

CHESAPEAKE BAY COMMISSION
Loews Annapolis Hotel
Annapolis, Maryland
January 3, 2013

The Chesapeake Bay Commission held its first quarterly meeting of 2013 on Thursday, January 3, in Annapolis, Maryland.

The following Commission members and staff were in attendance:

Admiral Tim Alexander
Senator Mike Brubaker
Delegate John Cosgrove
PA Citizen Representative Warren Elliott
Representative Garth Everett
MD Citizen Representative Bernie Fowler
Senator Brian Frosh
Secretary John Griffin
Senator Emmett W. Hanger, Jr.
Deputy Secretary Kelly Heffner
Delegate James Hubbard
Delegate Maggie McIntosh
Senator Thomas "Mac" Middleton
Representative Ronald Miller
Assistant Secretary Anthony Moore
VA Citizen Representative John Reynolds
Representative Mike Sturla
Senator Mike Waugh
Delegate John F. Wood, Jr.

Staff: Ann Pesiri Swanson
Bevin Buchheister
Jack Frye
Marel Raub
Paula Hose

Members not in attendance:

Delegate Lynwood Lewis
Delegate Scott Lingamfelter
Senator Frank Wagner

MEETING CALL TO ORDER

The Commission's business meeting was called to order by Chairman Hanger at 10:00 A.M. Following roll call, the November 2012 meeting minutes and the meeting's agenda were adopted as proposed.

CHAIRMAN'S UPDATES

Road Salt – In response to a question raised at our September meeting about possible pollution from the application of road salt in the winter, staff prepared a summary of each states' guidelines and practices. Marel Raub, Pennsylvania Director explained to the members that the bottom line is the cost of the materials motivates states to apply as needed and not inappropriately. Impacts to the ecosystem and aquatic life seems to have more to do with area of impervious surface treated rather than the material itself.

Menhaden – On December 14th, the Menhaden Management Board of the Atlantic States Marine Fisheries Commission met and set new guidelines for states to adopt in order to insure that the Menhaden fishery is sustainable. Jack Frye, Virginia Director, updated members on the new guidelines:

Total catch was reduced by 20%; Code of Virginia must be changed to the allowable catch; licensing issues like limited entry mechanism put in place to share quotas, implementation plans begin July 1, 2013; if a state is out of compliance – fishery could be shut down.

Farm Bill – Ann Swanson, Executive Director, reviewed the letter sent to Congress in support of the action related to the Farm Bill and continued funding for our farmers through the Conservation Title. The letter was signed by agency officials from Virginia, Maryland, Delaware and West Virginia, along with CBC. Ann noted that it was very important for our staff to continue active involvement in the Farm Bill and that there may be additional opportunities to weigh in with regard to the energy provisions that could support our work in both biofuels and manure-to-energy projects.

Fisheries – During the September Commission meeting, the Fisheries Directors of Maryland, Virginia, and the Potomac River approached the members about increasing fines and fees in the Potomac River to support better resource management. Bevin Buchheister, Maryland Director, and Jack Frye reported to the Commission that a change to the Potomac River Compact required identical legislation to pass in MD and VA. The MD and VA delegations agreed on draft legislation that they will carry in their respective General Assemblies to increase the fine for illegal fishing and poaching from \$1,000 to \$3,000 and to increase the maximum oyster inspection tax from \$1.00 per bushel to no more than \$2.00 per bushel with the proceeds only to be used for planting seed and shell on working bottom.

Crediting Land Conservation – Ann Swanson reported that the work is expected to be completed by March and asked for a six member subcommittee to assist as a “sounding board”. Members for the subcommittee are: Frank Dawson, Warren Elliott, Emmett Hanger, Kelly Heffner, Jim Hubbard and John Reynolds. If the work is completed in March, or any time before the next CBC meeting in May 2013, this group will provide the Commission's review of the whitepaper prior to its public release.

May CBC Meeting- Members mentioned that we should focus on the initiatives to restore an urban river like the Anacostia to contrast with our November meetings' focus on protection and restoration of the rural Nanticoke River. Approaches to mitigate the stormwater impacts of a built environment were of particular interest. It was suggested that we meet with the leadership of the Army Corps of Engineers and the new EPA Administrator.

GETTING TO THE GOAL OF CLEAN WATER

PART I: Overview - Progress and Challenges of the TMDL

Jeff Corbin, Senior Advisor on the Chesapeake Bay to EPA Administrator Lisa Jackson, reviewed the progress and challenges of Bay restoration. Progress includes state Watershed Implementation Plans (WIPs) which are the strongest state plans we have seen in 30 years for restoration. Pollution loads are going down, Bay health is improving and resiliency is increasing, crab population is rebounding, oysters are surviving, SAVs are increasing and 2012 saw the smallest dead zone in years. Challenges include several legal challenges, TMDL/model inaccuracies, data verification and tracking, stormwater, trading and offsets, and cost vs. benefits. Sen. Middleton suggested we look at the top 10 practices states are relying on to meet their WIPs and focus on their verification protocols first, and also see how they relate to the cost effectiveness report. Corbin notes that with the TMDL in place the Bay Program partnership needs to be stronger and CBC has a role in this and encouraged us to stay involved in addressing the challenges.

PART II: Verification - Accurately Accounting For Progress

Ann Swanson, Executive Director, explained that verification is important because accountability for currently reported practices must be adequate so we don't need to enact extra mandates for reductions in the future. She noted that the Tributary Strategies called for almost the same level of pollution reductions as the TMDL but the TMDL requires "reasonable assurance" that reductions are being achieved. While verification from point sources is reliable, most pollution comes from non-point sources and the current verification has been judged insufficient by the National Academy of Science Report and USDA's CEAP Report. One issue raised is that there will be different standard of transparency for the Bay model and the trading programs, with trading verification being more stringent and transparent. Also, in suburban areas that are non-MS4 areas there is no data collection requirement. To date only one out of seven jurisdictions provides an expiration date on reported practices which means we must account for expired practices currently being credited in the model.

