

**CHESAPEAKE BAY COMMISSION
SEPTEMBER 2017 MEETING MINUTES**

The Chesapeake Bay Commission held its third quarterly meeting of 2017 on Thursday and Friday, September 7-8, 2017 in Solomons Island, Maryland.

Commission members in attendance:

Secretary Mark Belton
Delegate David Bulova
PA Citizen Member, Warren Elliott
Representative Garth Everett
MD Citizen Member, Bernie Fowler
Delegate Barbara Frush
Delegate Tawanna Gaines
Representative Keith Gillespie
Senator Guy Guzzone
Senator Emmett Hanger
Delegate Scott Lingamfelter
Delegate Maggie McIntosh (Only Sept. 8th)
Secretary Patrick McDonnell
Senator Thomas “Mac” Middleton
Representative Michael Sturla
VA Citizen Member, Dennis Treacy (Only Sept. 7th)
Senator Frank Wagner
Secretary Molly Ward

Members not in attendance:

Senator Richard Alloway
Delegate Margaret Ransone
Senator Gene Yaw
Rear Admiral Jack Scorby

Staff: Ann Swanson
Jen Donnelly
Ann Jennings
Marel King
Mark Hoffman

THURSDAY, SEPTEMBER 7, 2017

Call to Order

The meeting at the Chesapeake Biological Laboratory (CBL) in Solomons Island, MD was called to order by Chairman Everett at 11:35 PM.

Chairman Everett welcomed everyone to CBL and Solomons Island, and asked Sen. Fowler to say a few words given his long involvement with CBL and water quality concerns in the nearby

Patuxent River. Sen. Fowler provided some background on CBL, and his long history of working cooperatively with the staff of the lab to better water quality throughout the Bay, and noted what a tremendous resource CBL had been over many decades.

Delegate Lingamfelter moved to approve the meeting agenda and the minutes of the May meeting as presented. Delegate Gaines seconded the motion which was approved unanimously. Chairman Everett also informed the Commission members that the audit report had been adopted by the Executive Committee.

Chairman Everett then asked the CBL Director, Dr. Thomas Miller, to provide some background on the history and purpose of the lab.

History and Purpose of Chesapeake Biological Laboratory

Dr. Thomas Miller, Director, CBL

Dr. Miller described how CBL was founded in 1925 by Dr. Reginald Truitt, as part of the University of Maryland system. Even at that time, declines in crab and oyster populations were of concern. Dr. Truitt, exceptional for the time, espoused an ecosystem view of the bay estuary. He also understood, and integrated into the lab's work, the socioeconomic factors that impact the Bay. The lab has a broad mandate, to investigate anything that impacts the citizens of Maryland. It has a long tradition of research on fisheries management and understanding nutrients and sediment flows through the Bay watershed. Dr. Miller noted the proudest achievement of the Lab was its students, and the legacy of the work they carry on, both within Maryland and throughout the world. He then introduced Dr. Walter Boynton, Professor Emeritus, to give the Commission a four-decades retrospective on Bay restoration.

Chesapeake Bay Restoration: History, Value of Marshes and the "Shape" of Restoration

Dr. Walter Boynton, Professor Emeritus, CBL

Dr. Boynton presented comprehensive review of the biological health of the Chesapeake Bay, starting in colonial times to today. Very poignant was a historical painting of native Americans which showed the clarity of the water and the abundant life within the Bay. Dr. Boynton reviewed the efforts to understand the decline in the Bay's health, such as the disappearance of submerged aquatic vegetation, or the proliferation of oxygen-free "dead zones". The latter are caused by biological and chemical processes, initiated due to the overabundance of nutrients in the Bay's water.

Dr. Boynton summaries with several "take-home" points: 1) The science behind our understanding of nutrient enrichment and its impacts is sound; 2) As nutrients are reduced, the Bay is response, but the response pathways involve time lags and thresholds; 3) Restoration is headed in the right directions; and 4) The impacts of climate change are a concern.

After the conclusion of Dr. Boynton's presentation, there were substantial questions and a wide-ranging back-and-forth among Dr. Boynton, Dr. Miller, and the Commission members, seeking to better understand the science behind Bay restoration. Topics discussed included the potential impacts of warmer water temperatures, sea level rise impacts on coastal marshes, stormwater

management, fisheries management, change in species ranges due to climate change, invasive species, nutrient cycling and the communication of scientific information to legislators and the public.

