

CHESAPEAKE BAY COMMISSION  
JANUARY 2015 MEETING MINUTES

The Chesapeake Bay Commission held its first quarterly meeting of 2015 on Thursday, January 8, 2015, in Annapolis, MD.

The following Commission members and staff were in attendance:

Senator Richard Alloway  
Delegate David Bulova  
PA Citizen Member, Warren Elliott  
Acting Secretary Frank Dawson  
Representative Garth Everett  
Maryland Citizen Member Bernie Fowler  
Senator Brian Frosh (only attended a portion)  
Representative Keith Gillespie  
Senator Emmett Hanger  
Deputy Secretary Kelly Heffner  
Delegate James Hubbard  
Senator Nancy King  
Delegate Scott Lingamfelter  
Delegate Maggie McIntosh  
Senator Thomas "Mac" Middleton  
Virginia Citizen Member John Reynolds  
Representative Michael Sturla  
Senator Frank Wagner  
Secretary Molly Ward  
Rear Admiral Ricky Williamson  
Delegate John Wood  
Senator Gene Yaw

Staff: Ann Swanson  
Jen Donnelly  
Jack Frye  
Bevin Buchheister  
Marel King

Members not in attendance:  
Delegate Margaret Ransone

**Thursday, January 8, 2015**

Acting Chairman Scott Lingamfelter called the meeting to order at 9:00 am and welcomed new Commission members Senator Gene Yaw (PA), Representative Keith Gillespie (PA) and Nancy King (MD). Ann Swanson called the roll and members approved the minutes of the November 2014 meeting and the January agenda as written.

## Chesapeake Bay Accountability and Recovery Act

Congressman Rob Wittman representing the first Congressional District of Virginia reviewed the recently passed Chesapeake Bay Accountability and Recovery Act. He introduced this bill to improve availability about what amounts agencies are spending on Bay restoration, how those funds are being spent, and the effectiveness of the expenditures. Under this bill, agencies will need to provide details if more than \$100,000 is spent on a project. Ann Swanson was part of the workgroup that suggested he include an independent evaluator in the bill. Wittman also spoke about the Duck Stamp fee which has not increased since 1985, and noted that demand for funding to protect prairie potholes far exceeded available funds, and that an increase in the Duck Stamp fee would have helped meet the demand.

Del. Bulova asked if Wittman thought there was Congressional will to continue the Bay TMDL, and Wittman said he thought they would stay the course right now. He also said that the federal government needs to provide flexibility to the states in the form of block grants so the states can use the funds in the most effective ways. Wittman also introduced his staff, Brent Robertson, and mentioned that the Congressional Chesapeake Bay Caucus would be re-formed this year.

## Regulatory and Legislative Initiatives

Members then gave a quick synopsis of regulatory and legislative initiatives taking shape across the three CBC member states. Sen. Middleton, MD, discussed efforts to implement the Phosphorus Management Tool in Maryland and noted that it was a missed milestone for the 2012-2013 period. He noted that the PMT would result in 228,000 tons of excess litter on the Eastern Shore. Regulations involving a six year phase-in of the PMT were proposed in November. Senator Hanger, VA, gave an update on Virginia's Resource Management Plan, which is their Ag Certainty program that was instigated by the agricultural community and negotiated by all the stakeholders. Contracts have been let for 274 farmers to have plans by December 31. Deputy Secretary Kelly Heffner from PA discussed the recent settlement agreement with PennFuture concerning the MS4 program, noting that PA has 900 MS4s in the Bay watershed. Locally impaired waters will be a focus of the revised general permit, and otherwise local governments will implement practices towards the broader Bay clean-up goals.

The members then discussed legislation that they expected to introduce in the new General Assembly Sessions. Del. Lingamfelter said he was looking at ways to develop an Old Growth Forest Trail system, addressing regional alternative onsite community-level septic systems and at increasing penalties for oyster poaching. Sen Middleton said he would be working on the PMT and possibly on nutrient trading. Sen Wagner said he'd be looking requiring stormwater fee reduction programs for localities charging stormwater fees and at allowing local public-private partnerships to manage stormwater. Rep. Sturla indicated that he would be pursuing a water usage fee for consumptive water usage. This would be used as a dedicated fund for water quality improvement. Delegate Bulova indicated he would introduce a bill to ban plastic microbeads and Sen. Alloway said he's also likely to introduce a microbeads bill and a turf fertilizer bill.

## 2017 Water Quality Outlook, Part II

Rich Batiuk, Associate Director for Science, Analysis and Implementation at the Chesapeake Bay Program, and Kim Coble, Vice President of Environmental Protection and Restoration at the Chesapeake Bay Foundation joined us to follow-up on their November CBC presentation that examined whether MD, VA and PA are on track to meet the TMDL goal to have 60% of the practices in place by 2017 to deliver clean water and 100% in place by 2025. Batiuk focused on where each state was falling short of meeting its 2017 and 2025 goals, and Coble focused on policy recommendations.

Batiuk said that MD needs to do more to address manure and cover crops. Also, MD is not on track for stormwater and specifically needs to do better with site design, urban stream restoration and filtering practices, and MD has had problems getting state and federal permits for stream restorations. As of 2013 MD has only planted 8% of its forest goal and it should be at 30%. MD is not on track to meet its target for upgrading 60% of septic systems in the critical area. Batiuk also indicated that none of the states are accounting for additional loads from growth.

