

**AGENDA**  
**HAMPTON ROADS PLANNING DISTRICT COMMISSION**  
**EXECUTIVE COMMITTEE MEETING**  
**May 19, 2011**

- 9:30      1.    Call to Order
2.    Public Comment
3.    Submitted Public Comments
4.    Approval/Modification of Agenda
- CONSENT AGENDA**
- 9:35      5.    Minutes of March 31, 2011 Special Meeting
6.    Minutes of April 21, 2011 Quarterly Commission Meeting
7.    Treasurer’s Report
8.    Regional Reviews – Monthly Status Report
- A.    PNRS Reviews
- B.    Environmental Impact Assessment/Statement Review
9.    Consultant Services Contract for the “Water Supply Assessment and  
                    Emergency Response Training” Project
10.    FY 2011 HRPDC Budget Amendment
- REGULAR AGENDA**
- 9:40      11.    Regional Private Property Infiltration/Inflow (I/I) Abatement Program
- 9:50      12.    Chesapeake Bay Total Maximum Daily Load (TMDL)
- 10:00     13.    HR GREEN Program Briefing
- 10:10     14.    HRPDC Action Items: Three-Month Tentative Schedule
- 10:20     15.    Project Status Reports and Advisory Committee Summaries
16.    Correspondence of Interest
17.    For Your Information
18.    Old/New Business
- ADJOURNMENT**

## **AGENDA NOTE – HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #1: CALL TO ORDER**

The meeting will be called to order by the Chair at 9:30 a.m.

### **ITEM #2: PUBLIC COMMENT PERIOD**

Members of the public are invited to address the Hampton Roads Planning District Commission. Each speaker is limited to three minutes.

### **ITEM #3: SUBMITTED PUBLIC COMMENTS**

There are no recently submitted written public comments. Any new written public comments will be distributed as a handout at the meeting.

### **ITEM #4: APPROVAL/MODIFICATION OF AGENDA**

Members are provided an opportunity to add or delete items from the agenda. Any item for which a member desires consideration from the Hampton Roads Planning District Commission should be submitted at this time, as opposed to under “Old/New Business”.

**Hampton Roads Planning District Commission  
Special Executive Committee Meeting  
Minutes of March 31, 2011**

A special meeting of the Executive Committee of the Hampton Roads Planning District Commission was called to order at 9:35 A.M. in the Regional Boardroom, 723 Woodlake Drive, Chesapeake, Virginia, with the following in attendance:

**EXECUTIVE COMMITTEE:**

Stan D. Clark, Chairman (JC)	Sharon Scott (NN)
Thomas G. Shepperd, Jr. Vice Chairman (YK)	Marcus Jones (NO)
James O. McReynolds, Treasurer (YK)	J. Randall Wheeler (PQ)
Alan P. Krasnoff (CH)	Kenneth Chandler(PO)
Greg McLemore (FR)	Selena Cuffee-Glenn (SU)
Brenda G. Garton (GL)	Tyrone W. Franklin (SY)
Molly J. Ward (HA)	Louise R. Jones (VB)
Bruce Goodson (JC)	Jackson Tuttle (WM)

**EXECUTIVE COMMITTEE (ABSENT):**

June Fleming (FR)	Paul D. Fraim (NO)
W. Douglas Caskey (IW)	Michael W. Johnson (SH)
McKinley Price (NN)	Clyde A. Haulman (WM)

**EXECUTIVE DIRECTOR:**

Dwight L. Farmer

**OTHER COMMISSIONERS:**

Amar Dwarkanath(CH)	Neil Morgan (NN)
Clifton Hayes (CH)	W. Eugene Hunt, Jr. (PQ)
Dr. Ella P. Ward (CH)	Robert M. Dyer (VB)
Gregory Woodard (GL)	Rita Sweet Belitto (VB)
Ross Kearney (HA)	Barbara Henley (VB)
Mary Bunting (HA)	

\*Late arrival or early departure

**OTHERS RECORDED ATTENDING:**

Jeff Corbin (EPA); Dave Evans (McGuire Woods); Anthony Moore (Asst. Secretary of Natural Resources); David Johnson (DCR); Russ Baxter (DEQ); Andrew Baan, Debbie Meadows, Veronica Sheppard, Kate Wilson, Joann Hofheimer, Joanne Berkley, Mary Schsinger, Reed Knight (Citizens); Eric Martin, Barbara Brumbaugh (CH); Ron Peaks (GL); Chuck Fleming, Brian DeProfio (HA); Gretchen Gonzalez, A. Paul Burton (IW); Leo Rogers (JC); Bryan Pennington, Jill Sunderland, June Whitehurst (NO); Michael King, Brian Lewis, Joe DuRant, David A. Kuzma (NN); Cindy Linkenhoker (PO); Ellen Roberts, Budd Green

(PQ); Clay Bernick, Mike Bumbaco, Steve McLaughlin, B. Kay Wilson (VB); Eric Nielson, Karla Haynes, L. J. Hansen, (SU); Peter Stephenson (Town of Smithfield); Rob Catron (Fairfax); Shelia S. Noll (LGAC/York County Board of Supervisors); Debbie Ritter (LGAC/Chesapeake City Council); Curtis Byrd (Office of Congressman J. Randy Forbes); Patrick Ciaie (HRCC); Frank Daniel, Joe Rieger, Bob Hume, Marjorie Jackson (Elizabeth River Project); Roger Everton (DEQ); Shelly Frie (CH2M Hill); Scott Harper (Virginian-Pilot); Corey Nealon (Daily Press); Mark A. Geduldig-Yatrofsky (Portsmouth City Watch.Org.); Ellis James (Sierra Club Observer); Randy Darden, Jr, (Dewberry); Liz Scheessele, John Paine (URS); Karl Mertig (Kimley-Horn & Associates); Lisa Jeffrey (Brown & Caldwell); Karen Forget (Lynnhaven River NOW); Christy Everett, Chris Moore, Fred Adams, Peggy Sanner, Andrea Moran, Faye Bailey, Will Mitchell, Tanner Council (Chesapeake Bay Foundation); Beth Konopnicki, (York County Waterways Alliance, Inc.) Claire Beasley (Chesapeake Sierra Club); George Banks (Stokes Environmental Assoc., Ltd); K. Bezakova, (Terra-Scapes); Chris Rodgers, D. Neiman (J4C); David Crandall (Empower Hampton Roads); Peter Huber (Willcox & Savage); Staff: John M. Carlock, Camelia Ravanbakht, Rick Case, Jennifer Coleman, Kathlene Grauberger, Greg Grootendorst, Julia Hillegass, Frances Hughey, Jim Hummer, Rob Jacobs, Whitney Katchmark, Sara Kidd, Mike Long, Jay McBride, Kelli Peterson, Katie Rider, Tiffany Smith, Joe Turner, Jenny Tribo, Chris Vaigneur.

Chairman Clark called the special meeting of the Hampton Roads Planning District Commission to order. Chairman Clark began the meeting with the following remarks:

*In every respect, every person born and/or raised in the Hampton Roads region owes their existence, livelihood, or quality of life to that great body of land and water that we call the Chesapeake Bay. The contour of the bay and the value it contains supports more people than any other single entity we can name. We respect and honor its richness and inherent wealth so much that one of our member jurisdictions is named for it. Virginia Beach derives from its clean beaches and surf, Norfolk Naval Shipbuilding presents strategic importance; it would not exist except for its deep water port. Newport News is named for the Captain that sailed the Bay. Hampton, Isle of Wight, Surry, Suffolk, York County, James City County, Gloucester, Poquoson, Franklin and Williamsburg all share a rich waterman's local history in the Chesapeake Bay Watershed areas and all them share the wealth of tourism, military and federal facilities, retail, port, freight and manufacturing jobs and dollars that has generated many various ways that are generated on my prosperity to this great natural asset. Our quality of life is completely ingrained and joined with it. Sadly in the last 200 years the Chesapeake Bay Watershed region which includes many eastern states did not care properly for the health of the bay. Without question, we have used it and its tributaries as a dumping ground. As regional leaders in Hampton Roads, I think I speak candidly for all the localities that we recognize the errors and transgressions of the past. We as a body absolutely affirm our obligation to work toward the cessation of harmful bay activities in the direction of resources in an attempt to reverse the damage done. We accept the mission of the EPA and DEQ in this regard and embrace it. As an elected official in this region we have the mission to work toward the bay cleanup and acknowledge it as one of our highest priorities. Our additional obligation is to make sure the corrective action and the cost thereof are evenly born by all states and regions and the citizens of Hampton Roads are bearing their fair share of the cost. Additionally, Hampton Roads taxpayers have stepped up on the bay cleanup. We*

