

CHESAPEAKE BAY PROGRAM
WATER QUALITY GOAL IMPLEMENTATION TEAM
February 23, 2015 CONFERENCE CALL

Minutes

Summary of Action and Decision Items:

ACTION: Water Quality Goal Implementation Team (WQGIT) members should hold the following dates on their calendars:

- March 23 (1-2pm) – 2nd monthly WQGIT conference call.
- April 13 (full day) – Interim face-to-face meeting at the Bay Program Office in Annapolis, MD.
- December 14-15 (full days) – Face-to-face meeting at NCTC in Shepherdstown, WV.

ACTION: Bill Stack (CWP) will work with James Davis-Martin, Lee Currey, an EPA representative, and a Chesapeake Bay Program modeling team representative to incorporate and highlight clarifying language about unintended consequences of the Shoreline Management BMP into the expert panel report in a manner that properly addresses their comments and concerns.

ACTION: Bill Stack will review the report and respond to James Davis-Martin's list of concerns.

ACTION: Jenn Volk (Chair) will ask for clarification at the next GIT Chairs meeting regarding whether or not the Toxic Contaminants Workgroup can submit their management strategies to the Management Board concurrently with the WQGIT.

ACTION: WQGIT members should submit any questions regarding the Midpoint Assessment website or any timing concerns to Lucinda Power (Power.Lucinda@epa.gov).

ACTION: Lucinda Power will work with Tetra Tech to attempt to incorporate a simplified, easily-printable Midpoint Assessment calendar tool on the website.

Welcome/Confirm Call Participants/Workgroup Updates – Jenn Volk, Chair

- Jenn convened the meeting and verified call participants.

ACTION: Water Quality Goal Implementation Team (WQGIT) members should hold the following dates on their calendars:

- March 23 (1-2pm) – 2nd monthly WQGIT conference call.
- April 13 (full day) – Interim face-to-face meeting at the Bay Program Office in Annapolis, MD.
- December 14-15 (full days) – Face-to-face meeting at NCTC in Shepherdstown, WV.

Shoreline Management BMP Panel Report – Bill Stack, CWP

- Bill Stack (CWP): In response to comments received from the WQGIT in January, the default sediment reduction rate was revised and approved by the WTWG on February 5th. The comments received from Lee Currey (MDE), Dianne McNally (EPA), and Chris Spaur (USACE) were reflective of issues raised in the dissenting opinions of the expert panelists, and appendicized in

the report. Their primary concern was that the removal rates were so high for Protocol 1 that they would incentivize the practice for managers, regardless of the potentially harmful consequences of reducing coarse sediments, which can be beneficial to SAV. Follow-up conversations with the commenters resulted in the drafting of qualifying conditions associated with unintended consequences that we could use to highlight the issue in the report. Once those have been incorporated, Bill will highlight that language and send it to the WQGIT for final comments.

- For more information, please see Bill's [presentation](#).

Discussion:

- James Davis-Martin (VA DEQ): My concern is that the dissenting view would have us rendering the sediment loads derived from shoreline erosion as an uncontrollable source. I don't understand how we would achieve the TMDL without having this as a controllable source. If it is a controllable source, we need this BMP to treat it. The panel has overstepped the charge established in our protocol. According to the BMP Protocol, "The scope of the BMP Expert Panels is to develop definitions and loading or effectiveness estimates for nutrient- and sediment-reducing technologies and practices. However, Panel members will be expected to identify any ancillary benefits or unintended consequences beyond impacts on nitrogen, phosphorus and sediment loads." This panel has taken the next step and said that because of unintended consequences, they will alter the reduction efficiencies, and I don't think that is a path we want to take.
- Lee Currey (MDE): Maryland is looking at this differently because it is implemented in the tidal waters of the Bay. Our real goal is to protect the Bay's living resources. There has been a lot of science indicating there can be negative consequences to controlling erosion on the shoreline, and we don't want to put ourselves in a position where we are making that goal more difficult. That is why we are putting that dissenting view forward. When establishing the Chesapeake Bay TMDL, almost all of the time, we were able to meet our sediment goals by putting practices that were being used to address phosphorus, so I don't recall us making this huge commitment to putting practices along the shoreline to control erosion. At this point we just need to listen to our scientists and proceed more cautiously with this practice.
- Bruce Michael (MD DNR): We are looking at these practices, wherever they are placed, to be protective of SAV. We would want to be set up so that you wouldn't receive credit for implementing a practice in an area that could potentially be impacting SAV.
- Stack: There is qualifying language, and when Lee and I talked on Friday, we discussed highlighting that language that addresses these unintended consequences. One of those qualifying conditions would be the Protocol 1 provision that would preclude the practice in areas where SAV would be adversely impacted. That language is in the report already, we will just add it to other sections in the report so it is better highlighted.
- Currey: Who has the authority to go back and make modifications to expert panel reports?
 - Volk: According to the BMP Protocol, the adjusting members will work with the panel coordinator and panel chair, Workgroup/GIT chair, and Workgroup/GIT coordinator to draft clarifying text, and propose alternative options. I think we should have Bill follow through with his commitments to incorporate those suggested revisions into the report and highlight them. Because James has some contrary views to what is being suggested, it would be helpful to have James also be involved in working with Bill, as well as someone from EPA to talk to James about his concerns with regards to the ability to

achieve the TMDL. Maybe we can also have someone from the Bay Program's modeling group participate.