Strategies for Managing Blue Crabs

Dr. Thomas Miller, Director and Professor, CBL

Dr. Miller noted the first assessment of blue crab populations was done in 1997, and since then, the winter dredge survey has become a source of reliable data for the management of the species. Also, the Blue Crab Advisory Commission, on which the Chesapeake Bay Commission played a key role, helped map management strategies for the species. He explained the stock assessments that have been done to better manage the species. Science provides information on crab populations, and the impacts of potential harvest regimes, but ultimately it is a societal decision as to what approach to take. He reviewed potential impacts of climate change on the Bay's crab population. With warmer temperatures, crabs would grow faster and spend less time hibernating in the Bay's bottom. They are working to better understand the uncertainty associated with blue crab management, and how best to incorporate stakeholder desires.

Oyster Restoration in the Chesapeake Bay

How Many Oysters Are There in the Choptank River?

Dr. Mike Wilberg, Associate Professor, CBL

As part of the "Oysters Future" project, Dr. Wilberg has been collecting data and conducting analysis of the oyster populations in the Choptank River. He noted the former abundance and commercial importance of the oyster fishery in the Bay. Oyster Futures is a National Science Foundation funded project to test new approaches for developing fisheries management plans, regulations and restoration, that integrates the desires of stakeholders. The model being developed is to allow the assessment of various management options on the fishery.

Are Aquaculture and Restoration Activities Compatible?

JD Blackwell, Owner, 38 North Oyster Company

Mr. Blackwell contrasted the funding for oyster restoration projects, aquaculture and the public fishery. He noted how aquaculture operations not only grow oysters, but provide habitat for other species. He was asked questions about the potential impacts of poaching, the types of oysters he uses, and he compared the oyster aquaculture programs in Maryland and Virginia.

The CBC meeting ADJOURNED the formal meeting at 2:30 p.m., and Commission members and staff participated on a CBL sponsored field trip on their research vessel. The trip was an opportunity for the Commission members to see first-hand some of the techniques used to study the bay, and provided the opportunity for one-on-one dialogue between Commission members and CLB staff, both professors and students.

FRIDAY, SEPTEMBER 8, 2017

Call to Order

Chairman Everett called the meeting to order at 9:00 AM. Chairman asked CBC Executive Director, Ann Swanson to take roll.

Representative Lingamfelter asked to address the full Commission, to thank Molly Ward for her dedicated service to the Commission and the Commonwealth of Virginia. He noted how the strength of the Commission had been magnified in the past decade, due in part to the continuity of its membership, and its devotion to science and practical solutions. He found the bipartisan nature of the Commission refreshing. And he could not think of a Virginia Secretary of Environmental Protection who had been more directly involved, and critically focused on the Bay. He noted how her background as a local elected official was a strength that translated into her ability to make things happen. She has shown great leadership for Virginia, and lead her agency by empowering her staff. The Commission gave Secretary Ward a loud round of applause.

Chairman's Update (Chairman Everett)

EPA Administrator Pruitt Meeting

The Executive Committee and CBC staff met with EPA Administrator Pruitt. From Representative Everett's perspective, the meeting went well, and it was a great opportunity to inform him of the Commission's history, accomplishments, and central role in the Bay restoration effort. Administrator Pruitt was well-prepared for the meeting, and invited the Commission to use the EPA headquarters when next in the District of Columbia. He also said he felt the Commission was a great model, that could be used in other places for watershed restoration. Representative Lingamfelter added that the need for full funding for the Bay Program was made clear, as was the need for water-related projects in any infrastructure initiative. Sen. Middleton thanked Executive Director Swanson for the updates related to the EPA meeting, and Chairman Everett noted that the Commission will continue to follow-up with the Administrator's office on our concerns. The Commission members also stressed the important of the federal component in the Bay restoration effort, and role federal science (e.g., monitoring) plays in it. Representative Lingamfelter noted the Commission will make a determined effort to keep him permanently engaged, and better outcomes will be achieved having him hear all voice.

Agricultural Technical Assistance Report

Chairman Everett asked Executive Director Swanson to update the Commission on this effort. Ms. Swanson reviewed the initial charge from the Commission, and where staff was in finalizing the report. We have engaged a panel of experts to help develop policy solutions to improving agricultural technical assistance, which is so important to reducing nutrient and sediment loads coming from farmland. She said the report would be in final form by the November Commission meeting. She also noted she had been working with Congressional staff related to potential amendment to the Regional Conservation Partnership Program, as part of the new Farm Bill. Draft versions of the technical assistance report would be shared with the delegations.

STAC Boat Wake Report

Chairman Everett described the report prepared by the Bay Program's Science and Technical Advisory Committee in response to a Commission's request concerning the impacts of boats on erosion and turbidity. We requested a motion by the Commission to formally request the Bay Program follow-up on the recommendations of the report. Representative Strula made such a motion, it was seconded, and passed unanimously.

