

CHESAPEAKE BAY PROGRAM
WATER QUALITY GOAL IMPLEMENTATION TEAM
NOVEMBER 13, 2012 CONFERENCE CALL

ACTION ITEMS AND DECISIONS

ACTION: In the document entitled "Overarching/Priority Goals and Outcomes", Carin Bisland will revise the WQGIT Outcome #1 statement to read: 1) Have all controls installed by 2025 to achieve the Bay's DO, water clarity/SAV, and chlorophyll a criteria.

DECISION: The WQGIT members approved the document's distribution to the Management Board for their December meeting.

ACTION: Katherine Antos will revise the draft PSC power point presentation on the Midpoint Assessment to reflect comments verbally received from Pennsylvania, Chesapeake Bay Foundation, West Virginia, Maryland, and Virginia. Once revised, Katherine will notify the Management Board staffing team of the changes and request that the presentation be posted to the 11/14 calendar entry.

ACTION: Russ Baxter will send WQGIT track changes version of VA's edits to guiding principles.

DECISION: WQGIT members recommend that representatives of VA, WV, EPA, other jurisdictions as desired form a small group charged with trying to bridge differences between the October 15 Guiding Principles document and VA's and WV's comments submitted by November 2.

ACTION: Larry Merrill and Katherine Antos will ask the Management Board on 11/14 if they still wish to bring the Guiding Principles to the PSC in December. If the decision is yes, it is recommended that a forthcoming version coming out of the small group above be distributed to the PSC.

ACTION: Scott Phillips and Greg Allen will finalize the Toxic Contaminants Report and distribute the final version to the WQGIT in the December timeframe.

ACTION: Additional comments and questions on the Water Quality Indicator options should be sent to Liza Hernandez, lhernandez@chesapeakebay.net, by Friday, December 7. The indicator for 60% of segments in attainment by 2025 is on p4, 21, 22, and 24 of the EO strategy, which is available for download at: <http://executiveorder.chesapeakebay.net/category/Reports-Documents.aspx>. Exact text is:

Water Quality Outcome: Meet water quality standards for dissolved oxygen, clarity/ underwater grasses and chlorophyll-a in the Bay and tidal tributaries by implementing 100 percent of pollution reduction actions for nitrogen, phosphorus and sediment no later than 2025, with 60 percent of segments attaining water quality standards by 2025. (*Current condition: 89 of the 92 segments of the Bay and its tidal waters are impaired.*) (p4)

MINUTES

Welcome/Confirm Call Participants and Updates – Larry Merrill, Chair

- Larry Merrill will send an email to WQGIT members later this week summarizing today's action items and updates from the WQGIT Workgroups.
- Update Highlights include:
 - Trading and Offsets webinar scheduled for November 28th. Please contact Evan Branosky if you need additional information.
 - A written BMP verification update was included in the November 13th call materials. Please contact Richard Batiuk or Larry Merrill with any questions.
 - The modeling quarterly meeting is scheduled for January 8-9, 2013.
- No updates or announcements from CBP partners.

Follow-up from the October GIT Chairs Meeting – Carin Bisland

- **Bisland:** These statements are really about those high level goals that the Program is going to espouse as we move forward. For the WQGIT's goal and outcome statements, we've tried to make the language consistent with the TMDL.
 - One of the things we talked about under the Habitat GIT is SAV and forest buffers. We needed to put them in one place that made sense to the public and the Executive Council. Some of the work that we do might relate to the other GIT goals.
 - There are a couple of goal gaps that don't fit into this overall GIT structure: toxic contaminants and social/economic indicators.
- **Bisland:** Look at your particular goal and outcome statements, and decide if you're comfortable with the language. Are there any objections for moving this forward to the Management Board in December?
- **Baxter:** The original draft had somewhat different language and it needs to be reflective of the TMDL, which the current version demonstrates.
- **McGee:** Was any consideration given to referencing the milestones under the outcome statements?
 - **Merrill:** No, because we wanted to get it down to something short and concise. As Russ noted, we pulled from the TMDL language for a short summation.
 - **Baxter:** We wanted to boil down clear goals related to the GITs. Milestones are more of an administrative/programmatic aspect to these outcomes that will be explored at a later date.
- **Buckley:** No comments on the document; looked fine.
- **Currey:** Given our emphasis on the 2025 date, could we reword the following outcome statement to read: "Have all controls installed by 2025 to achieve..."?