ACTION: Bill Stack (CWP) will work with James Davis-Martin, Lee Currey, an EPA representative, and a Chesapeake Bay Program modeling team representative to incorporate and highlight clarifying language about unintended consequences of the Shoreline Management BMP into the expert panel report in a manner that properly addresses their comments and concerns.

- Davis-Martin: I don't know if it would affect our ability to meet our TMDL or not. My point is that if the report says 57% of the sediment source comes from these eroding banks, and ballpark speaking, we were looking for a 40% reduction, then that essentially means we need to achieve a 100% reduction from the watershed to meet the TMDL. I don't know if that is really the case, I'm not sure what the models would say, but for me it is definitely a concern. The language suggested is moving in the right direction. Certainly jurisdictions should always have the option of not reporting BMPs if they deem those BMPs to not be beneficial when you factor in the unintended consequences, so that seems like a reasonable approach.
- Dianne McNally (EPA): I hear what James is saying, I struggled with the report in that it doesn't allow for crediting of armoring residential shoreline, but it does credit armoring in ports. But the BMP Protocol does ask the expert panels to address unintended consequences, and I think that is crucial to the process. This panel report tried to address what to do about unintended consequences, but I want to raise it as something to make sure future panels identify how this chapter on unintended consequences will be used. I ask that if we do go back and look at this expert panel report, and try to address nutrients, that we look at all the dissenters' opinions again. Finally, one of the qualifying conditions that was considered was looking at erosion rates of less than two feet per year and I wanted to advocate for putting more research into that area.
- Volk: Jeremy Hanson (VT) and Emma Giese (CRC) put together a summary list of research needs identified in the expert panel reports and I ask that David Wood (CRC) and Emma keep that list up to date and maybe add some of these things that are coming up.
- Davis-Martin: I didn't read in the report where armoring of residential shorelines would not be allowed for credit. I read it that they are, but only for Protocol 1.
 - Stack: It might take me a while to find it in the report, but Dianne is correct, the panel decided that they would only give credit for armoring shorelines adjacent to ports and harbors.
 - Davis-Martin: I thought the language was specific to vertical walls, and that sloped revetments and armoring shorelines was eligible.
 - Stack: I will look at that and your other concerns and get back to you.
- Davis-Martin: In terms of the suspension on nutrient credits, we need to make sure we are clear about what we are waiting for before bringing forward those recommendations. I thought we said we were waiting for the Watershed Technical Workgroup to review loading data from the water quality model. If that isn't it, we need to be clear what we're waiting for.
 - Lew Linker (EPA): At the April Modeling Workgroup meeting, we will bring that topic around, and see the influence of nutrients in shoreline erosion at that time.
- Davis-Martin: The BMP panel report establishes qualifying conditions for when these practices will be reportable. One of those states that the upland must be graded and stabilized with vegetation. But the panel report also says they want to impose a 50% banking stability factor to

account for ongoing shoreline erosion associated with unstable upland banks. Those two things are double-covering the same territory. It would have to be one or the other.

ACTION: Bill Stack will review the report and respond to James Davis-Martin's list of concerns.

- Stack: Most of the qualifying conditions have already been incorporated into the draft, so it is just a question of highlighting them for adding clarification. To make substantive changes would involve going back to the panel. As long as we incorporate the source of where the new language is added, I think that is fine. I don't know if any of the suggested changes would warrant going back to the panel, but I still have to talk these over more with James.
- Tanya Spano (MWCOC): Just noting that I am not surprised that the notion of 'unintended consequences' or conflicting objectives came up with this BMP. My point is that I suspect other similar issues will likely come up; so our process for addressing these differences and documenting them need to be considered for not just this BMP, but others that might come up in the future.

Revised Water Quality Management Strategy – Jenn Volk, Chair

- Jenn Volk reviewed the feedback and revisions to the [Water Quality Management Strategy](#) that came out of the January 15-16 Management Board retreat.
- Lucinda and Jenn are working with LGAC and CAC to address their comments. It is unlikely to result in any major changes.
- Three major comments that we have addressed: 1) Expanded upon the Midpoint Assessment priorities under “Factors Influencing Goals and Outcomes Attainment”; 2) Separated our “Current Efforts and Gaps” and “Management Approaches” into different sections; 3) Created new sections for each of the three water quality outcomes under “Monitoring Progress and Effecting Progress”.
- The Management Strategy goes out for public comment on March 16th, and another draft will likely go out to the WQGIT members before then.

Toxic Contaminants Management Strategy – Scott Phillips, USGS

- Scott Phillips presented the main points from the initial review draft of the Toxic Contaminants Management Strategy.

