

# REPORT ON GROUNDWATER MANAGEMENT FRAMEWORK

## TASK G

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**TASK:** Identify potential organizations to prepare draft of groundwater management plans. Identify advantages, disadvantages, and issues with regard to each. Consider legal authority, funding ability, and ability for diverse involvement with regard to each.

### **A. POTENTIAL ORGANIZATIONS TO PREPARE DRAFT OF GROUNDWATER MANAGEMENT PLANS**

The preparation of a groundwater management plan in a groundwater management area is key to implementing the provisions of Act 310 in groundwater management areas. Task G addresses the question of who should prepare this groundwater management plan. In addressing this task, we start with the following presumptions:

- The preparation of a groundwater management area plan requires technical capability in a variety of areas
- Knowledge of conditions within the groundwater management area is very important
- The groundwater management plan will cover both public and private groundwater uses
- Stakeholder involvement in the groundwater management areas planning process is important

With these considerations in mind, the task members identified the following entities as potential entities that could be in charge of preparing a groundwater management area plan for a groundwater management area.

- Wisconsin Department of Natural Resources
- Regional planning commissions
- County planning agencies
- Other governmental body

- Private group
- New legislatively created groundwater management area district

The pros and cons of each of these groups doing the planning will be discussed further below.

### **Wisconsin Department of Natural Resources**

The Wisconsin Department of Natural Resources as the state entity with authority over waters in the State would have the statutory authority and technical capacity to prepare groundwater management area plans. Benefits of having the WDNR prepare the groundwater management area plans are: (a) WDNR's expertise and knowledge regarding water resource issues; (b) consistency between plans; and (c) ability to streamline the process. Under the structure of the rule as currently envisioned, the WDNR would review and approve the groundwater management plan. This review and approval process would not be needed if WDNR prepared the plan in the first instance. However, the WDNR role of review and approval would be consistent with the traditional roles and responsibilities which have been used in the past for the preparation and updating of the regional water quality management planning program. That ongoing planning program includes surface water and, by definition, groundwater quality management planning and provides for planning to be carried out by officially designated planning agencies with oversight and implementation regulation by the WDNR.

Concerns about having the WDNR prepare the groundwater management area plan include: (a) having adequate staffing and funding for WDNR to prepare this plan; (2) less knowledge about local conditions and stakeholders; and (3) limited knowledge about other plans for the area and opportunities to coordinate plans. The staffing and funding issues relative to WDNR preparing the groundwater management plan is a major concern. WDNR has many responsibilities, and staff is currently limited in its ability to perform existing responsibilities. If WDNR was to take on this task, additional staffing and funding would be required. Another potential concern if WDNR does the plan is the involvement of local stakeholders. While this concern could be alleviated by a local involvement process, there may be a benefit in having a local entity prepare the groundwater management plan.

### **Regional Planning Commissions**

Regional planning commissions, where they exist, would have the statutory authority to prepare groundwater management area plans. During the 1970's in accordance with the provisions of the Federal Clean Water Act, the governor officially designated certain agencies, including some regional planning commissions, as the official areawide water quality management planning agency for certain areas of the state. That planning, which is currently ongoing for plan updating and extension purposes, includes

consideration of both groundwater and surface waters. Recently, there has been an emphasis on the need for “integrated water resources planning and management”. This term has been given a number of different definitions. However, it generally implies planning and management for water resources including groundwater, surface water, and aquatic habitat in an integrated manner. Based upon these considerations, where the officially designated water quality management planning agencies exist, logic would dictate selection of that agency to carry out the groundwater management planning, provided the capabilities needed are in place.

Benefits of having a regional planning commission prepare the plan are (a) the technical expertise in planning issues; (b) their knowledge of local conditions and stakeholders; and (c) their ability to coordinate groundwater management plans with other plans for the area. Some regional planning commissions may also have technical expertise on groundwater management issues. This would have to be evaluated on a case-by-case basis.

Concerns of having a regional planning commission prepare the plan are (a) how to pay for the cost of preparing the groundwater management plan; and (b) the ability to involve private parties and well as local governmental bodies in the planning process. Some regional planning commissions may not have technical expertise on groundwater management issues. This would have to be evaluated on a case-by-case basis. There may also be a concern if the groundwater management area extends beyond the area covered by the regional planning commission.

### **County Planning Agencies**

County planning agencies could prepare groundwater management area plans in some counties. Benefits of having a county planning agency prepare the plan are (a) the technical expertise in planning issues for that county; (b) their knowledge of local conditions and stakeholders; and (c) their ability to coordinate groundwater management plans with other plans for the county. Some counties may also have technical expertise on groundwater management issues. This would have to be evaluated on a case-by-case basis.

Concerns of having a county prepare the plan are (a) counties may in some cases be too small a geographic area for groundwater management planning purposes; and (b) how to pay for the cost of preparing the groundwater management plan. Some counties may also not have the technical expertise needed to prepare a groundwater management plan. This would have to be evaluated on a case-by-case basis.

### **Other Governmental Body**

Other governmental bodies could also potentially prepare groundwater management area plans. Cities, villages, towns, metropolitan sewerage districts, joint local water authorities, or entities created by local governmental agreement are examples of governmental bodies that could potentially prepare groundwater management area plans.