*have an obligation to make sure the cleanup measures and cost thereafter are based on sound science and principles and that the cost of the cleanup methods are effective. There are less onerous methods that are cost effective. Additionally, it is our obligation as elected officials to recognize the acute economic conditions that exist in Hampton Roads. The Bay cleanup costs that I have seen range from \$300 to \$800 per household annually over many years to come. It is our duty equally to recognize that across the region that families are losing their homes, people cannot find work, and citizens cannot afford their medicines. It is our obligation to represent all of Hampton Roads and to recognize that there are many households that cannot pay an additional \$8.00 much less \$800 without sacrificing food, clothing, shelter and/or medicine. Of all the emails and faxes that I have received asking us not to oppose the EPA TMDL regulations, not one has mentioned the effect this massive unfunded federal mandate will have on budgets. Many families are beyond the breaking point. There is great waste of tax dollars in the federal government. It is odd to me that we reach into the bread baskets of working Americans and federal tax dollars to clean up the bay. But still it is our duty to achieve a balance among our competing obligations and yes we do need the Wisdom of Solomon for these matters. This body today will discuss all these matters. Not a single Hampton Roads elected official member mentioned suing the EPA. Let there be no mistake, we are committed to protecting the bay and our citizens in a manner that is appropriate and fair. We will begin in open session and hope to stay in open session. But if we feel the need to go to closed session to discuss matters in full in protection of the bay and our citizens, we will do so. As I have said in our last meeting, there is no lawsuit; but this is a federally unfunded mandate and we have a duty to our citizens and families of this generation to make sure, by all means necessary, that what is done to clean up the bay is fair, reasonable, cost-effective and affordable. As elected officials, this is the job we have been hired to do. This is the job our citizens expect us to do, and this is the job we will do.*

*After public comment we will amend the agenda to include a new letter from our legal counsel.*

## **PUBLIC COMMENT**

Five people requested to address the Hampton Roads Planning District Commission.

### ***Frank Daniel***

*Good morning and thank you, my name is Frank Daniel, I am a member of the Board of the Elizabeth River Project and the Board has asked me to come before you this morning and make a brief statement. The non-profit Elizabeth River Project works to restore the Elizabeth River in Norfolk, Portsmouth, Virginia Beach and Chesapeake. We support the EPA development of a Bay Total Maximum Daily Load for nitrogen, phosphorous and sediment. We also commend Virginia for preparing a strong implementation plan. These may be the most promising steps yet for reducing nutrients, the top challenge for restoring the Chesapeake Bay. This approach is especially critical for the Elizabeth River which exhibits some of the highest nutrient levels in the Chesapeake Bay. Each summer, a massive algal bloom starts in Hampton Roads and spreads into the lower bay, in some cases leading to fish kills. We question whether legal action will result in anything but further delay in implementing Hampton Roads' efforts, and instead recommend spending scarce resources on developing cost-effective locality plans. We recommend a collaborative approach to resolve remaining*

issues. In regard to the Commission's recently discussed concerns, an affordable approach is certainly needed. However, cost may be considerably less than the Commission's estimates so far. Localities have yet to develop specific implementation plans and have considerable flexibility on approaches, with widely varying costs. Low cost approaches are available that will help contain cost. A new state law banning phosphorous in fertilizer will help meet reductions with relatively little cost. Other inexpensive approaches include code changes to reduce impervious surfaces, and programs to disconnect rain spouts are just examples. We agree that several issues remain unresolved and recommend a collaborative approach between EPA, the Commonwealth and localities to address them. It appears that some elements of the TMDL may have been added without the opportunity for full public comment. It is important for the EPA, the state and localities to meet and revolve concerns regarding the EPA model. While further work should be done to confirm the accuracy of the modeling, we support the numeric goals for reducing stormwater loads to the bay. What gets measured, gets done. The bay and its tributaries are long in need for clear cleanup goals and approaches. Finally, the Elizabeth River Project has 17 years' experience with successfully and collaboratively resolving complex environmental issues. We stand ready to help our local government partners in any way possible. Thank you very much.

### **Fred Adams**

I am a resident of Virginia Beach. The Chesapeake Bay is a huge economic engine and I think I would without noticing that it would be very difficult to trade jobs. It was recently reported in our local news paper that during the last couple of months in this area we lost 7,500 jobs. It is my understanding that if we do the best that we can to clean up the Chesapeake Bay, that we could have immeasurable benefits. One report indicated that for every dollar that we invest today we would return that in about \$1.58. I thought that was pretty impressive. If we invested \$10 million, you may get \$15 or \$16 million back. Or if you invested \$50 million you get \$75 million back. When I looked at the cost of some of the things we have to face when making changes to the bay, we are talking about billions of dollars. I do ask that question for every billion we invest are we going to get a billion and half back? I don't know if that would occur. However, another setting has indicated that over a period from 2000 to 2008 we lost commercial activity of \$460 million; that is almost \$60 million a year. If we were to clean up the bay and have that kind of benefit again, we would have the situation where several other economically viable species such as rockfish at Lynnhaven and with that we would only have to clean up the bay once to derive from the benefits along with these and other species. So we could look at it annually a \$100 million or so, it does not compare too well with the billion dollar expense we are confronted with. It is a serious challenge. I can remember the first time I read the TMDL I was taken back. I have never seen the document. Of all the planning documents that I looked at, I never saw one that looked so - conservable. So I commend you for sticking with this issue, I commend you for what it is that you are doing. We need to do the best we can as quick as we can because the problem could only get worst and more expensive. So I urge you to not sue the government, to continue to work with EPA, work with our requirements and do the best that we can with them, educate the citizens with regard stormwater runoff and get as far as we possibly can. We need a cost effective way take care of our sewage. Thank You

### **Christy Everett**

Christy Everett, Chesapeake Bay Foundation, Hampton Roads Director. I believe there were some excellent public comments at your March 17 meeting. We will not repeat that today. We feel that it is important for you to take your time in clarifying issues and getting some answers from EPA and the Commonwealth on this very important issue. Because many of us are forgoing our public comments today I would like to recognize these individuals who represent volunteers for various organizations.

*Please stand at this time. Those who opposed the bay challenge to the TMDL please stand at this time. Those individuals include representatives of Lynnhaven River Now, Sierra Club Chesapeake Bay Chapter, and the Virginia Chapter, the J4C, James River Association, Coastal Conservation Association and the Chesapeake Bay Foundation. Thanks to you our elective officials for taking the time for working through any concerns or issues for the Bay Restoration effort. As you know, it is very critical to our economy, our quality of life and the citizens of Hampton Roads. We appreciate your time in doing this versus the alternative of taking abrupt measures to take legal challenge against the Bay TMDL. Thank You.*

**Mark Geduldig-Yatrofsky**

*Good morning Mr. Chair and members of the Planning District Commission. Mr. Clark you did a fair job. My name is Mark Geduldig-Yatrofsky and I appreciate people who make the effort. Speaking of making the effort I show my age I will be another year older tomorrow but needless to say back in the cold war era there is no winner in nuclear war. You can almost say the same thing about a suit about one government entity against another except the lawyers win. The taxpayers lose. We pay for the suit on both sides of the issue. It is the most complete and senseless disruption of taxpayers' dollars that has ever been devised by humanity. So I am here to urge you as a resident of Portsmouth and a citizen of the globe not to waste our tax dollars on suing on either side. Thank you very much.*

**Ellis W. James**

*Good morning Chairman Clark, members of the Commission, my name is Ellis James I reside here in Hampton Roads and have done so for a good chunk of my life, mostly all of it. I think we all in this room recognize the difficulty that we are confronted with. But those of us who are arguing strongly for no delay in the implementation of these regulations have waited a long time. Thirty years is plenty of time to get the ball rolling and get action taken. I would like to ask the members of the Commission if you have not had the opportunity to read Chairman Clark's letter in today's packet I would urge you to do so. There are great concerns in that letter, but there are also specific implications of commitment and as you heard in the Chairman's statement that was read in the beginning of the meeting. I think it is clear that the Commission should be committed to achieving the goal of cleaning up the bay. It is not that his letter included everything that we who are looking for no delay in implementation would want, but it is clear that there is an effort this morning to assure we the citizens and you the members of the localities as the elected officials that action is needed and we need to take it. In the end, I would call your attention to attachment 4C Hampton Roads Statement of Legislatives Principles Regarding Implementation of the Chesapeake Bay TMDL. If you carefully examine that you will find everything that I have just referenced and more. You will also find a rather strong paragraph on unfunded mandates. Whether you agree or disagree with that, I would suggest to you that the ball is now in the administration of the Commonwealth of Virginia court. We need to have a clear signal sent from Hampton Roads as to our commitment and our determination without disregarding the needs of our citizens to move the cleaning up of the bay forward. It is possible it will take a lot of work, but it is the signal you need to send and I believe that is the signal citizens are asking you to send. Thank you Mr. Chairman.*

**APPROVAL/MODIFICATION OF AGENDA**

Mr. Farmer stated available for review is a new business item which was structured for a closed session. Mr. Dave Evans will brief the Commission on several legal issues related to the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

Chairman Clark asked for a motion to accept the agenda with the modification.

