

CHESAPEAKE BAY COMMISSION
Senate Finance Committee Room
Annapolis, Maryland
January 6, 2011

The Chesapeake Bay Commission held its first quarterly meeting of 2011 on Thursday, January 6, in Annapolis, Maryland.

The following Commission members and staff were in attendance:

Senator Mike Brubaker
Delegate Virginia Clagett
Delegate John Cosgrove
Assistant Secretary Frank Dawson
PA Citizen Representative Warren Elliott
Representative Garth Everett
MD Citizen Representative Bernie Fowler
Senator Emmett W. Hanger, Jr.
Assistant Secretary John Hines
Delegate James Hubbard
Delegate Lynwood Lewis
Senator Thomas "Mac" Middleton
Representative Ronald Miller
Assistant Secretary Anthony Moore
VA Citizen Representative John Reynolds
Representative Mike Sturla
Senator Mike Waugh
Senator Mary Margaret Whipple
Delegate John F. Wood, Jr.

Staff: Ann Pesiri Swanson
Bevin Buchheister
Suzan Bulbulkaya
Marel Raub
Paula Hose

Admiral Mark Boensel

Members not in attendance:

Senator Brian Frosh
Delegate Scott Lingamfelter

The Commission's Executive Committee and staff joined U.S. EPA Region III Administrator, Shawn Garvin for a breakfast meeting, along with Jeff Corbin, Special Advisor to Region III Administrator. Discussions centered on development of the Bay TMDL, state Watershed Implementation Plans and EPA's expectations.

MEETING CALL TO ORDER

The Commission's business meeting was called to order by Chairman Middleton at 10:00 A.M. Following roll call, the November 2010 meeting minutes and the meeting's agenda were adopted as proposed.

The Chairman recognized longtime Pennsylvania citizen member, George Wolff for his dedicated service to the Commission and presented him with an engraved cow bell for his actions as a "bell cow" on many important Bay issues. Sen. Brubaker presented Mr. Wolff with a citation from the Pennsylvania Delegation. Pennsylvania Director Marel Raub then introduced the new Pennsylvania Commission members: Representative Ron Miller from York County, Representative Garth Everett from Lycoming County and Citizen Member Warren Elliott from Franklin County.

CHAIRMAN'S UPDATE

Executive Director Ann Swanson noted that the CBC Land Conservation Report was published and 350 news agencies were notified with over 50 articles written. Several Commission members planned to sponsor legislation in their 2011 sessions that came directly from the report.

CBC staff has been investigating lawn fertilizer laws from around the country to determine if the Commission should pursue similar legislation in the three member states limiting phosphorous and nitrogen content in lawn fertilizer to reduce urban and suburban loadings to the Chesapeake Bay. Such laws recently passed in New York and New Jersey.

At the November 2010 CBC meeting, members asked EPA for workshops on Scenario Builder to be given to state agencies and other stakeholders. CBC sent the request to the EPA Bay Program and will follow-up. EPA Administrator Jackson thought Scenario Builder Stakeholder Training Sessions was a good idea when CBC members met with her in December 2010.

Ann Swanson gave a review of the CBC Executive Committee meeting with EPA Administrator Lisa Jackson in December where they discussed the importance of adaptive management to the TMDL; Blue Plains issues; the importance of appointing a new Senior Advisor for Chesapeake Bay; and how the CBC can help the EPA work with states' legislative branches.

Shawn Garvin, EPA Regional Administrator for Region III, spoke about the next phase of the TMDL. He mentioned there are three tiers to the state WIP evaluations; ongoing oversight-continuous review of WIP actions; enhanced oversight- looking at innovation and making sure contingencies exist if planned actions do not work; and backstops- using federal ability to help states close gaps. The key to success is adaptive management including the 2-year milestones. Implementation is the next step. All practices should be in place by 2025 for the Bay to recover. The CBC can help with communication and education, and holding our federal partners, and the states and locals accountable for their actions.

The Commission sent a letter to USDA-NRCS Chief Dave White supporting development of a protocol to track non-cost share BMPs to give reduction credits to agricultural conservation efforts. The Commission has not yet received a response.

FERTILIZER

The next topic of discussion focused on Fertilizer Application for Lawncare and Turfgrass. CBC posed the question to our speakers: Would new fertilizer regulations help the region to meet the mandatory nutrient runoff reduction requirements set by the EPA TMDL?

Robert Goo, Environmental Protection Specialist, EPA Office of Water agreed that new fertilizer regulations could help states reduce loads from urban runoff and help them meet their TMDL goals.

New development is creating loads faster than they are being reduced. The trend toward less land in agriculture means decreased nitrogen and phosphorus loads, but on the other hand the load from new development is increasing. Mr. Goo stated that turf comprises 3 to 3.5 million acres in the Bay watershed, which is more than pasture and row crops combined. Mr. Goo suggested outreach and education, training and certification for applicators, changes in cultivars, fertilizer mixes and labeling and reducing inputs would help to reduce nutrient runoff.