The primary benefit of having these governmental bodies prepare the plan is that they are knowledgeable about local conditions and stakeholders.

Concerns of having these governmental bodies prepare the plan are (a) that in most cases, the geographic area covered by the governmental body would be too small for groundwater management planning purposes; (b) how to pay for the cost of preparing the groundwater management plan; and (c) there may in some cases be differing interests between the local government and private parties. Many local governmental bodies may also not have the technical expertise needed to prepare a groundwater management plan.

### **Private Group**

A non-governmental entity could also potentially prepare groundwater management area plans. The benefits of having a non-governmental entity prepare the plan are that (a) the entity could have expertise in planning and/or groundwater management; (b) the entity could cover the entire groundwater management area without regard to concerns regarding geographic boundaries; and (c) the entity would likely not have a predisposition towards one group of groundwater users over another.

Concerns about having a non-governmental entity prepare the groundwater management area plan are (a) the entity may or may not have knowledge of local conditions and stakeholders; (b) no funding source for a non-governmental entity; and (c) limited ability to implement or enforce groundwater management plan and the lack of a long term responsibility and commitment to plan implementation. Because of these liabilities, it may be prudent to consider private entities for plan preparation only under a contractual arrangement to a governmental agency.

### **New Legislatively Created Groundwater Management Districts**

Another option would be for the legislature to create groundwater management districts in the identified groundwater management areas. These would be new governmental entities with statutorily defined powers. The powers of a new groundwater management district could include preparation, implementation and enforcement of groundwater management plans.

The benefits of a new groundwater management district are: (a) the district would be focused on groundwater management issues in the district; (b) the district would be given all authority needed to plan, implement and enforce groundwater management in the district; and (c) a funding mechanism could be established in new legislation authorizing these districts.

The concerns about creating new groundwater management districts are: (a) legislation is needed to create the districts; (b) this would create another governmental body; (c) funding for another governmental body would be required.

**B. PROPOSE ADMINISTRATIVE RULE TO ALLOW DNR TO CONTRACT WITH A PLANNING ENTITY**

Except where capable areawide water quality management planning agencies designated by the Governor exist, there is no clear conclusion on what entity is the best entity to prepare a groundwater management plan. As discussed above, there are benefits and concerns with each possible entity. Because of that, task members believe that there should be flexibility in determining what entity should prepare a groundwater management plan in a groundwater management area.

Task members recommend that the WDNR be allowed to contract with an entity for the preparation of a groundwater management plan, with preference given to designated water quality planning agencies. Where no such agencies exist, all interested entities may make a proposal to the WDNR to prepare the plan, and the WDNR shall contract with the selected entity. In order to accomplish this, we recommend that rule language similar to the following be adopted:

(3) Within each of these groundwater management areas, the department shall contract with a single agency capable of developing an effective groundwater management area plan. Each planning agency contracted with shall:

(a) Demonstrate the technical capability to complete the plan in a timely manner.

(b) Demonstrate substantial local support for undertaking groundwater management planning in the area by providing resolutions from groundwater users in the area deemed by the department to be critical to the successful preparation and implementation of a groundwater management area plan.

**C. FUNDING FOR GROUNDWATER MANAGEMENT AREA PLANNING**

In order for the WDNR to contract for the preparation of a groundwater management plan, there must be funding to pay for the plan. At this time, there is no designated source of funds for groundwater management planning. The following are potential sources of funding.

<b>POSSIBLE FUNDING SOURCES</b>	
<b>FEDERAL FUNDING</b>	
Federal grants	Available federal grants need to be identified Is there adequate funding available?

<b>STATE FUNDING</b>	
State grants	Available state grants need to be identified Is there adequate funding available?
State general revenue	Identifiable source of funds Would need a legislative appropriation for a new activity Entire state would be paying for planning in groundwater management areas
Revenue from Act 310	Well permit fee revenue Is Act 310 revenue sufficient to pay for groundwater management area planning Should Act 310 revenue from the entire state pay for groundwater management area planning
New revenue source - Water use Fee	No legislative authorization for such a fee Would fee be based upon existence of a well, or amount of groundwater used How would such a fee be collected Would such a fee apply to all water users, not just users who pay water rates
New revenue source - Other	No legislative authorization for such a fee Consider options from other states
<b>LOCAL FUNDING</b>	
Property tax	Local governments could fund through property tax Limited by boundaries of the local government Limited by ability to raise property tax
Local government fees	Local government could potentially impose fees or charges in a groundwater management area Limited by boundaries of the local government which may be smaller than the groundwater management area
Water utility rates	Revenue could be raised through water utility rates Only collects revenue from users who obtain water from utilities. Private users do not pay.

A source of funding for groundwater management planning should be identified. In doing so, the following factors should be considered:

- Grants funds should be sought.
- If grant funds are not available, revenue generated from within the groundwater management area should be used to pay for the cost of groundwater management planning.
- All groundwater users located within the groundwater management area should pay for the cost of groundwater management planning.

- The method of collecting revenue from within the groundwater management area should not be burdensome.

The Groundwater Advisory Committee should recommend a funding source for consideration. Without a designated funding source, the WDNR would have no ability to contract with an entity for the preparation of a groundwater management plan.