Commissioner Kearney Moved to approve the agenda with the modification; seconded by Commissioner Shepperd. The Motion carried.

### **CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL) – HRPDC UPDATE AND STAFF BRIEFING**

Chairman Clark introduced Mr. Carlock who would provide a brief update on HRPDC activities related to the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

Mr. Carlock stated there are six items that are significant events as HRPDC moves forward with the Chesapeake Bay TMDL and Watershed Implementation Plan: 1) The HRPDC provided final comments to the state in November on the draft Watershed Implementation Plan along with comments which were provided to EPA with technical comments on the TMDL. The focus of that was on the particulars on the urban stormwater commitments the cost and the time associated with that; 2) second item is the presentation in January that pointed out that there had been improvements as we moved from the draft to the final TMDL and the final Watershed Implementation Plan. It also included a resolution the Commission adopted which endorsed the legislative principles that were considered at the December meeting; 3) HRPDC forwarded the resolution with a memo to the General Assembly Delegation on February 2, 2011. That document supports a number of different legislation that were considered by the General Assembly and some items were considered possibilities and others remain to be considered in future sessions. The memo also pointed out the need for funding needed by local governments in order to cost effectively achieve the commitments that are in the Watershed Implementation Plan; 4) HRPDC staff sent a letter to the Secretary of Natural Resources requesting guidance on how Hampton Roads would go about achieving the Phase II WIP. The letter stated that Hampton Roads needed guidance, additional information and additional data from the state as a region to move forward with the development of Phase II; 5) HRPDC staff gave a presentation at the retreat on February 7, 2011 that outlined some of these concerns. EPA responded to the Commission on some of the comments. The presentation addressed one option that might be available for the Commission as they move forward to address the requirements and the commitment of the TMDL; 6) notes from the March 17, 2011 meeting when the Commission talked about the issues and concerns with the waste load allocation and the MS4 permits that many of the localities in the region currently operate under.

Mr. Carlock stated in February 2011, the General Assembly approved several significant bills that will assist the region in moving forward which match the region's legislative principles. However, HRPDC has questions and concerns about the draft TMDL for EPA about the lack of reasonable assurance that the urban runoff sector allocations were achievable, legal authority to establish a deadline in the TMDL, lack of reasonable opportunity to review and comment on the basis for the proposed allocations, accuracy of the Phase 5.3 model and model inputs and their ability to produce reliable predictions, and justification for use of the chlorophyll-a criteria as the basis for the James River allocations.

Mr. Carlock indicated some of the questions and concerns were addressed by the state and federal government.

Mr. Carlock stated some important actions have been taken by the Commission over the last seven months: the revision of cost estimates to reflect the final TMDL and WIP, adoption of a resolution and statement of legislative Principles, and authorization for HRPDC staff to proceed with development of a regional framework and process for addressing Phase II WIP. These are some strong commitments on the part of the Commission and localities as they move forward with addressing the cleanup of the Chesapeake Bay.

Mr. Carlock stated when the region started the TMDL and the Watershed Implementation Process months ago, the assumption was in the TMDL, EPA would establish targets for the state. The state would take a state-wide target for nutrient reductions and translate it into basin-wide targets through the Watershed Implementation Plan. They would also determine how much reduction is needed to come from agriculture, wastewater, and urban stormwater. In Phase II of the WIP, the state, localities and the local stakeholders would develop the allocation together at the local level. However, that process did not work out. When the TMDL came out in December, it included allocations for each of the sectors at the local level. Phase II of the WIP was to be divided as target nutrient reductions into a finer geographic scale, counties, sub-watershed to help identify specific controls and practices that will be implemented no later than 2017 to meet interim water quality goals and then again by 2025 in order to meet the alternate clean up goal.

Mr. Carlock stated as Hampton Roads move forward with Phase II, the HRPDC and the localities have a number of questions that need answers as to how this is going to work. In Phase II of the WIP do the allocations have to be consistent with Appendix Q? Will localities have the flexibility to trade nutrient reductions with other sources? What information on existing management practices was included in the TMDL for each locality? How will existing management actions that were not included be credited to the localities? Will localities receive credit for nutrient reduction activities that are not accounted for in the Bay models? There are some things this region is committed to as a major investment in the elimination in sanitary sewer overflow. Several localities have adopted no discharge zones and comprehensive oyster restoration. How do these things get accounted for in terms of their reductions to loads?

Mr. Carlock stated the impact of the TMDL on the localities' MS4 permits will enforce the nutrient reductions in the TMDL. DCR has indicated the state intends to write permits for all Phase I MS4s by the end of 2011. The HRPDC staff and locality staffs have many unanswered questions about how the nutrient reductions in the TMDL were calculated.

Commissioner Shepperd asked about the allocations in Phase II and if it ever was resolved. It was his understanding that EPA was going to cut and that is where Hampton Roads was going to get the allocations.

Mr. Carlock stated it is not known how the numbers were assigned to the individual localities and how they are translated into the Watershed Implementation Plan. It is staff's understanding of the Clean Water Act that once the number is assigned to a particular locality in a TMDL, that requirement then goes into individual permits which means localities will have to develop a program to achieve that number. That reduces the flexibility thought to be part of Phase II to determine what those numbers are and the ability to trade between localities or sectors for the most cost effective achievement of those goals.

Commissioner Shepperd asked if the trading was at the local level and Phase I was mitigated on cost because of the trade off on agricultural and sewer. Mr. Carlock stated yes.

Commissioner Shepperd asked what will localities' loads be and what happens to the hundreds of millions of dollars already spent on stormwater clean up and sewers and when is the baseline actually going to be established. Is the region waiting for the state to make that determination? Will the work done in 2009 be discounted?

Mr. Carlock stated the baseline was established in 2009. There will be an accounting system which will explain those things that are part of the Chesapeake Bay model. It is not known how it is going to be counted.

Commissioner Kearney asked if there any figures on what percentage of the area is still using septic system.

Mr. Carlock stated HRPDC has that information for some of the localities, for the ones we do not the information can be collected and it will become part of the region's input to the state.

### **CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL) – EPA BRIEFING**

Mr. Corbin stated he appreciated being at HRPDC. When he took the position with EPA one of the most critical things agreed on was open communication and good structured dialogue. He stated he lived in Virginia for thirteen years and he has been with EPA for over a year and prior to that he had the privilege of working with Governor Kaine and serving the Commonwealth as part of the natural resources team and prior to that he was working on the nonprofit side on bay issues for about nine years.

Mr. Corbin stated EPA is doing TMDL because it is the next step in about a thirty year bay restoration effort. Significant progress has been made but serious work is still to follow. The three standards that are driving the bay cleanup are low dissolved oxygen levels, major algal problems, and cloudy water. EPA is trying to reduce pollution, nitrogen, phosphorus and sediment going into all the rivers and the bay to meet standards that have already been set.

Mr. Corbin gave a brief history on how the TMDL came about. The Bay restoration process has been going on for over 30 years and the first formal agreement happened when the

states came together and said they are going to work together in 1983. The agreement was expanded in 1987, and this is when the 40% nutrient reduction was set. In 1992 the concept of tributary strategies was established. In 1996, the first tributary strategy was developed in Virginia for the Shenandoah/Potomac. In the late 90s, there were some legal challenges in Virginia, DC and a settlement in Maryland that locked in a schedule for a Consent Decree to develop the TMDL. There are hundreds of TMDLs in Virginia including one for the bay and the rivers that has to be done no later than 2011. In 1999, water quality monitoring of the bay, Virginia portion of the bay, tidal rivers and EPA impaired water system is what triggered the TMDL to be developed. At the same time, EPA and the states had a bay program partnership where all the states were working together to reduce pollutants and they gave it some time to see if it could be done without TMDL and the date was given until 2010. The reductions were not met and the TMDL process began. In 1999-2000 the Shenandoah/Potomac plan was developed and the state developed one for the James, Rappahannock, York and the Eastern Shores Tributaries. In 2000 there was a landmark Chesapeake 2000 Agreement and all the states came together including Virginia and agreed to over 100 different commitments and one of them was to reduce nutrient and sediment pollution going into the bay to get the bay rivers off the EPA impaired water list. In 2005, a state-wide tributary strategy was developed. In 2006, a law was passed which required annual cleanup plans for the bay and rivers in Virginia.