For PA agriculture, Rich indicated that they are not on track for manure transport, diet and feed management, animal waste systems and Nutrient Management Plans, and stated that PA does not have enough cost share or technical assistance to meet their WIP goals. The state is also not on track for riparian buffers, stream exclusion and cover crops. For stormwater, PA calls for a 40-50% reduction in their load, which is far more than other jurisdictions and they are not on track. PA does not have urban nutrient management legislation (lawn fertilizer) or requirements to re-plant forest lost to development. PA has met 20% of urban tree planting and buffer goals. EPA may have to require stricter permit limits for wastewater treatment plants if other sectors do not meet their load reductions. PA WWTP limits are not as stringent as MD, VA, WV, DE and DC.

For Virginia, Batiuk indicated the agricultural sector is not on track for meeting manure management goals for 2025 for nutrient application rates and timing, animal waste management systems and manure transport. VA is also not on track for riparian buffers, cover crops, livestock exclusion, and high residue tillage, and they do not have the needed level of technical assistance and cost share to achieve the BMP's in their WIP. For stormwater, Batiuk noted that VA needs to do more infiltration practices and urban nutrient management to meet 2025 targets and localities need more technical assistance. VA has planted only 19% of agricultural riparian forest buffers and 2% of urban tree plantings and riparian forest buffers towards their 2025 target; they should be at 30% to be on track to meet 2025 goal.

Kim Coble said that agriculture contributes the largest pollutant loads and is the most cost effective to reduce, and that the states' WIPs rely on agriculture to reduce 75% the load. States need to target funding to agriculture. Coble suggested that CBC could write a letter to USDA Sec. Vilsack about the State Buffer Task Force. It will be finalized in March and will contain recommendations on how to accelerate forested buffers.

Coble also mentioned that states could increase their credits for using phytase and Kelly Shenk, Agricultural Advisor for EPA Region III, said states are receiving a 16% reduction but research shows that up to 30% is possible. She did not know whether this reflected lack of use of phytase or was a data tracking issue. Members asked Kelly to report the information to CBC staff when data was available. Coble made several recommendations for each state, including improving manure management in MD, improving compliance with existing Ag laws in PA, and improving cost share for Ag in VA.

A member asked Batiuk whether any other country focused on all their pollution sectors like the Bay region and Batiuk said the Baltic Sea did.

CBC members asked staff to track down answers to these questions:

1. Will the newly issued, or soon to be issued, MS4 permits for all three Commission states put us on track to meet 2025 TMDL goals? Will VA's MS4 permits deliver the 2025 TMDL goal by 2028, since VA did not issue them until 2013 and they have three permit cycles to meet permit goals?
2. What is the situation with phytase? Could it be used more or is the lack of credit for using phytase a reporting issue?
3. Can EPA determine how far towards meeting TMDL goals PA would be if they achieved 100% compliance with existing laws?

### Stream Exclusion

Jack Frye, VA Director, gave an overview of the Livestock Stream Exclusion report, currently under development, that examines policies in our three member states and supporting federal programs. Report recommendations will include convening state workshops to overcome barriers to implementation, surveying attitudes to determine what kinds of incentives are needed and looking into operational challenges like the need for pumps and wells for off stream watering. Members discussed evaluating the practice to determine the pollution reduction and also how it protects human health, and whether BMPs should be re-prioritized after the evaluation. The report will be available at the May meeting.

### Lunchtime Delegation meetings and farewell to three members

Members moved upstairs for lunchtime Delegation meetings where they elected Delegation Chairs and Vice Chairs. Chairman Lingamfelter recognized three of our retiring members from Maryland, Delegate Johnny Wood, Delegate Jim Hubbard, and Senator Brian Frosh. Each gave farewell remarks and noted how valuable the Commission was to their public service.

### Verification

After lunch Ann Swanson, Executive Director, discussed the new requirements that states will follow to verify that BMPs are implemented and operating correctly. Verification will be required for practices to be counted towards pollution reduction progress to meet the TMDL. Ann noted that each state is relying on a different mix of BMPs to achieve the goal and that each BMP has its own verification protocol.

States will be developing protocols and submitting them to EPA by July, 2015. EPA will work with states to approve verification plans by December 2015. By 2018 states should have full implementation of their verification programs underway.

### Precision Conservation

Lawrie Jordon, Director of Imaging at Esri, and Joel Dunn, Executive Director of the Chesapeake Conservancy and Jeff Allenby, the Conservancy's Director of Conservation Innovation, discussed how technology like GIS could help with verification efforts. GIS pulls together all kinds of information like geospatial information, maps, spreadsheet info, social media and imagery, and offers more than imagery alone. Allenby noted that technology could help make sure that precision conservation (the right practices, in the right location at the right scale at the right time) is working. They can improve modeling at the local scale and determine water overland pathways and target the BMPs to where they are most effective. He noted that GIS mapping of the entire watershed would be more cost efficient than state by state mapping.

Members noted that we needed a requirements definition, meaning we need to determine what information policymakers need to understand to see if we are making progress. Sen. Middleton mentioned farmer privacy concerns about this technology.

### Election of 2015 Officers

Chairman Lingamfelter called for election 2015 officers. PA nominated Rep. Garth Everett to be Delegation Chair and Rep. Mike Sturla to be Delegation Vice Chair. Maryland nominated Del. Maggie McIntosh as delegation Chair and Sen Nancy King as Delegation Vice Chair. Virginia nominated Del. Scott Lingamfeter as both Chair of the Commission and of the VA Delegation, and nominated Sen. Frank Wagner as Delegation Vice Chair.

All officers were elected unanimously on a voice vote.

Chairman Lingamfelter adjourned the meeting at 3:32 p.m.