ACTION: In the document entitled "Overarching/Priority Goals and Outcomes", Carin Bisland will revise the WQGIT Outcome #1 statement to read: 1) Have all controls installed by 2025 to achieve the Bay's DO, water clarity/SAV, and chlorophyll a criteria.

DECISION: The WQGIT members approved the document's distribution to the Management Board for their December meeting.

Follow-up from the October WQGIT Midpoint Assessment Meeting – Larry Merrill

- **Merrill:** We ended up on October 23rd with a good sense of direction and a good path forward. Many thanks to all of the participants for their contributions prior to and during the meeting. There were several attachments posted to today's calendar entry that came out of our October meeting:
 - Priority voting results
 - Modeling team level of effort analysis
 - Other outcomes associated with priorities
- **Merrill:** I do want to note that many of the WQGIT Workgroups have already met and have started to work on their priority activities, as well as developing the associated work plans.
 - On November 1st, Katherine Antos distributed a midpoint assessment priority work plan template for each of the high priorities (due 12/3) and lower priorities (2/4).
- **Merrill:** In addition, Katherine and I presented to STAR at their November 5th meeting the outcomes and next steps from our October face to face meeting. As a result, STAR's modeling workgroup will be working closely with the WQGIT as part of the midpoint assessment process.

- **Antos:** A draft PSC presentation has been drafted for WQGIT review that discusses the Midpoint Assessment process; the outcomes of the October 22-23 meeting, including the high level priorities; a schedule for moving forward with the Midpoint Assessment; and requests of the PSC.
- **Buckley:** No decision was made to use 2025 land use projections for the Phase III WIPs, as the pro's and con's of doing so have not been fully discussed.
 - **Antos:** The Land Use workgroup is taking the lead to determine if 2025 land use projections could be used for the Phase III WIPs.
 - **Buckley:** Requested that the language in the power point presentation be changed.
 - **McGee and Koon:** Agree with Pat, as the current language conveys more agreement than what was actually decided upon.
 - **Antos:** Agreed to make the change.
- **Currey:** On slide 9, unsure of what "more predictable" means...more transparent?
 - **Antos:** Yes, it means more transparent, because if you understand more of the inputs going into the model, you will understand the outputs better.
 - **Currey:** Requested that the language be changed to "transparent" to make it clearer.
 - **Antos:** Agreed to make the change.
- **Davis-Martin:** On Slide 3, the third bullet about future changes to allocations as a decision point and not a presumption shows inconsistency of what the Midpoint Assessment is about on the prior slide. If the Midpoint Assessment is really only about those three bullets on Slide 2, I don't understand what this additional clarification is getting at. The two sub bullets fail to recognize the discussion we had on October 23rd on how revisions to the TMDL don't necessarily have to follow the WIPs, but could be done before the WIPs – something that we haven't had the opportunity to talk about further.
 - **Antos:** On your first point, we could modify the language on Slide 2 to convey that the Midpoint Assessment is more than just changes to the modeling tools. The point of Slide 3 was asking the question of whether we want to redo the Phase III WIPs using Phase 6 of the Watershed Model and modify the TMDL based on the new model; or, do what we did in Phase II, which was to incorporate new modeling data into the TMDL without revision.
 - **Davis-Martin:** At least some modification of the TMDL allocations is absolutely needed. Specifically for Virginia, we're talking about Phase II MS4 jurisdictions that fall within the boundaries of Phase I MS4s.
 - **Antos:** By no means do we want possible revisions to the TMDL and the development of the Phase III WIPs to slow down the state permitting process. We can work on a parallel track of moving forward with permits if the final outputs of the Midpoint Assessment won't yet be done in time.
- **Davis-Martin:** The header on Slide 5 states "potentially updated Watershed Model". Is there really any doubt that we won't have an updated model?
 - **Antos:** This language was pulled from a previous power point presentation dated September 24th, before the WQGIT's recommended changes to the model during our October 22-23 meeting. I'll strike the "potential" language from the header.
- **Buckley:** On slide 3, third bullet, isn't it premature to make the statement that the level of effort could increase after the Phase III WIP planning targets are set?
 - **Antos:** I don't think so, as some of the things we previously discussed – dams losing trapping capacity and climate change – could make the job of restoring the Chesapeake Bay and its tributaries harder. On the other hand, getting better data inputs might give more credit to certain practices, which would make the job easier.

