

Minutes  
**CHESAPEAKE BAY COMMISSION**  
**Gettysburg, PA**  
**September 19-20, 2013**

**Thursday, September 19**

The Chesapeake Bay Commission held its third quarterly meeting on Thursday and Friday, September 19-20, 2013 at The Gettysburg Hotel in Gettysburg, PA.

The following Commission members and staff were in attendance:

PA DEP Secretary Christopher Abruzzo  
Senator Mike Brubaker  
Patricia Buckley, PA DEP  
MD DNR Deputy Secretary Frank Dawson  
VA NR Secretary Doug Domenech  
PA Citizen Representative Warren Elliott  
MD Citizen Representative Bernie Fowler  
MD DNR Secretary Joe Gill  
Senator Emmett W. Hanger, Jr.  
Delegate Lynwood Lewis  
Delegate Scott Lingamfelter  
Delegate Maggie McIntosh  
Senator Thomas "Mac" Middleton  
Representative Ronald Miller  
Admiral Dixon Smith  
Representative Mike Sturla  
Senator Frank W. Wagner  
Delegate John F. Wood, Jr.

**Staff:**

Ann Pesiri Swanson  
Bevin Buchheister  
Jack Frye  
Marel Raub  
Paula Hose

**Members not in attendance:**

Representative Garth Everett  
Senator Brian Frosh  
Delegate James Hubbard  
VA Citizen Representative John Reynolds  
Senator Mike Waugh

**Thursday, September 19**

Commission Chair Delegate Maggie McIntosh called the meeting to order at 10:00 a.m. The members were greeted by Pennsylvania Representative Dan Moul, whose legislative district includes Gettysburg.

Chairman McIntosh introduced Rear Admiral Dixon R. Smith, Commander, Navy Region Mid-Atlantic, as the new Naval Liaison to the Commission.

Representative Ron Miller provided a brief introduction to the day's field trip, the subjects of which relate to the Commission's recent work on fertilizer legislation and manure to energy systems. The members then boarded a bus to begin the field trip. The first stop was the East Berlin facility of Growmark FS, a regional agronomic services cooperative. At their East Berlin facility they blend, package and distribute fertilizer products for the agriculture and non-ag markets and provide custom application services to their farmer members.

During the tour, Commission members were shown a demonstration of precision agriculture equipment and learned about the potential of this technology to improve crop yields and reduce fertilizer inputs. Members also learned about new fertilizer products that improve the efficiency of nitrogen use by crops and reduce risk to the environment. Provisions for these new products are made in recent legislation in Commission member states related to fertilizer used on turf.

Over lunch, the members heard from Kristen Hughes-Evans, Coordinator of the Farm Manure to Energy Initiative, and Dan Heller, President of Flintrock Corporation. Ms. Hughes-Evans reported on her efforts to deploy poultry manure to energy technology on demonstration farms throughout the watershed. This work is funded by a USDA Conservation Innovation Grant. As one of the farmers participating in the Initiative, Mr. Heller presented his experience leading to the installation of a manure to energy system on his poultry farm near Lititz, Pa.

Several policy issues were raised relating to permitting, the marketing of byproducts, connection to the electricity grid, and capital financing. A handout describing potential actions was presented to the members by Commission staff.

The final stop on the tour was the Energy and Nutrient Recovery Facility (ENRF) of EnergyWorks Biopower, LLC. This facility is co-located with the Hillandale egg laying facility near Heidlersburg, Pa. the ENRF takes 250 tons of egg layer manure (ELM) from all five million birds every day at the Hillandale site and gasifies it. The gas is then burned to generate electricity. In the process, nitrogen is converted to inert N<sub>2</sub> gas and much of the phosphorus is consolidated in the 25 tons of ash produced per day. The ENRF has been operational since June but is struggling to find a market for its ash product to create a revenue stream to support operations. Potential uses of the ash include organic fertilizer, which requires USDA approval, or as feed ingredient for the laying hens, which would be more lucrative, and requires FDA approval.

Following the tour, the members returned to the hotel and the meeting was recessed until the next morning.

### **Friday, September 20**

Following the breakfast Delegation meetings, Chairman McIntosh called the meeting back to order at 9:00 a.m. Virginia Senator Emmett Hanger reported that Delegate Lingamfelter had just been selected by the Virginia Delegation to serve as the second Executive Committee member from Virginia.

Following roll call, Pennsylvania Senator Brubaker moved to approve the minutes of the previous meeting. Maryland Senator Middleton seconded the motion which was approved unanimously.

Under Chairman's Updates, Delegate McIntosh reported on the Fiscal Year 2013 audit report for the Commission, which showed that all was in order.