The Bay Program Process Underway

Rich Batiuk, Associate Director for Science, EPA Chesapeake Bay Program Office, told members about the verification review panels, which have been in place for two years and bring in outside experts to develop protocols and look at each state's system. Ann and Jack serve on the Verification Steering Committee. The principles agreed to are: practice reporting, scientific rigor, public confidence, adaptive management and sector equity, meaning each sector may have a different degree of scrutiny but we should have the same level of confidence in each protocol.

The challenges this effort presents are: ensuring commitment for verification by all partners; establishing verification as an integral component of program implementation not just an added burden; addressing concerns about resources required to verify that practices have been implemented; and communication.

During the CBC discussion period, Sen. Brubaker requested a list of the expert panel members along with their bios be provided to the CBC members. Rep. Sturla brought up the issue of how to fund infrastructure projects in localities and Warren Elliot mentioned the need to involve private equity and how the CBC could engage on this. Del. McIntosh mentioned sharing information between CBC states about how we are trying to move forward.

Working Lunch

Delegations met briefly during lunch to elect their new officers for 2013.

PART III: Implementation - Getting Help to Local Governments

Rep. Sturla introduced the Mayor of the City of Lancaster, J. Richard Gray who is also Chair of the Chesapeake Bay Program's Local Government Advisory Committee (LGAC). Mayor Gray mentioned LGAC's plans to hold a series of meetings with local elected officials to educate them on the TMDL, Best Management Practices (BMPs), and what's going on elsewhere in the watershed. He also detailed Lancaster's efforts to use green infrastructure to take the place of more costly grey infrastructure to separate the stormwater from wastewater, and deal with the 750 million gallons of sewage overflow per year. Lancaster did a demonstration project to prove this would work and used funds from PENNVEST, National Fish & Wildlife Foundation (NFWF), capital bonds, state grants, DCNR, Growing Greener, PennDOT, and The Campbell Foundation. All infrastructure programs in Lancaster are now reviewed for green infrastructure opportunities. PennDOT re-did an intersection for safety reasons but now it also captures 2 million gallons of stormwater. The backup contingency if green infrastructure does not work is to place holding tanks for stormwater on City Property.

Amanda Bassow, Director of the Chesapeake Bay Program with the National Fish and Wildlife Foundation detailed their Chesapeake Bay Business Plan for 2013-2015, which will focus on high priority watersheds and innovation, like the manure-to-energy grants that grew out of the CBC Summit. EPA asked NFWF to focus on local governments so they developed the Local Govt. Green Infrastructure Solutions grant program. Grants funded technical assistance, capacity building, assessment and prioritization, financing strategies, design and implementation, and program development.

Joanne Throwe, Director of the Environmental Finance Center, told the members about the Center's work with localities all over the watershed on internal capacity issues, financing, creating efficiencies, reducing risk and using innovative practices. The first step she recommends to communities is to understand the true costs of different options. The Center will be offering a series of WIP financing workshops around the region in the coming months.

RELICENSING OF CONOWINGO DAM

Secretary John Griffin, Maryland Department of Natural Resources (DNR), and Shawn Seaman, Power Plant Assessor for DNR, spoke to the members about the Conowingo Dam issues, making the point that these are not new issues. The three major issues are sediment, fish migration and water flow. Maryland must issue a Section 401 Water Quality certificate. Even though a portion of the reservoir is located in PA, 401 conditioning authority is based on the location of the discharge, which is entirely within MD. The Army Corps of Engineers started a study about a year ago and plans to develop options by June 2013.

DNR goals for relicensing

1. Properly manage the sediments (by product of their fuel just like ash is to coal)
2. Improve fish passage for Shad and Eel
3. Restore freshwater mussels
4. Enhance flow conditions – to minimize fish stranding and improve downstream habitat
5. Recreational opportunities
6. BMPs for debris management

Two things the CBC could do to help are engage EPA, and engage the Congressional Delegation. The Executive Committee asked CBC staff to send letter to EPA asking them to be more involved, and send a letter to FERC about the Sediment (Benchmark Study) and possibly land conservation.

ELECTION OF 2011 OFFICERS- The following officers were approved for 2013:

MD: Delegate Maggie McIntosh, Chair; Delegate James Hubbard, Vice-chair.

VA: Delegate John Cosgrove, Chair; Senator Emmett Hanger Vice-chair.
PA: Representative Ron Miller, Chair; Senator Mike Waugh, Vice-chair.
Delegate Maggie McIntosh was elected Commission Chairman for 2013.

REMARKS OF THE OUTGOING CHAIRMAN AND ACCEPTANCE REMARKS OF INCOMING CHAIRMAN - Senator Emmett Hanger, Virginia thanked members and staff for their great work this year. Delegate Maggie McIntosh said the CBC had great staff and wants to continue our work on manure-to-energy and fertilizer and also pursue unique opportunities with Senator Mikulski as Chair of the U.S. Senate Appropriations Committee and Congressman Bill Shuster as Chair of the Transportation Committee. CBC can make a tremendous impact on Conowingo negotiations and stormwater. She wants CBC to work with local governments to ensure that they have both information and resources.

ADJOURN- The meeting adjourned at 3:45 P.M. The next meeting of the Chesapeake Bay Commission will be held at the Beacon Hotel in Washington D.C. on May 9 & 10, 2013.