Our point is to say that it could go either way. We could refine the statement to read: “Level of effort may increase or decrease.”

- **Davis-Martin:** The level of effort could change. Why note this now, however, if we’re not willing to admit the allocations might change?
- **Antos:** We can’t say for sure that the allocations will change in the event that we don’t need to modify the TMDL.
- **Davis-Martin:** In 2018, we’ll have a new version of the model to evaluate progress, but we’re also saying that the TMDL would remain the same using the old version of the model?
- **Antos:** Yes this is a possibility, because we didn’t revise the TMDL in 2012 when Watershed Model Phase 5.3.2 was released. We had ChesapeakeStat and Bay TAS to track progress without modifying the TMDL. This could happen again in 2018/19. Given that we haven’t yet had to modify the TMDL, we can’t just assume we’ll need to modify it in the future.
- **Davis-Martin:** This isn’t the message conveyed by the presentation as it’s currently written.
- **Koon:** At this point, West Virginia is not in favor of modifying the TMDL and that has been our position, though we understand that this decision will be made as we move down the road.
- **Davis-Martin:** Can appreciate the desire for stability but to lock in on something that’s frankly incorrect, we don’t agree this is the right approach. There has to be at least some change to those allocations.
- **Phillips:** Requested that the presentation also highlight that the Midpoint Assessment is also about meeting water quality standards through better information and inputs.
- **Merrill:** Katherine and I will be teeing up this presentation to the Management Board during their meeting tomorrow. As it proceeds up to the PSC, we’ll revisit the points that were raised. Also, we will be having follow up discussions at the Management Board and PSC levels on the Midpoint Assessment priorities and the path forward.

ACTION: Katherine Antos will revise the draft PSC power point presentation on the Midpoint Assessment to reflect comments verbally received from Pennsylvania, Chesapeake Bay Foundation, West Virginia, Maryland, and Virginia. Once revised, Katherine will notify the Management Board staffing team of the changes and request that the presentation be posted to the 11/14 calendar entry.

- **Merrill:** The October 15th version of the Guiding Principles was highlighted in our October 22-23 discussions. We have since then received comments from West Virginia and Virginia, and they will provide a brief overview of their comments. We’ve tried to incorporate their comments into the October 15th version. As the Management Board will be discussing these Guiding Principles during their meeting tomorrow, we want some kind of sense from the WQGIT members on where they stand with this version.
- **Baxter:** My apologies if it appears we have rewritten the document. It’s been an evolving process and we questioned a month ago why we even needed these Guiding Principles, since they seem so self evident. We were greatly informed by our discussions during the October 22-23 meeting about what we needed to be clear on:
 - the scope and purpose of the Midpoint Assessment
 - the highest priority actions for the Midpoint Assessment
 - the schedule for the Midpoint Assessment to achieve those priorities
- **Baxter:** Although there are some modifications to EPA’s November 7th draft, there are no substantial differences – except for not calling it “guiding principles”; including some

additional, specific actions in the schedule; and less emphasis on EPA's oversight role. In large measure, the policy aspects between the two versions remain close.

- **Davis-Martin:** The biggest single change in content is the elimination of what is still the second paragraph in the current working draft – which talks about what the Midpoint Assessment is about. We've already addressed those three primary objectives. Virginia's version tried to expand upon the purpose of the Midpoint Assessment and what specific steps have to happen during that period.
- **Koon:** Our comment basically was that in light of the October meeting, we weren't all in agreement that the Phase III WIPs were necessary, and to focus instead on the milestones to track implementation. We put a lot of time in the Phase I and II WIPs and it really caused our implementation to slow down dramatically. Our situation is different in the Headwater states. We feel we'll make really good progress through 2017.
- **Merrill:** Thanks to those for commenting. To proceed, you've seen the context of what EPA and others have worked on. We've been working on this for several months, it has value, and we would like to see a finalized document; one that offers direction.
- **Buckley:** I appreciate the work that Virginia has done on this. The schedule is much clearer. I would support moving the Virginia version forward.
- **Diebel:** Is the more updated working draft located on the WQGIT meeting calendar?
 - **Merrill:** The November 15 version has been posted to the meeting calendar.
- **Koon:** We haven't yet had time to read Virginia's version, so we really can't comment on it.
- **Buckley:** It would be helpful if Virginia could create a track change version. Is this possible?
- **Baxter:** We will provide a track change version and circulate to the WQGIT members.
- **Currey:** I agree with Virginia's statement that we've addressed some of the Midpoint Assessment objectives. Virginia has laid out a good schedule. We need more time to understand the changes, but we agree with the proposed changes on the first page and including the more detailed schedule.
- **Merrill:** To move this along, I'd like to offer the following as a recommendation: provide an update to the Management Board with the October version and a summary of the comments from Virginia and West Virginia, which they already have. We've heard from our partners that we should give the Virginia version more time for WQGIT review. With Management Board approval, I propose that representatives from Virginia, West Virginia, and EPA be charged with bridging the differences between the different versions. That version will then be distributed to the PSC.
- **Baxter:** Supports this approach and would be happy to engage in further discussions to make this document mutually agreeable.
- **Buckley:** Supports this approach.
- **Baxter:** Can we get a word version of the November 7th draft to show those track changes?
 - **Antos:** I will get that to you.
- **Merrill:** Thanks to our Virginia and West Virginia colleagues for their comments. We will give you an update following the discussions at tomorrow's Management Board meeting.