Gary Felton, Ph.D., Associate Professor, College of Agriculture and Natural Resources, University of Maryland, spoke about the science and research behind turf fertilization. He spoke about the difference in knowledge and effort level of professional applicators and “Do--it-yourselfers” and the disconnect between people who apply the chemicals and those who cut and care for the lawn, noting mowing practices can affect the rate of fertilizer that is needed. He noted that a change in bag formulation is the best way to change consumer behavior.

Chris J. Wible, Director, Environmental Stewardship, The Scotts Miracle-Gro Company, noted that execution of the Chesapeake Bay MOU reduced phosphorus content in Scotts products by 80% and nitrogen by 32% in 2009. Sales data provides a good picture of how much is applied in the watershed. As turf grass acreage has increased so has impervious surface and turf plays a role in filtering water from impervious surfaces. Mr. Wible mentioned the importance of having a uniform standard for fertilizer application in the Bay watershed.

John Lehman, University of Michigan Professor of Ecology and Evolutionary Biology, spoke about the impact on water quality in Ann Arbor, Michigan from the ban on phosphorus in lawn fertilizer. The result was an 11-23% decrease in total phosphorus, although BMPs were being pursued at the same time and other land based management efforts may have also had an effect.

After lengthy question and answer discussions between CBC members and guest speakers, the members directed the staff to prepare model lawn fertilizer legislation. Delegate Hubbard made the motion and Representative Sturla seconded. The motion passed.

DELEGATION MEETING REPORT OUT

Virginia- Del. Cosgrove noted that in Virginia lawn fertilizer bills had already been introduced in the House and the Senate. The Virginia Delegation was open to advocating for new policies for lawn fertilizer, however the timing was tight for pursuing new legislation for the 2011 Session beginning the next week. He noted the difficulty in replicating identical legislation in all three states, but that members could pursue the same concepts.

Pennsylvania- Sen. Brubaker reported that he is favorably inclined towards introducing turfgrass legislation and will fully engage in the process to make sure it is done right.

Maryland – The Maryland delegation agreed to pursue model legislation that addresses lawn fertilizer use, but does not apply to agriculture, and requires applicators to be certified.

BLUE CATFISH-

Virginia CBC Director Suzan Bulbulkaya gave an update on the species which is now the apex predator in the rivers of the Bay. Blue catfish were originally introduced in Virginia in the James and York Rivers and now make up two-thirds of the fish population by weight in the James River. They have spread to the Potomac and Susquehanna Rivers. The species cannot be expected to be eradicated but their fisheries managers can try to control the spreading populations. The increasing

numbers of blue catfish are having a negative effect on the effort to restore blue crabs and rockfish. Warren Elliott noted that Pennsylvania is working with the Fish and Boat Commission to attract people to catch blue catfish as gamefish.

BLUE PLAINS

George Hawkins, General Manager of D.C. Water presented an update of the ongoing effort to reduce nitrogen loads from Blue Plains, the largest advanced wastewater treatment plant in the world. CBC has long supported funding for upgrades to the plant. Two big projects are underway; upgrading to Enhanced Nutrient Removal (ENR). The facility met the 2010 nitrogen reduction goals one year ahead of schedule. Over \$1 billion has been invested in the facility over the past 10 years. Blue Plains must get a new permit in 2015 and will improve ENR to the limits of technology with a \$950 million investment, with costs shared by D.C., Virginia and Maryland.

DC Water's other immense project is for the long term control plan, also called the "Clean Rivers Project." In D.C., sewer and stormwater use the same pipes. They are building three large underground tunnels to hold 3 billion gallons of combined sewer overflow, which drains to the Anacostia River, Rock Creek and Potomac River. They are seeking a \$25 million appropriation for this project and thanked CBC for advocating for this federal funding. Of note, federal legislation just passed that compels federal agencies and properties to pay locally enacted stormwater fees.

Blue Plains is also seeking to install an anaerobic digester to cook the by-product biosolids and create 13-20 MW of renewable energy for the plant. The amount of biosolids being hauled and disposed of offsite will decrease by 50%. Rep Waugh suggested a CBC meeting at Blue Plains.

ELECTION OF 2011 OFFICERS

The following officers were approved for 2011:

Senator Brubaker was elected Commission Chairman for 2011.

MD: Delegate James Hubbard, Chair; Mr. Bernie Fowler, Vice-chair

PA: Senator Mike Brubaker, Chair; Representative Ron Miller, Vice-chair.

VA: Senator Mary Margaret Whipple, Chair; Delegate John Cosgrove, Vice-chair

OUTGOING/INCOMING CHAIR REMARKS

Senator Middleton, the outgoing Chairman, made remarks on his tenure and thanked the staff.

Senator Brubaker, the incoming Chairman spoke about how proper environmental stewardship is very important to him. He emphasized four points: bi-partisan effort for strong policy development; thoughtful, science based organization; bold and thoughtful discussions translating to action; and unique collaboration focusing on meaningful results.

ADJOURN

The meeting adjourned at 3:40 P.M.

The next meeting of the Chesapeake Bay Commission will be held at the Beacon Hotel in Washington DC on May 5 & 6, 2011.