Mr. Corbin stated because the level of cleaning up the bay and rivers where it needs to be, EPA developed the process of the TMDL. TMDL is the amount of pollutant, nitrogen, phosphorus and sediment going into the bay and into the rivers and still reach the water quality standards. The latest progress numbers show significant progress has been made although there is still a lot more pollution going into the river. The tributaries strategies Virginia developed, and if fully implemented, will get close to the numbers that were put out in the TMDL which is the same target aimed at for about 25 years. The TMDL process is a little larger, but the goal is the same.

Mr. Corbin stated the plan should be revised and amended as needed. Some specifics about what needs to be in the plan are: measurable and attainable objectives, description of strategies, time frame, how to pay for it, contingency plan for a problem area, what are you going to do if plan A does not work and what is plan B, description of the extent, a coordination between the state and local government. Phase II of the TMDL includes an assessment of alternative funding.

Mr. Corbin presented slides that showed the expectations that EPA gave to the states for their Watershed Implementation Plan, which is not much different than what the state law requires. Accounting for growth in the TMDL is a critical part to get down the pollution level and stay under that pollution level and figure out how to offset future growth. He stated the localities need to be 60% by 2017.

Mr. Corbin stated that EPA has been at this for quite awhile and he has been working on this for fifteen years in Virginia. EPA has a good idea of what needs to be done because they have developed many plans and many TMDLs, as well as hundreds of TMDLs in Virginia and thousands across the nation. Virginia came up with a very solid Watershed

Implementation Plan. The TMDL is different because there is more accountability and assurance, localities have to show the state what they are going to do in the Plan and that it can actually be done. There is a new clean up date which is 2025. This date was set by the states through the Chesapeake Bay Executive Council with the Governors and the Mayor of DC and the Administrator of EPA.

Mr. Corbin stated there is a potential for federal changes, and federal actions if we fall behind. The 2009 is the baseline, and 2010 and 2011 we finish the TMDL, we finish the Phase I Watershed Implementation Plan. EPA is making changes to the computer model that the states asked for. EPA is going to give them new numbers in a couple of months and then start developing Phase II WIP. The first milestone will be due next January when the state says this is what we are going to do and these are the pounds of pollutions we are going to reduce over the next two years. If you want to move things around in that plan, if you want to get more from wastewater and less from stormwater or more from septic and less from stormwater you can do that as long as you get your numbers along the way. It is about reducing pounds of pollution. Being flexible is the most important part, focus on those milestones to get those reductions over those two years.

Mr. Corbin stated included in the TMDL is the state Implementation Plan for wastewater facilities on the James River. The current allocations that have been given to the James River are going to require some additional upgrades to sewage treatment plants. The state indicated this will take time to plan, design and fund. EPA built some staged implementation options into the TMDL. Better accounting practices were addressed EPA has a process in place through the partnership if there are things the localities are currently doing that EPA does not know are happening, EPA can include those as input to the model. If there are practices that EPA currently does not know what kind of effect it has on nutrient or sediment pollution, EPA will figure it out. This is a 15 year timeline; this is not an overnight process. Virginia has a very successful point to point trading program that saved the Commonwealth hundreds of millions of dollars. I encourage the state plan to include a process that expands its trading program.

Mr. Corbin stated the MS4 stormwater permits issued for the draft Watershed Implementation Plan submitted by the state were very stringent reductions for stormwater and EPA did not think the reductions were achievable. EPA spread the allocations around and came up with a percent reduction over three permit cycles.

Mr. Corbin stated what EPA put in the TMDL was a miscommunication or lack of communication, and what EPA thought Virginia wanted was a specific number to put in their permit. We know that is not what they intended. EPA staff has been talking to Virginia staff and think we have a way to resolve this. EPA will be moving away from the individual waste load allocations in the TMDL to aggregate so that you can move pounds around among localities as you see fit. Phase II is about making sure the localities understand what their part of the plan is and what they are going to have to do. As part of Phase II EPA, has issued a guide because the state asked for more guidance.

Mr. Corbin stated EPA has extended the schedule because the states indicated they need more time to be able to reach out to local governments and to move toward a solid Phase II. The old date was November 1; we are now extending it until the end of March for state development. EPA will be providing contacts in order to help with public outreach issues, information issues and technical issues. The cost is high; your localities are not the only ones that are raising concerns over cost. We all have known about these costs for awhile and the TMDL itself did not impose these costs. As he went over the state law and the tributary strategies the plans that are already on the books and the plans that Virginia has committed to implement carry these same costs so I am not trying to belittle the importance of those costs and the difficulties you all have with having to come up with how you are going to pay for them, but we have known about them for awhile. In 2005, the estimate was \$7 billion and the statewide tributary strategy had an estimate of \$10 billion and tributary strategy for the James River in 2005 was around \$4.5 billion. They are significant but they are not new costs. EPA has supported the states while they were developing their Watershed Implementation Plans. EPA gave over \$11 million last year to the states and an additional \$400,000 in contractual support; \$3 million for pilot projects, and provided technical support as well.

The scheduling for the Phase I of the TMDL is done. EPA is working on Phase II and when Phase II is done, it is about meeting your milestones in 2017 which is the next big check-in point. EPA will see what had changed on the landscape, science and monitoring and modeling. EPA will make changes as they go through this process. It will have been about six or seven years and then Phase II will be completed and at that point we will develop a Phase III and we will take a look again at the plans the states put together and EPA will make revisions. The goal to be done is by 2025.

Chairman Clark asked for questions for Mr. Corbin.

Commissioner Kearney had several comments and then asked Mr. Corbin if there was someone who could find some type of financing to help the localities with the cost?

Mayor Ward thanked Mr. Corbin for coming and stated his presentation was concise and helpful.

Commissioner Goodson stated having open communication was going to be very helpful and we all wanted the same results and we needed measurable results. Mr. Goodson indicated at the same time he felt the localities were setting themselves up for failure with some of the deadlines. EPA is talking about being 60% done by 2017; it has taken James City County over a year to get through all the legal issues and permitting to get one BMP done. EPA has indicated that it is going to be 2012 before we get the rules which leaves us with only five years for hundreds of BMPs to be accomplished by 2017. If it is not done, what is going to happen in 2017? EPA will issue fines because we did not meet the deadline. No one is going to win with these deadlines.

Mr. Corbin stated 2017 is the mid-point with 60% done and 2025 is to have it all done. It is a milestone. EPA does not necessarily expect every sector to be on the same path of

reduction. Some of these reductions can be achieved later in the schedule, EPA is not saying that the stormwater, septic, and waste water for all jurisdictions has to stay on the same schedule. What is going to be critical is when the states start putting together Phase II and start putting together their milestones. The states will look at the jurisdictions to see which ones are not going to be able to be ready in the next two years. If your facilities are not going to be ready in six to eight years, then through reduction, it will be built in further out in the milestones, not for next two years. It is not as if James City County and everybody else has to get to 60% , It may take some jurisdictions to 2017 to 2025 to get those reductions, but you have to be looking in the next six years as to where else you can get those reductions. It may be in the sewage treatment plant, septic, air reduction, the fertilizer law; not everybody has to stay on the same reduction schedule. I am not saying it alleviates all of your concerns, and it makes you completely happy that you can't do all of this; 2017 is a state wide goal. Make your milestones and you can move around your practices within the plans.

Mr. Goodson said stormwater issues are the most expensive and take the longest to solve. There are so many questions and I have not heard the answers yet. That makes me nervous and makes me want to continue to talk to EPA and maybe have counsel; have lawyers on both sides to make sure we are clear with the rules before we say yes this is the way we want to go. James City County has an HRSD facility. I do not know if we are going to get credit for what is happening at the facility.

Mr. Corbin stated that HRSD is a regional facility and it will count if there are things going on that are generating nutrient reductions. The baseline for which the allocations were set was 2009; we will have a 2010 number. If you counted reductions in those years they will come off the top of your allocations.

Commissioner Scott stated that she did appreciate Mr. Corbin coming to expand on the situation with the Chesapeake Bay and we are really committed to cleaning up the bay also. The people at EPA need to know the citizens in Newport News cannot afford \$1,000 per household. Newport News is a city that has a large majority of retirees, people on fixed income, and lot of people below the poverty level. Another \$700 to \$1,000 per person is not affordable. That is the difference in someone getting medication or eating. We are concerned in Newport News about the unfunded mandated.