ACTION: Russ Baxter will send WQGIT track changes version of VA's edits to guiding principles.

DECISION: WQGIT members recommend that representatives of VA, WV, EPA, other jurisdictions as desired form a small group charged with trying to bridge differences between the October 15 Guiding Principles document and VA's and WV's comments submitted by November 2.

ACTION: Larry Merrill and Katherine Antos will ask the Management Board on 11/14 if they still wish to bring the Guiding Principles to the PSC in December. If the decision is yes, it is

recommended that a forthcoming version coming out of the small group above be distributed to the PSC.

Toxic Contaminant Report Update & Overview of Comments – Scott Phillips and Greg Allen

- **Allen:** This draft Report has been out for review and comment by our jurisdictional partners. The Report relies on information from State integrated water quality assessment reports, Federal- and State-supported studies, and results of investigations in scientific journals to assess the state of knowledge about toxic contaminants. This report is intended to be first outcome in a three-step process.
- **Phillips:** The drafting team included EPA, USGS, FWS, and NOAA. We also worked with the seven Bay jurisdictions to ensure the information was accurate. The draft Report was distributed on October 22 for peer review, as well as review by all the GITs and federal agencies. We've received comments from many of the jurisdictions and today is an opportunity to share any specific comments with the WQGIT members. Thanks to those who have provided comments to date. The goal is to finalize the Report in December.
- **Allen:** If there are questions that would help address any of your comments, please let us know.
- **Buckley:** Pennsylvania did submit comments and we don't feel that toxic goals and strategies are appropriate to pursue at this time. Our comments are consistent with the position we established a number of years ago. The toxic issues that Pennsylvania has are localized impairments and we can address them through local TMDLs. Using a Partnership effort is not the best use of our limited resources at this time. In addition, it was not appropriate to engage all the GIT workgroups until such a time that the Management Board and the PSC have a chance to weigh in on this.
 - **Phillips:** All we asked from the WQGIT Workgroups was to review the technical aspects of the Report.
 - **Buckley:** We were asked to comment on the Report as a whole. The last round of review was limited to scientific data, but this time we should be addressing the policy aspects of the Report.
- **New York:** We agree wholeheartedly with Pennsylvania on this. Mercury and PCBs are widespread, and where the genie is out of the bottle is in terms of atmospheric deposition, sediments, and what's coming out of the ocean. New York's contribution is very small. For mercury, it's almost exclusively atmospheric deposition. We had a 319 conference with other jurisdictions held in Philly and we think it's time for the Administration to look at sources of mercury and how it's getting into the environment from the US and abroad. But looking at these issues should really be done on a local basis, and not a Bay Program effort.
- **Phillips:** Once we finalize the Report, the next step is for the Management Board and the PSC to consider if they want to set up an action team to develop Bay Program goals for possible contaminants. We will revise the Report based on comments received and will get you a final copy in December.
- **Koon:** We sent a second batch of comments late last week, yet only one set was included in the compiled comments.
 - **Antos:** Compiled document represents comments received through November 7. Even if you don't see your comments in the document because they were submitted after November 7, Greg and Scott have received them.

- **Allen:** We appreciate Pat's comments and we tried to tee this up appropriately for Bay Program consideration. We'll try and be as clear as possible that this is a technical and not a policy document.
- **Merrill:** As a reminder, Carin noted that toxics are a gap in the Decision Framework GIT structure. This is something that has been flagged as a key issue as where to place within the Program.