Discussion:

- Phillips: For the policy and prevention management strategy, it is focused on PCBs. When the outcome was developed, PCBs and mercury were listed as the contaminants with most widespread concern and severity. We are hoping the new air regulations will help address mercury, so we are focusing on PCBs. For the research outcome, we are focusing on 5 issues in the strategy: 1) Provide information to make fish and shellfish safer for human consumption; 2) Understand the role of contaminants in fish and wildlife kills; 3) Identify the influence of contaminants in degrading the health of fish, shellfish and wildlife; 4) Document the occurrence, concentrations and sources of contaminants causing fish and wildlife degradation; and 5) Present issues of emerging concern that should be considered in the future. We have received a lot of comments, particularly on how to make it more concise.
- McNally: Will revisions be shared with the WQGIT as well as the Management Board?

- Phillips: Yes, we will distribute them to both groups concurrently.
- Davis-Martin: Has the partnership dealt with how the Chesapeake Bay Agreement says management strategies will be developed by the Goal Teams, but yet they are being submitted by a workgroup? Are we okay with that approach?
 - Volk: Workgroups were identified as leads for these, and the Toxic Contaminants Workgroup was developed specifically for the purpose of developing the management strategy. I think the WQGIT should provide input, and likewise we will try to get the Forestry and Land Use Workgroups to come before the WQGIT with their management strategies, even though they are operating under different goal teams officially. I don't think there is a clear answer. I will bring it up again at the GIT Chairs meeting, but I don't think it really matters in the end, besides the fact that we should provide input.
 - Phillips: We had an open comment period for jurisdictional representatives on the last draft. We will make sure the WQGIT is comfortable with what is being put forward. We were not trying to exclude you, it is just a tight timeline.
- Spano: All of these management strategies are going forward at the same time, and some of them are very new. I think climate change and toxics will require a little more WQGIT input to make sure where those are headed makes sense.
- Davis-Martin: The alternative is to ask the partnership to accept the submission of management strategies by workgroups instead of goal teams.
 - Phillips: Either is fine, we just want to make sure the WQGIT is fine with what is in the management strategy.
- Volk: I will check and make sure our process is ok. If that means another short call, or an email review, that is fine.

ACTION: Jenn Volk (Chair) will ask for clarification at the next GIT Chairs meeting regarding whether or not the Toxic Contaminants Workgroup can submit their management strategies to the Management Board concurrently with the WQGIT.

Midpoint Assessment Website & Outlook Calendars – Lucinda Power, EPA

- A Midpoint Assessment website has been developed to house documentation associated with the midpoint assessment priorities, including the Project Plan. In addition, external outlook calendars for the WQGIT, Management Board, and PSC have been developed for those key decisions and briefings under the midpoint assessment from 2015-2018.

ACTION: WQGIT members should submit any questions regarding the Midpoint Assessment website or any timing concerns to Lucinda Power (Power.Lucinda@epa.gov).

Discussion:

- Volk: I would suggest using a word other than “milestones” in the header “Midpoint Assessment Upcoming Milestones” in order to avoid confusion with the 2-year milestones.
- Spano: Having an easily printable calendar of key events heading to 2017 was helpful during TMDL development. A policy/elected-official level of simplification of the schedule might be helpful.

ACTION: Lucinda Power will work with Tetra Tech to attempt to incorporate a simplified, easily-printable Midpoint Assessment calendar tool on the website.

- Jenn thanked call participants and adjourned the call.

Adjourn

Next WQGIT Conference Call:

Monday, March 9, 2015

1:30-3:30pm

List of Call Participants

Member Name	Affiliation
Jenn Volk (Chair)	U of Delaware
James Davis-Martin (Vice-Chair)	VA DEQ
Lucinda Power (Coordinator)	EPA, CBPO
David Wood (Staff)	CRC
Chris Pomeroy	AquaLaw
Seung Ah Byun	Brandywine Conservancy
Marel King	CBC
Bill Stack	CWP
Neely Law	CWP
Marty Hurd	DDOE
George Onyullo	DDOE
Hassan Mirsajadi	DE DNREC
Ann Baldwin	DE DNREC
Sarah Diebel	DoD
Gary Shenk	EPA
Suzanne Trevena	EPA
Dianne McNally	EPA
Lew Linker	EPA
Jeff Sweeney	EPA
Ann Carkhuff	EPA
Chris Day	EPA
Greg Allen	EPA
Jennifer Sincock	EPA
Jamie Mitchell	HRSD
Bruce Michael	MD DNR
Sarah Lane	MD DNR
Lee Curry	MDE
Marya Levelev	MDE
Karl Berger	MWCOG
Tanya Spano	MWCOG
Mukhtar Ibrahim	MWCOG
Norm Goulet	NVRC

Ben Sears
Andy Zemba
Kevin McGonigal
Joel Blomquist
Scott Phillips
Carl Friedrichs
Lisa Ochsenhirt
Jeremy Hanson
Teresa Koon
Dave Montali
Jenny Tribo

NYSDEC
PA DEP
SRBC
USGS
USGS
VIMS
V(M)AMWA
VT, CBPO
WV DEP
WV DEP