective enough in the community's eyes.

Steve Owen stated that the PAC subcommittees are having important discussions regarding administration and enforcement and are a couple of weeks to a month away from making recommendations. He believes that it would be doing a disservice to the rate payers if the PAC votes without hearing the subcommittee's recommendations first. He recommends waiting to make this decision after further work and discussion has taken place.

Chuck Nestrud said that he believes that there is lots of experience around the country with administration and enforcement. Tetra Tech is bringing examples of these to the subcommittees as potential models for this watershed. The work to date shows that there is a management option that can potentially meet load allocations and the goals and objectives without additional land acquisition. The modeling is good. Now we need to do some field validation and build capacity. Let this work take place.

Randy Day stated that he does not see the merit in gambling on future impacts on water quality. Lake Conway, Lake Hamilton, and Lake Katherine are examples of lakes where water quality has been impacted negatively by development. We need to weigh all elements before making this decision and be certain that we are not gambling with protection of the lake.

Randy Wilbourn responded that there will be development within the watershed somewhere, so we need to focus on what is the best way to mitigate the impacts.

Barry Haas asked to speak. He asked fellow PAC members to consider the goals and objectives. No development best meets the first overarching goal of protecting the public health and safety. However, it also meets the second overarching goal of an equitable sharing of costs and benefits. The plan must consider the entire watershed. Critical Area A makes up only 5 percent of the watershed area; we should be willing to do something in this small portion of the watershed for the good of the whole.

Tetra Tech cut off discussion as time had run out. Trevor asked the group whether it was ready to vote tonight. A large number of members indicated that they were not ready to vote on whether to allow or prohibit development in Critical Area A. Tetra Tech then asked the group whether they wanted to have a special meeting in two weeks to decide the matter or vote to follow the recommendations of several TAC members to work through as many issues as possible before making this decision. The PAC unanimously chose to continue the dialog as part of the other plan issues and discuss it further at its regularly scheduled session (i.e., now special session in two weeks).

Next Steps

Tetra Tech indicated that it would be in touch with members of both subcommittees to find mutually convenient times to hold joint sessions and continue working on the issues. A summary of this meeting, a meeting agenda, and supporting materials will be sent out prior to the next meeting scheduled for September 21. The meeting was adjourned.

Lake Maumelle Policy Advisory Council Meeting Attendance

Date: August 17, 2006

	MEMBER NAME	DESIGNATION	REPRESENTING
P	Herb Dicker	PRIMARY	Ratepayers (Little Rock Neighborhoods)
P	Kathy Wells	ALTERNATE	Ratepayers (Little Rock Neighborhoods)
P	Sue Corker	PRIMARY	Ratepayers (North Little Rock Neighborhoods)
NP	Jack Finnegan	ALTERNATE	Ratepayers (North Little Rock Neighborhoods)
NP	Mike Simpson	PRIMARY	Ratepayers – Jacksonville Water Works (Master-metered Customers)
P	Robert Stout	ALTERNATE	Ratepayers – North Pulaski Water Works (Master-metered Customers)
P	Tony Kendall	PRIMARY	Central Arkansas Water Commission (Chair)
NP	Jane Dickey	ALTERNATE	Central Arkansas Water Commission (Member)
P	Roby Robertson, Ph.D.	ALTERNATE	Central Arkansas Water Commission (Vice Chair)
P	Ruth Bell	PRIMARY	Community (League of Women Voters of Pulaski County)
NP	Kathleen Oleson	ALTERNATE	Community (League of Women Voters of Pulaski County)
P	Steve Owen	PRIMARY	Community (North Little Rock Chamber of Commerce)
NP	James Dietz	ALTERNATE	Community (North Little Rock Chamber of Commerce)
P	Randy Wilbourn	PRIMARY	Community (Little Rock Regional Chamber of Commerce)
P	Jay Chesshir	ALTERNATE	Community (Little Rock Regional Chamber of Commerce)
P	Kate Althoff	PRIMARY	Community (Citizens Protecting Maumelle Watershed)
P	Barry Haas	ALTERNATE	Community (Citizens Protecting Maumelle Watershed)
P	Alderman Neil Bryant	PRIMARY	Elected Official (North Little Rock City Council)
P	Vice Mayor Barbara Graves	PRIMARY	Elected Official (Little Rock Board of Directors)
P	City Director Stacy Hurst	ALTERNATE	Elected Official (City Director, City of Little Rock)
P	Justice Pat Dicker	PRIMARY	Elected Official (Pulaski County Quorum Court)
P	Justice Harrison Jones	PRIMARY	Elected Official (Perry County Quorum Court)
NP	Justice Charlie Clements	ALTERNATE	Elected Official (Perry County Quorum Court)
P	Glen Hooks	PRIMARY	Environmental (Sierra Club)
NP	Dale Ingram	ALTERNATE	Environmental (Sierra Club)
P	Kevin Pierson	PRIMARY	Environmental (Audubon Arkansas)
NP	Stephanie Hymel	ALTERNATE	Environmental (Audubon Arkansas)
P	Charles Nestrud	PRIMARY	Property Owners (Deltic Timber Corporation)
P	Larry Hedrick	PRIMARY	Property Owners (U.S. Forest Service)
NP	Jeff D. Allison	PRIMARY	Property Owners – Water Association within Watershed
P	John M. Bentley, III	PRIMARY	Property Owners within Watershed – Western Watershed

P	Ray Vogelpohl	ALTERNATE	Property Owners within Watershed – Western Watershed
P	Marge Brewster, Ph.D.	PRIMARY	Property Owners within Watershed – Northern Watershed
P	Earl Hillard	ALTERNATE	Property Owners within Watershed – Northern Watershed
P	Wally Loveless	PRIMARY	Realtors (Arkansas Realtors Association)
P	Kenneth Gill	ALTERNATE	Realtors (Arkansas Realtors Association)
P	John Bryant	PRIMARY	Recreationists (Grand Maumelle Sailing Club)
NP	Nicole Claas	ALTERNATE	Recreationists (Grand Maumelle Sailing Club)
P	Randy Day	PRIMARY	Recreationists – Fisherman (President of Maumelle Bass Club)

OTHERS IN ATTENDANCE REPRESENTING		
P	Kimberly Brewer, A.I.C.P.	Tetra Tech, Inc.
P	Shaní Canada	Central Arkansas Water
P	Matthew Cate	<i>Arkansas Democrat-Gazette</i>
P	Trevor Clements	Tetra Tech, Inc.
P	Marie A. Crawford	Central Arkansas Water
P	Tim Daters, P.E.	White-Daters & Associates, Inc.
P	T. Ellison	Citizen
P	Gary Hum	Central Arkansas Water
P	Hal Kemp	Attorney for Rick Ferguson, Developer of Waterview Estates, L.L.C.
P	Scott King	A-V Arkansas, Inc.
P	Bruno Kirsch, Jr., P.E.	Technical Advisory Council/Central Arkansas Water
P	Nicole Lacy	Central Arkansas Water
P	Jim McKenzie	Technical Advisory Council/Metroplan, A Council of Local Governments
P	Norvell Plowman	Attorney for Lee Bodenhamer, Property Owner within Lake Maumelle Watershed
P	Ron Strother	Lake Maumelle Watershed Property Owner/Investor in Waterview Estates, L.L.C.