Mr. Corbin stated he will certainly carry that message back to EPA.

After several comments Commissioner Shepperd asked Mr. Corbin during the briefing he stated the first 60% of the first half way point was going to be easy. What make it so much easier than the second part, because to him, 60% of a billion dollar project is a concern. Why is the front end so much easier than the back end?

Mr. Corbin stated he did not think he said easy he said easier. As we move along with this, we are going to see a lot of wastewater treatment plant upgrades, and you should get very significant and very quick reductions. You are going to see stormwater facilities getting fairly significant reductions and when you get to the last five to fifteen percent, which is

where it is going to be more of a challenge. As we get closer to the end and try and get though the last few pounds, it is going to be harder to figure out where they are going to come from.

Commissioner Shepperd stated he was concerned not only when we get to 2025 but also with when we do not reach the goal and have to come back and try and fit the retrofit to the retrofit and it starts costing even more. Who will set these backstops? When you talk about backstops, to me they are penalty.

Mr. Corbin said if they occur in the future, backstops will be done through EPA. He stated EPA is going to look at the milestones and if a state does not meet their milestone and EPA is going to be putting out some guidance on milestones soon. The big question is if the state gets 90% of milestones what do we do. Obviously, if the state is 50%, short then EPA might start to think about doing something different, but if the state is 89% to 95% are the backstops the same. The 40% under the Clean Water Act is to do things like get more reductions from permitted sources if you are not getting progress. EPA has the authority to start permitting additional sources. EPA has the authority to start moving around funds. Mr. Corbin stated EPA was not thinking that taking away funds or making states pay more money because they are missing the target makes any sense. EPA will potentially start moving more money into areas where it seems to be getting the most reductions or the most progress. What it will be is the progress at the end of 2012, which is when the first milestone starts and end at 2014. As EPA gets closer, they will see where the states are, how much they have missed the milestone, how much and why it missed them, and then figure out what are the most appropriate actions.

Commissioner Shepperd stated when most of us hear the word backstop, it means that EPA is going to set a penalty for not getting things done on time. He was concerned that the cost is not realistic and it will undermine the efforts in cleaning up the bay. He indicated we want to clean up the bay, but we need to come up with a plan that is realistic. He appreciated Mr. Corbin coming but at the end of the day, he wanted to see a plan that we can actually reach.

Mayor Hunt stated speaking for the citizens of Poquoson, we are a city of 12,000 people and EPA is an agency with 17,000. Poquoson is in favor of cleaning up the Chesapeake Bay; they make their living from the bay. This whole body sitting here are participants in the Chesapeake Bay Restoration. The City of Poquoson has spent some sufficient funds in trying to clean the bay, and according to your data, it appears that we are succeeding in making a difference in the Hampton Roads area. The EPA data also supports that we are succeeding in cleaning up the bay. The EPA report stated that the northern bay is more polluted than the southern bay and we know Virginia enacted a Chesapeake Bay Ordinance across the state in 1990. EPA data show that Virginia gets a lot of float coming down the streams and creeks as well as from the northern states and EPA satellite shows that to be the same. Poquoson wants to be a participant, but we want to have some understanding that we have already put in some significant funding. Will these models take into account what has already been done as far as our goals within the state, and will the fertilizer credit that the state passed will that count also toward the goals?

Mr. Corbin stated that he was sure that everyone was committed to cleaning the bay. There was a process that EPA went through. They looked at how much impact is coming from the localities and where they are located throughout the bay. The lower part of the bay has less responsibility than the others because they simply do not impact the bay in the same way; much of the pollution that comes out of the James River ends up going into the ocean. The fertilizer legislation will be counted. He did not know what the numbers are or what the estimate is or how much those will count toward the goals. Anything that happens between now and 2025 that reduces nitrogen and phosphorous and sediment pollutions will be counted, and EPA has a process in place to do the accounting. He indicated that tracking was going to be the key. If there are things going on that localities have already achieved reductions that EPA does not know about, EPA needs to know. If there are new things that go on the ground EPA will be closely tracking that. Please do not think just because localities did things five years ago or five months ago they do not count.

Mayor Hunt stated there is some concern about where EPA is setting their baseline. Is EPA setting their baseline for two years ago? We have been cleaning up the Bay before 1990, that is why here in Hampton Roads we are looking at \$700 to \$1,000 depending on where EPA gets their numbers. The people who have been investing in this are already in, and we in this locality think we are making a difference. We just want that factored into future permits as well as future costs that we have invested significant dollars.

Mr. Corbin stated he did not disagree. When you develop a TMDL you have to start with a baseline somewhere, and it takes awhile to collect data from the states, compile it, and do a quality assurance check. EPA will be coming out with 2010 numbers and whatever you have done between 2009 and 2010 to achieve reductions will be counted.

Commissioner Dyer stated like everybody in this room, we want to clean up the bay in Virginia Beach. I had the privilege to serve on the Clean Community Commission. We are making progress in that direction and once again I think we have to deal with some of the political reality. I think effective public policy would be a policy that everybody can buy into and realize that it is obtainable and then we can work together as a team and a community to achieve this because once again we have misappropriated burdens placed on the localities. We are going through a process and we are tapped out right now. In order for it to work, we have to have a public policy that is attainable, achievable one that everybody buys into.

Commissioner McLemore stated being from one of the smaller cities, he was as concerned as our colleagues from York and Poquoson. Franklin had experienced a major employer loss of over two thousand jobs, with a population of 9,000 people. He did not know how the citizens could afford to pay to clean up the bay. How can one implement time lines, deadlines, and backstops as my colleagues said, without investing in other avenues to achieve the most effective result?

Mr. Corbin stated we are breaking this up into two parts. I agreed it is difficult at the local level and state level to indicate what they are going to do for ten years from now, but you can plan for the next 24 to 48 months and that where the two year milestone in Phase II comes in. Virginia could come back in a year or so with a trading program that significantly reduces cost. He indicated that EPA would be coming up with new technology to do things cheaper and better. He also indicated he was not trying to say the plan is locked in forever; this is what you have to plan for. This is where you need to be in 15 years and plan for the next two years.

Commissioner Belitto stated she had a couple of technical questions, the first question was on one of Mr. Corbin's timelines where he talked about changes to the watershed model were to be completed by June 30 of this year. What type of changes does that involve?

Mr. Corbin stated there are two things that the state brought to our attention last year. One had to do with agriculture and nutrient management plans. EPA is tracking and accounting the reductions EPA would get from putting nutrient management plans that pull together stakeholders and scientists to figure out whether EPA's accounting was correct. The other issue had to deal with urban and whether or not EPA estimates in some of the more urbanized areas were broken up correctly between pervious and impervious areas. The number might change, that is why EPA is doing Phase II and will amend the TMDL.

Commissioner Bellito asked what metrics EPA is using to indicate if we are meeting the 60% reduction by the two year milestone or by 2017. What is being done in measurements of the quality of water bodies involved?

Mr. Corbin stated 60% and 100% is based on putting the practices on the ground. He could not tell if localities did everything that is needed to do to get to 60%. He could not say that in 2017 EPA is going to go out and sample water everywhere to see if the nutrients pollution is down 60%, or if it is going to be a 100% in 2025. He indicated EPA could get there quicker because scientists could tell at some point we would have more grasses, more oysters and when it starts coming out the tunnel that is something we want to look at in 2017.

Commissioner Wheeler asked at a high level, what would the reasons in your opinion would the policy have on that if the nation could not have achieve this objective so far and in the developing this TMDL what new strategies has EPA thought about that specifically over comes issues that have together helped us not to achieve the results so far. Is there a strategy map designed to get us across the finish line and why haven't we made enough progress?

Mr. Corbin stated if he understood correctly, what triggered this and why does EPA think the localities have not made enough progress. He indicated a lot of this is cost and how the localities are going pay for this. We have been working on this for 20 years. Everyone knows what they need to do. The challenge has been how do we come up with the cost, or do we regulate it, do we start issuing more permits, or start writing more laws, or do we all allow it to be done through a process? He stated he would be the first to say he knows

localities are committed to this and knows Hampton Roads has made progress. They just have not gotten to where they need to be. He was not going to dodge the cost question. The toughest thing right now is to figure out where the money is going to come from and are there ways to do it more cost effectively through future plans and whether it is going to be local, state or federal money.

Chairman Clark thanked Mr. Corbin for his presentation.

### **CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL) – STATE BRIEFING**

Chairman Clark introduced Mr. Anthony Moore, Assistant Secretary for the Chesapeake Bay Restoration, Mr. David A. Johnson, Director of the Department of Conservation and Recreation and Mr. Russ Baxter, Department of Environmental Quality.