ACTION: Scott Phillips and Greg Allen will finalize the Toxic Contaminants Report and distribute the final version to the WQGIT in the December timeframe.

Draft Executive Order Water Quality Outcome Indicator Options – Liza Hernandez

- **Hernandez:** We are developing a new indicator to track achievement of water quality standards across the Bay. It's important to remember that there are unique combinations of water quality criteria
- **Currey:** With short term dissolved oxygen, are you talking about 1-, 7-, or 30-day means?
 - **Hernandez:** This is based on a 30-day mean.
- **McGee:** When the TMDL was developed, was there some effort to show that the 30-day mean was protective of other means?
 - **Hernandez:** We'll talk about it later in the presentation. We are assuming right now that the dissolved oxygen umbrella criteria was designed to determine whether the 30-day mean was protected of other assessment means. The CAP workgroup is making recommendations on how we should proceed.
- **Hernandez:** We decided to go with a surface area approach. For each segment, we considered all designated uses that would apply. This approach lends itself to create a visual that accompanies the calculations.
- **Buckley:** We previously decided that the 30-day mean was sufficient based on monitoring results, so I'm wondering why it's being revisited at this time. With the umbrella criteria, we're using monitoring data to see if the initial results were correct.
 - **Shenk:** STAC wanted to take a look at that assumption. STAC conducted a workshop and released an accompanying report, which is out now. They are largely supportive but recommend further analysis and possible criteria addendum.
 - **Batiuk:** We want to ensure we're using protective means and to have all seven jurisdictions sign off on it. Most of those jurisdictions amend their water quality standards based on this information.
 - **McGee:** We made an assessment back then, and we may find something different this time around based on new science.
- **Currey:** When you were exploring using surface area, was volume considered as an option?
 - **Hernandez:** We did explore a volume metric approach but because SAV and chlorophyll a are based on a surface area assessment, we couldn't find a way to merge all these assessment results into a single metric. We used a surface area approach because it allowed us to stray away from giving more importance to one designated use over another.
- **Currey:** Will the indicator replace or supplement the state's integrated lists?
 - **Batiuk:** We are not replacing the states' integrated lists with impaired lists. We have a dissolved oxygen indicator that doesn't utilize the full suite of designated use criteria. It would replace the Bay Barometer indicator, and not what the states are doing.
- **Currey:** The Executive Order has a goal of 60% by 2025, and we have a 100% implementation goal by 2025 as defined by the TMDL and the WIPs. This can cause lag time

complications. We could also end up with a situation with three wet or dry years. What are the expected water quality changes if we achieve our 100% implementation goal by 2025?

- **Batiuk:** When we have a better understanding on lag times, and on how slowly or quickly the system responds, we can revisit this particular Executive Order goal.
- **Buckley:** As part of the realignment process, can the Partnership do away with this indicator?
 - **Batiuk:** Perhaps, it's something for the Partnership to discuss.
- **Spano:** Is it possible to provide the link to the Executive Order where this is cited? If we have some questions about this approach, whom should we contact?
 - **Hernandez:** Contact me and I will provide a direct link to the Executive Order strategy and the appropriate page numbers.
- **Merrill:** We will have an update on this issue after the first of the year. Please direct any additional comments or questions to Liza Hernandez by Friday, December 7th. We also need another update from Peter Tango on how the CAP workgroup is dealing with these issues. We will schedule this update in early 2013.

ACTION: Additional comments and questions on the Water Quality Indicator options should be sent to Liza Hernandez, lhernandez@chesapeakebay.net, by Friday, December 7. The indicator for 60% of segments in attainment by 2025 is on p4, 21, 22, and 24 of the EO strategy, which is available for download at: <http://executiveorder.chesapeakebay.net/category/Reports-Documents.aspx>. Exact text is: **Water Quality Outcome:** Meet water quality standards for dissolved oxygen, clarity/ underwater grasses and chlorophyll-a in the Bay and tidal tributaries by implementing 100 percent of pollution reduction actions for nitrogen, phosphorus and sediment no later than 2025, with 60 percent of segments attaining water quality standards by 2025. (*Current condition: 89 of the 92 segments of the Bay and its tidal waters are impaired.*) (p4)

Next WQGIT Conference Call:

Tuesday, December 10, 2012
1:30 P.M. – 3:30 P.M.

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