Steering the Mid-Point Assessment: Critical Decision Points

How and when will these load allocations be decided?

James Davis-Martin, VA DEQ Chesapeake Bay Program Manager & Chair, Water Quality Goal Implementation Team

Mr. Martin provided a handout "Steering the Mid-Point Assessment: Critical Decision Points" that outlined the issues currently facing the Bay Program. He started by defining specific terms (e.g., Baywide Assimilative Capacity), and reviewed the schedule for developing the next series of decision for the mid-point assessment. He also noted how the new Bay model might change some of the specific numbers.

The Baywide Assimilative Capacity is the total load of pollutants the Bay can receive and still meet dissolved oxygen quality standards. These standards are based on living resources. This capacity is then stepped-down to specific state-basin planning targets, with some guiding principles for allocation: areas that contribute the most, must do the most; credit is received for past implementation; and loads must result in water quality attainment. He then outlined the methods that went into determining these factors. He then addressed TMDL allocations, both waste load allocations (for permitted sources) and load allocations (for other sources). These allocations are enforceable under the Clean Water Act. EPA will decide if and when TMDL allocations will be updated, and they would be based on new models and the Phase III WIPs. Also, a factor in this in the new science on Conowingo, and indicates the dam is effectively at dynamic-equilibrium.

Mr. Martin also discussed Local Area Planning Goals, as a tool to help better engage local partners in achieving the TMDL. These goals are not enforceable,

Collaboration, Consensus, and Progress

Ben Grumbles, Secretary, Maryland Department of the Environment & Chair, Principals' Staff Committee

Secretary Grumbles noted how important bipartisan collaboration is to continue to make progress in the Bay watershed. We need to collectively fight budget reductions, maintain backstops, and be clear about the need for federal leadership. Maryland believes we need to continue to work together to find "carrots." Maryland does not want to see any dilution of the TMDL, and we need to collectively fend off any assaults on accountability. Governor Hogan does not want to "kick the can down the road". On Conowingo, he said we need to follow the science, and a dual approach. Restore some of the capacity through an experimental dredging project, while at the same time work closely with our

up-stream partners. He knows there will be political challenges and issues, but all of us must be committed to be successful and grow the partnership.

DECISION 1: CONOWINGO DAM

Bruce Michael, Director, Resource Assessment Service, Maryland Department of Natural Resources

Dr. Lee Currey, Co-Chair, Chesapeake Bay Program Modeling Workgroup & Director, Water and Science Administration, Maryland Department of Environment

Mr. Michael provided a handout and power point presentation “Addressing Conowingo Infill Nutrient and Sediment Loads”. He reviewed the timeline for 2017 midpoint assessment decisions, and provided a brief overview of Conowingo infill. At present, the reservoir is effectively at dynamic equilibrium, which has reduced its ability to trap sediment and nutrients, and this scientific information has now been incorporated into the Bay model. He reviewed the impacts of the changed Conowingo Reservoir conditions on Chesapeake Bay water quality, and noted that due to the infill, areas upstream of the reservoir now have more of an impact.

He also reviewed how the policy questions are currently framed to the Bay Program’s Principal Staff Committee (PSC): 1) Who is responsible for additional load reductions? 2) How will responsibility be assigned? 3) When will the additional reductions be required to be met? Several different scenarios in response to these questions were presented.

There was considerable discussion among the Commission members and the presenters related to this issue. Ultimately, it was agreed to have a special Commission meeting to further discuss the Commission’s perspective as a member of the PSC

DECISION 2: ACCOUNTING FOR GROWTH

Rich Batiuk, Associate Director for Science, Analysis and Implementation, Chesapeake Bay Program Office, EPA

A handout and power point were provided, “Accounting for Growth: Policy Implications for the Partnership”. Mr. Batiuk reviewed the demographic trends in the watershed, and the policy decisions that will need to be made by the PSC as part of the mid-point assessment. Two options are currently on the table: 1) Use 2025 forecasted conditions to account for projected growth which would be accounted for within the jurisdictions Phase III WIPs, or 2) Each jurisdiction’s Phase III WIP will describe the specific procedures, underlying data sources, and programmatic commitments for regular account of growth and the operational tracking and accountability mechanisms for ensuring all new or increase pollutant loads are fully offset.

Mr. Batiuk review these policy options is additional detail and outlined the time-line for the decision-making related to this issue.

New Business

Chairman Everett noted the next Commission meeting was to be in Harrisburg, PA, and the possibility existed to have Commission members view the Conowingo area by air, through donated flight-time from a conservation organization. Some members expressed interest in this, and staff was to follow-up on details.

The meeting was adjourned at 11:42 p.m.