Mr. Moore thanked the Chairman for allowing him to speak to the HRPDC. He then gave a brief history of his background.

Mr. Moore stated the original Chesapeake Bay Agreement was with Pennsylvania, Virginia, Maryland and DC and then we invited New York, West Virginia, and Delaware. They are all starting to contribute to this plan and it was helping to speed up our process. This has been a very successful program. We have reduced nitrogen by 23% from 1985 to 2009. The tributary strategy is where we were heading with the tributary strategies and the TMDL is where we were going now. It is about 2.3 million pounds per year that we have to continue to reduce. With nitrogen, the state has made significant reductions between the tributary strategies and the TMDL and we still have to reduce another 1.3 million pounds of phosphorus. We are in Phase I and Phase II now, and in Phase III we have to have all of our BMP's in place by 2025.

Mr. Moore stated Virginia developed this program so it would allow us to implement the most cost effective practices in each watershed using some of the programs that were in place and then expanding some programs and adding some new programs. It was also important for the state to have appropriate time frames in each sector to achieve these cost effective reductions. We need to see on the ground improvements and not just improvements to meet the model. There are a lot of programs that are already in place that localities have had experience with and will contribute to us meeting our goals for the Chesapeake Bay and TMDL. These programs will be included and the funding that is currently in these programs will help us to meet our goals. We submitted our plan, the EPA accepted it. Our plan currently meets all the target loads for 2017 in all basins.

Mr. Moore said the State wants to expand the nutrient credit exchange program. In 2005, a cap was established under the State Water Control Board's general permit, and each watershed has a cap where point sources are allowed to buy and trade credits under that cap. There are instances where agriculture and urban storm water can participate; what the state would like to do is expand this program so that all of the sectors can buy and sell credits. The State feels this will give the localities the ability to choose the most cost effective practices in meeting allocations without stifling growth. As for the James River,

the state has a specific strategy because we have a concern with the chlorophyll standard or chlorophyll criteria and how it was implemented in this TMDL. The state has worked out a plan to study chlorophyll to make sure EPA has the right chlorophyll number and they are applied in the correct way. This will be a three to five year study and the study will start this year. We will do some scientific work that is already in place there, conduct some monitoring. If our study determines that number to be higher or lower, the state will make those adjustments through the EPA process. The plan is to have this completed by 2017.

Mr. Moore stated he would talk about some of the specific waste loads, sector proposals and waste water in order to meet the allocations by 2017 through the watershed cap. In 2005, the state began an upgrade of all their facilities at a cost of about \$1.5 billion across the state. As more of those facilities come online, we will get closer to our goal, and as 100% of those facilities come online, the state thinks we will meet our goal by 2017. Our plan is to propose an additional reduction of 2.6 million pounds of nitrogen, and 200,000 pounds of phosphorus on the James River and another 42,000 pounds of reductions on the York River. There was a bill that passed in 2010 that requires dischargers of over 1,000 gallons per day to offset their entire nutrient load. The state proposes that facilities under 1,000 gallons per day must offset their entire loads and the state will propose that facilities that start at 1,000 move up to expand up to less than 40,000 gallons per day will also have to offset their entire nutrient load. By the end of this 15 year plan, most of the new facilities will have to offset their entire nutrient load. For onsite septic, newer replacement systems will have to use the nitrogen reduction technologies. The Department of Health is currently in the process of upgrading their regulations and those regulations will have performance standards for those new systems. We are looking at establishing a tax credit or some other financial assistance to upgrade the old systems or replaced with this new technology. The plan also proposes that within the next 15 years we will require that all septic systems have to be pumped out every five years throughout the bay watershed.

As for agriculture, the state wants to apply extensive implementation of resource management plans. These resource management plans can include any of the five priority practices. They can use nutrient management plans, livestock exclusions or buffers. The point is these are going to be farm specific plans to meet the goals in their watershed. We will also have milestones of percent acres covered, if we will keep on with this program. If we miss two of our two year milestones in a row, then there may be more mandatory programs in place. The state will also start a program that will vastly include the voluntary practices. There are practices that farmers do not get cost share for and those practices currently are unaccounted for under the model. We have a program to collect that information and input that into the EPA model. The state will look to improve our water quality practices and BMPs for forestry; up to 90% by 2017 and up to 95% after 2017. For urban and stormwater the state is proposing that urban lands that use fertilizers start using nutrient management plans as well as golf courses that use fertilizers. The state currently does this so we will ask the localities and golf courses to do the same. The plan also includes restrictions on do-it-yourself fertilizers with phosphorus in it. We understand that Scotts will have a phosphorous free fertilizer by 2012 that will help us meet our goal. After December 30, 2103, phosphorus in fertilizer will not be available unless there are certain conditions that are needed.

Mr. Moore said the state will propose the 20% phosphorus reductions on lands that are being redeveloped and the state plan also includes a percentage of stormwater retrofits. Currently, it is at 25% but this is not a requirement that you have to dig up 25% of your land and put in retrofits. There are other ways to make these nutrient reductions; the state will accept those. The state wants to make sure that we have the reductions. They are not going to require that you retrofit or dig up concrete. New development will not be allowed to exceed the load allocations of the previous land use.

Mr. Moore stated there have been a lot of questions about funding. This year the water quality improvement fund has about \$36.4 million. The water quality improvement fund, if there is any excess money in the general fund, ten percent goes to the rainy day fund, after that another ten percent goes to this water quality improvement fund. The Secretary of Natural Resources decides how the money is spent between point sources and nonpoint sources. The state has asked the General Assembly to allow them to spend 90% of that money on nonpoint sources; that will help meet our goals with some of the stormwater goals and also help us to establish resource management plans on farms. The way the General Assembly allocation is about \$27.8 million will go into the natural resources commitment fund, that money is further divided into soil and water conservation district, about 55% for the Chesapeake Bay, 35% for the southern rivers and \$3 million of that funding will go to point sources and some of those funds will be used for our chlorophyll study on the James River.

Mr. Moore stated EPA is in the process of revising their model. The state has asked for two revisions. EPA is making changing to the program on land use discrepancies, and the state is looking at the ability to stack agriculture and stormwater BMPs. A lot of the farmers do not till, continuous no till practices and the way the model is now it does not allow them to use that and stack other BMPs on top. EPA is adjusting their model so all those practices can be used and it will be accounted for in your reduction goals.

Again, we will look at the TMDL to make modifications. The current schedule now, we thought Phase II the draft was going to be due in June and the final was due at the end of December. I have not seen the guidance. The draft indicates we would have to have a draft to EPA around the November time frame, and then we would have a final of the TMDL Watershed Implementation Plan by the end of March. The states are developing their Phase II programs, and we plan to adjust our allocations depending on the processes.

There is an adaptive management plan for the states and as you have discussed before, 100% of those BMPs have to be in place before 2025. The states are taking on a lot of responsibilities this year. We have done our Phase I Watershed Implementation Plan; we are currently working on Phase II. We also have to look at expanding our nutrient credit exchange program and we will start the chlorophyll study on the James River. We are not sure if we have to do regulations for the fertilizer bills.

The state will be setting up Stakeholder Advisory Groups for the expansion of the credit exchange program, the chlorophyll study and Phase II. The group will be looking at the different types of jurisdictions that we have to work with on developing Phase II plans and

96 of the localities do not include the smaller towns so we need to figure out how to include everyone involved in this plan.

Mr. Moore stated that they are in the process of developing a plan to get the most input on how to develop Phase II of the Watershed Implementation Plan. During this process the state will look at Phase I of the process and refine the local government areas. The state will work with stakeholders and elected officials to develop the plan and include the two year milestones in this process. With the two year milestones, we will not have to submit another two year milestone until 2025. We will be looking at two year sections and deciding what we can accomplish in those two years. We will assess that information and after two years set a new set of milestones and again, that adds to the adaptive management portion of this plan.

The state would like for HRPDC and other PDCs around the state to help out with how to collect information that is already out there, and how they can match what is already out there with what the localities have in this process and then find out where we need to move in order to meet our conservation strategies.

Mr. Moore stated the Secretary and the Governor think that it is very important that we have multiple input on what is already on the ground and how we can put into practices things that are cost efficient and effective to meet these overall goals. Again, this is a 15 year process and there are a lot of proposals that will have to be statutorily changed and the legislature will participate in this process. We are looking to inform the public and the PDCs. I have talked to the Federal Delegation and the Virginia Delegation to let them know what our plans are and to make sure they understand there are a lot of caveats in this plan that depend on federal funding. We need federal funding and we need the federal facilities to contribute to these reductions.