Virginia Director Jack Frye provided an update on Virginia and Maryland Potomac River Oyster Inspection Tax Legislation. Both state's Governors have signed the necessary proclamations supporting the increased inspection tax authority. The Potomac River Fisheries Commission has met and begun the public process to gain approval to increase the oyster inspection tax from \$1.00 to \$2.00 by early next year.

Executive Director Ann Swanson reported on the Commission's application for a grant through the National Fish & Wildlife Foundation to conduct an in-depth policy analysis of potential stormwater financing options for local government. The application was submitted in June, and award notices are expected later in September. All three Commission member states plus the District of Columbia submitted letters of support for the project. Ann also reported that she met with Jon Capacasa of EPA region III to discuss their work on stormwater finance.

Jack Frye then reported on the status of the Commission's Land Conservation and TMDL project. The Expert Panel that had been convened has finished its work and thank-you letters were sent to them. The next step is to integrate this work in the structure of the Goal Implementation Teams within the Chesapeake Bay Program. Members questioned whether existing acres of preserved land would count, and how existing efforts would be captured. It was the consensus of the Commission to have additional discussion on this topic in November.

Chairman McIntosh then introduced PA DEP Deputy Secretary Kelly Heffner and MD DNR Deputy Secretary Frank Dawson for a presentation on the relicensing of Conowingo Dam in Maryland and Muddy Run Pumping Station in Pennsylvania. The current license issued by the Federal Energy Regulatory Commission (FERC) expires in 2014 and Exelon, the owner of these facilities, is requesting a 46-year renewal.

As part of the relicensing process, each state will need to issue a "Section 401 Water Quality Certification" for the facility in their state. As part of that certification process, Exelon and the states are negotiating terms to address the water quality impacts of these facilities. When final, these conditions will be enforceable by the states, citizens and NGO's. A draft will be available for public comment.

Other hydroelectric dams in the Lower Susquehanna will be up for license renewal in 2030, and the members questioned why the Conowingo and Muddy Run facilities needed a 46-year license. The term of the license is potentially open for negotiation.

The meeting then transitioned to a discussion of our progress toward meeting the TMDL, and featured several presentations. The first was by Rich Batiuk, Associate Director for Science, Analysis and Implementation, U.S. EPA Chesapeake Bay Program Office. He reported that the states are indeed making progress, but not at a pace that will get us to our 2017 and 2025 implementation goals. To reach our goal by 2025 we will need to make the same amount of reductions that we have made in the last thirty years. Additionally, local areas of the Bay are showing improvement, but we are not seeing significant response in the Bay overall.

Mr. Batiuk and Mark Dubin, Agricultural Technical Coordinator for the Chesapeake Bay Program Office, then described the Bay Program's efforts to more accurately account for implementation across the watershed and expand the number of best management practices that are approved to count toward our implementation efforts. Dubin explained Bay Program efforts to work with USDA and the poultry industry to obtain better data to more accurately account for

poultry litter and nutrient content in the litter and noted this work will likely change data collection methods across the country.

They were followed by Jon Capacasa, Director of the Water Protection Division, U.S. EPA Region 3, who recommended some strategies to increase the pace of implementation:

Agriculture: maintain incentive-based programs and better address manure imbalance, (He noted that dealing with excess manure was a critical gap filler for the next 12 years and beyond and that CBC work on manure to energy was helpful in expanding the toolbox)

Wastewater: Expand efforts to “non-significant facilities”

On-Site Systems: Provide financial assistance to replace failing systems

Stormwater: include water quality provisions in MS4 permits and outreach on innovative financing. Phase I and II MS4 permits will be revised.

Overall: “embrace an innovation ethic.”

Kim Coble, Vice President for Environmental Protection & Restoration at the Chesapeake Bay Foundation (CBF), concluded this segment of the meeting with an overview of CBF’s analysis of the states’ progress on their Watershed Implementation Plans and legislative priorities for each of the states to address their identified deficiencies.

Due to a lack of time to discuss these issues in-depth during the meeting, it was the consensus of the Commission to devote time during the November meeting to further discussion of TMDL implementation.

The final item on the agenda was the new Chesapeake Bay Agreement. Carin Bisland, Associate Director for Partnerships and Accountability for the Chesapeake Bay Program Office, provided a summary of the new agreement that is still under negotiation, and the timeline for its approval. Ms. Bisland mentioned that the target date to sign a new agreement was December 2013 but this seemed to be slipping.

A feature new to this agreement is the inclusion of “Management Strategies” which were added as a way to identify more specific commitments from the signatories and partners. Several members questioned how the management strategies would be developed, how partners would participate in the management strategies, and the specific role of the Commission, as a legislative organization, in the management strategies. Chairman McIntosh asked whether signing onto management strategies was optional, and whether this approach would be effective which sparked member discussion. Again, the Commission requested that time is devoted during the November meeting to additional discussion of this topic.

Chairman McIntosh adjourned the meeting at 12:15 p.m.