Mr. Moore stated they will have a Stakeholders Advisory Committee that will be requested to develop this plan; they will give the PDCs or locality a target goal on what reductions are needed to accomplish in that area. We need to have a strategic plan and work with all of the localities; hopefully everyone will take the lead in collecting all the information and developing a plan that will work for the Commonwealth.

Chairman Clark thanked Mr. Moore for his presentation and asked for questions.

Commissioner Shepperd asked who in the state is going to say this is our plan.

Mr. Moore stated at the end of the day it will be someone in his office, collectively working with someone in the state agencies. They will develop this plan using a Stakeholders Advisory Group and hope the Stakeholders Advisory Group will incorporate leaders around the state. The PDCs are being asked to help us through these initial steps in finding out what exactly needs to do be done to make our goals. We are hoping this is going to be a down up process. We need information from the localities and we will develop a plan that meets our final implementation goals.

Commissioner Sheppard asked since we are dealing with the federal government, and the Governor signed Phase I, would the Governor expect to sign Phase II when it becomes a Plan?

Mr. Moore stated that is correct.

Commissioner Sheppard stated his expectation is that every locality will be given a load. The TMDL piece that we have to meet, what are the figures based on and are you expecting each locality produce a sub-plan?

Mr. Moore stated that is not his plan. He is asking localities to help the state to develop a plan. It would be almost impossible for the state to work with each individual locality, collect that information, and put it all together into a plan. What we would like to do is to ask the PDCs, the soil and water conservation districts, and all of those entities that are already working with localities, to help us collect the baseline and, to find out what is already in progress, is there anything that is already in progress that will help us to meet our goals. Then, we would take that information and go to the Stakeholder's Advisory Group and put together a statewide plan.

Commissioner Sheppard stated he has to know what he is spending the money on, and that it is in the plan because the county cannot ask taxpayers for the money and get it. If it is in the budget, there must be some justification for the expenditures of those funds. It was mentioned several times the new facilities have to meet 100% of the loads, the requirements for cleanup. If the county going to spend money, taxpayer's dollars, we have to have some concept of what the EPA is going to require for our county. We have to be able to have some sort of plan to be able to do that and if it is an unfunded mandate that falls in on top of what else we are currently doing. In the end, again, water off loads to one point – the bay. You take a sample and say we did not get there. You have made allocations for farming, sewers, and you are going to say again we did not get there, so therefore we have to pay more, create more BMPs, do something better, but you cannot tell us specifically without a plan; we cannot tell specifically what we are investing in. We have to have some sort of guidance from you so the board of supervisors can create a plan to figure out how we are going to spend the taxpayer's dollars to reach what you want us to reach.

Mr. Moore agreed. We must have local participation in developing the plan. We cannot put together this Phase II without input from the local governments. Organizations like the HRPDC can help collect that baseline and find out exactly what is already in place and then we can together figure out where we need to go to meet our allocations.

Commissioner Sheppard stated he thought maybe then he had jumped past Mr. Moore because Phase II Plan when it is approved by the Governor, officially York County, says this is what we are going to do and from that point then I have a full vested understanding, and York County will do it not necessarily in sequence, but in parallel, to create whatever we need to do within our localities to support the plan. If you are just looking for input for the Phase II he understood that, but the municipalities are going to have to create budgets to meet that expectation or we are going to be another year behind, or maybe two. My

expectations would be if I have to create a something, BMP, to meet your requirements, then I will have a plan to work with and I will be able to figure this out. My last question is how someone knows if a facility is meeting its 100% cleanup.

Mr. Moore stated with point sources it is a little easier because there is a point that can be looked at and sampled and find what the nutrient inputs are. With nonpoint sources it is a little bit more challenging but we plan on continuing to monitor the watershed and to find out and to look at where those improvements are being made. Although the allocations are based on model numbers, we in Virginia plan on using scientific methods to make sure these plans are working, that these BMPs are working and actually looking at monitoring to make sure that we are cleaning up our watersheds.

Commissioner Shepperd stated if the water flows down the stream, coming to a point source, and stormwater going into a creek or river, there are no BMP, lots of houses upstream, and they use fertilizer, do you tell them based upon your impervious surface, they need to put in a BMP and you have to build this kind of BMP. Is your plan, and models based upon what type of BMP to establish? If I invest \$4 million in a BMP and the engineers then a year later find out we are not at the point we need to be and then have to add more gravel.

Mr. Moore stated that was correct. There are efficiencies. All BMPs have certain efficiencies and we know with whatever the type of pollution to abate them, these BMPs will have certain efficiencies on helping to remove those nutrients and making those reduction. We evaluate which BMPs are necessary for which type of pollution we are trying to reduce. I want to have input from the local governments and the localities on how to implement those BMPs so by the end of March we will have a Phase II program and that Phase II Watershed Implementation Plan will tell the localities what new types of BMPs need to be put in place to meet the reduction goals.

Commissioner Shepperd stated from a county's perspective what they need from the state is the number and then we will have to figure out the approved BMPs to give to the engineering department to figure out where to put the BMPs and which ones have to be retrofitted and how to deal with the public who owns the property. There are homeowner's associations or new businesses and then we have to figure out what part we are going to have with the Corp of Engineers and the state over the mitigation of any water quality issues or digging. So to me we have to have by default a plan at the local level.

Mr. Moore stated at the end of the Phase II process, all the localities will know what reductions they need to make.

Commissioner Shepperd stated in tonnage and pounds.

Mr. Moore stated in his estimation of the Phase II process, he was not as concerned with everyone meeting a number of reductions. What he personally would like to see is a global plan on how or if we take this Phase I plan and how do we make that plan work throughout the local governments? When you look at EPA's models, the models look at specific numbers so from this type of, and in this sector of the watershed, you have to meet this

reduction. We have accomplished a lot of that in Phase I, so my goal for Phase II is to have a plan on how we can meet these allocations.

Commissioner Shepperd asked how you know that other localities are carrying their weight.

Mr. Moore stated that is one of the things that needs to be included when developing the Phase II portion of the TMDL. The Phase II will give us more definition on what is needed locally. As we develop the Phase II process, we will find out what is already on the ground and exactly what needs to be done to meet the allocations.

Commissioner Goodson thanked Assistant Secretary Moore for attending the meeting. It has been very helpful to hear from him. As for the James River strategy, the state is going to do a study on the chlorophyll for the James River. James City County is concerned with the standards that have been set so far. You are going to use that study to adjust the model and the study is going to be done by 2017, but by 2017 the localities have to be done with 60% of the criteria. If I do not know the criteria until 2017, what is going to be the final, how do the localities know what 60% to plan for? I have to plan for what facilities I put in the ground between now and 2017 to get to 60% but yet I don't know what 60% is yet.

Mr. Moore stated our Phase I plan is already in place.

Commissioner Goodson stated the number we have to get to will not be known until 2017. If this is the case, are they going to be adjusted?

Mr. Moore stated we know what the numbers are currently on the James River and once we do this study, if this study different we will the change that number, then it will be either raised or lowered depending on what that study tells us. If we follow the plan the way it is currently set out in Phase I, we will meet that 60% goal. If we find out that changing the chlorophyll standard lowers the reductions that we have to make on the James River and throughout the state, we can make changes.

Commissioner Goodson asked what happens if you need to reduce it by 200% and we have hit 60% and so we have put all this money on the ground unnecessarily.

Mr. Moore stated it is an adaptive management plan. There are places throughout the plan where adjustments can be made. If the fertilizer bill changes and gets localities more reductions than we planned, we can make a reduction somewhere else. This is a global plan; as changes are made, we look at our successes or our failures and changes can be made to this program.

Commissioner Goodson asked for clarification regarding that we do not necessarily have to retrofit BMPs, that we can use other ways to do that. I just don't know of another way to do that. If you do, please tell us right now because if you are dealing with stormwater runoff from a locality in a neighborhood that does not have a BMP now, the only way I know to solve that is to go out and take somebody's property and install a BMP. Is there is another solution?

Mr. Moore stated this is one of the reasons why we want to expand the Nutrient-Credit Exchange Program. If we expand that program, then we want to make it so that localities or MS4s might be able to find ways to exchange credits, or buy credits, or find a lower cost way to reduce those credits. The Secretary talked to the Agriculture Committee and he mentioned that with a wastewater treatment plant, it costs about \$6 to remove a pound of phosphorous. In some cases, a stormwater facility might cost \$6,000 or up to \$35,000, with the expansion of the credit exchange program. We want to see if there are other methods you can make those reductions in a lower cost method. We are looking at new technologies and if there are new technologies available that can help make their reductions. We would consider that.

Commissioner Goodson stated the trade programs, my radar has been up those because if you have the farm lobby puts these in effect, and since I have the ability to tax my citizens and the farmers have no way of generating revenue for their solutions, the easy thing for the state to do is to say all you have to do is to tax citizens of James City County and pay a farmer up in Lancaster County and we have solved the problem. James City County is not clean at all. We are putting out the same amount of phosphorous from the start, but our taxpayers have paid for some farmer somewhere else, they have transferred the money to another problem and our county does not get cleaned up.

Mr. Moore said he hopes that you would participate in expanding that program. We are looking at having a Stakeholder Advisory Group that will meet sometime in April. We will be looking at how to expand that program so that everyone can benefit from buying and selling credits.

Mayor Hunt wanted to know how to get on the Stakeholder Advisory Group.

Mr. Moore stated we are currently inviting people to participate in the Phase II Stakeholders Advisory Group. We have membership from the PDCs on that group. The James River study, we have invited scientists to participate; we have not developed a Stakeholders Advisory Group. The state sent letters out from my office to invite people to participate and if they interested. If not, we will have a small group of people to help participate; we want small groups, but have people that can represent large entities, that is why we asked members from the PDCs to participate on some of the Advisory Groups.

Mayor Hunt stated from his answer Mr. Farmer is on the Stakeholder Advisory Group.

Mr. Moore stated he did not have the list of people involved, but I know that there are representatives from local governments; there might be people from VACO, or VML. On the Phase II Stakeholder Advisory Group, there are a number of representatives from PDCs and some people are carrying double duty with some of the Stakeholders Advisory Groups.

Mayor Hunt asked is there anybody from the HRPDC involved in a Stakeholder Advisory Group.

Mr. Farmer stated it is a staff level as we understand from Mr. Moore. We have one or two staff members that will participate. The list includes Northern Virginia, Thomas Jefferson,

and Hampton Roads which in my view, we still need to expand that group. HRPDC is on the original list of three.

Chairman Clark asked is it just for staff; are there any elected officials involved in this group?

Commissioner Kearney asked can cities volunteer a staff person to serve or are you going to keep it at a higher level?

Mr. Farmer stated the advice from Mr. Moore was to keep it small, but represent large.

Mr. Moore stated notices will be sent to entities that are interested and they can participate in the meetings, but we would like to keep that Stakeholders Advisory Group small. The group will have a six month timeframe to complete these projects, so I would like to have a group that will work fast and efficiently but still can represent the localities no matter how large or small.

Commissioner Tuttle stated there are many of our localities have a lot of property that is owned by the federal or state government in their jurisdictions. His question is how will the federal and state agencies be held accountable for their part in this because they are not accountable to local government.

Mr. Moore stated there are certain portions of the plan where state governments will have to participate. State owned land have to have their nutrient management plans. The federal government, federal facilities, there is an Executive Order that tells the federal government what they need to do to participate in this program. The state wants the federal facilities to help in participating by reducing these loads. So again, this is a global program where everyone participates and state and federal authorities will be making reductions on the lands that they own.

Commissioner Tuttle asked do the state or the EPA have authority if we get to the backstop phase to mandate those expenditures from the state or the federal agencies as they would conceivably be as unfunded mandates to local government.

Mr. Moore stated the state would use authorities they already have. I cannot speak for EPA. The backstops were originally supposed to affect the states in developing their Phase I plan. The state has a Phase I plan that is completed and has been signed off by EPA. I do not anticipate the EPA will come to the states and ask for backstops. What the state and the federal government would do, as we move forward and you don't make the goals, they would use whatever authorities they already have to try and get the localities to meet their allocation goals. There are some new programs that have evolved, but I do not think the state will use any additional regulatory authority or backstops to force a locality to meet these goals. There is MS4 program and a stormwater programs. DEQ has their authorities and he does not anticipate they would try and do anything differently to meet our goals.

Commissioner Bellitto asked who gets credit if the federal facility develops a nutrient management plan. Is it the locality where that facility is located or is there a separate allocation for that federal facility?

Mr. Moore stated he would assume it would be counted in that area because the Phase I plan is developed on sub-watersheds wherever that facility would be they would get credit for that area.

Chairman Clark thanked Mr. Moore for his presentation.

Chairman Clark stated the next agenda item is for a closed session; however there is no need for a closed session and with the Commission's permission, we will ask Mr. Evans from McGuire Woods to speak.

### **LEGAL ASSESSMENT OF THE CHESAPEAKE BAY TMDL**

Mr. Evans stated he would give brief background before he talked about the content of the letter from comments that the commission submitted on the draft TMDL.

The Commission submitted comments on the draft TMDL that raised a number of issues and concerns that covered a broad range of items from EPA's failure to provide adequate notice, the opportunity to comment on the draft TMDL, the accuracy of the model, the model inputs they use to develop the draft TMDL modeling based upon the chlorophyll A standard, and EPA's authority to set the 2025 deadline in the TMDL. EPA and the state did increase the allocations for the MS4 for the James River Watershed in the final TMDL which in turn reduced the extent of the impervious area that had to be treated and thereby lowered the overall cost of the TMDL. They did not respond to the issues and concerns that were raised by the Commission in its comments. We have an additional issue that was not before us at the time of the draft TMDL because it involves EPA's addition of individual waste load allocations for the Phase I MS4s, those are the larger Phase I MS4s. There are six of them in the Hampton Roads region. EPA added those in the final TMDL without including them in the draft TMDL so the Commission did not have the opportunity to comment. In addition to the issues that were raised by the Commission in its comments on the draft TMDL we have an additional issue associated with the establishment of individual waste load allocations for the Phase I MS4s.

The Commission has a letter addressed to EPA and I have been asked to present this with a follow up discussion. The issues that the Commission raised in the comments together with the issue that was presented by EPA having added the individual waste load allocations for the Phase I MS4s. Based upon our assessment, we have three issues that have the potential to expose the region's MS4s to significant liability for failure to comply with their permits. Despite their best efforts to comply we believe because of that, these should be considered significant issues of concern among the larger group of issues upon which you commented and those issues are identified.

Mr. Evans stated he would give a quick summary of what those major issues of concern are because they are the prelude or the context to the questions that we have outlined in the letter that we would like to propose to the EPA. The first issue involves the land use data that was used to provide the region's MS4 waste load allocations. The MS4 waste load allocations are land-based sources of nitrogen, phosphorous, and sediment. Because of that, the waste load allocations are based almost entirely on land use data and it is critical that land use data used to derive the waste load, allocation be as accurate as possible. Putting our comments together, we did an analysis of representative GIS data from various localities in the Hampton Roads region because EPA used satellite imagery to derive their waste load allocations in the course of developing the draft TMDL. It showed the inputs to the model underestimated the extent of the imperviousness in the Hampton Roads region by approximately 48% and was due in large measure to the fact that EPA used satellite imagery that was available at the time rather than working with the MS4 localities in the region to derive the allocations based upon the GIS data. As Mr. Corbin and Mr. Moore mentioned, EPA has acknowledged that the data is not correct and they both said that during the Phase II process they are going to be updating the data, correcting the data in an effort to come up with more accurate land use data upon which to base the waste load allocations at the conclusion of the Phase II process. It does not appear EPA has made any commitment at all to go beyond satellite imagery and instead does not intend to use the most accurate information available which is the GIS data. The fear is that even though during the Phase II process the data will be updated with new data, satellite imagery data, it will still not be accurate because it is not based upon the GIS data.

Commissioner Kearney asked if there a way, since we are talking about the cooperative effort, that you can intercede to get that data that comes from each one of the localities to provide to EPA.

Mr. Evans stated yes, that is one of the reasons we are raising this issue now and posing a series of questions to EPA is to begin that dialogue and to take advantage of the opportunity during the Phase II process to see that the waste load allocations are updated with the best available GIS data from the individual localities within the Hampton Roads region. This is a significant issue because the implications of underestimating the imperviousness of the land area are significant because it means that the localities would have to treat more area than is reflected in the waste load allocations and that, in turn, has potentially serious implications for not only the cost of compliance but also the MS4s that are ready to comply with the permit because if they have to meet a 2025 deadline based upon assumptions about the extent of imperviousness that they have to treat and if in fact the extent of the imperviousness is greater than what is reflected in the waste load allocations then not only will the cost be greater than assumed at the outset of the process but it also means that they are more unlikely to be unable to comply with the 2025 deadline to treat the full extent of imperviousness required to comply with the allocations. That is why that is a significant issue it goes directly to, ultimately to the ability of the MS4s to comply with the permits despite their best efforts to do that by the 2025 deadline. That is why we have identified this as a very significant issue. The second issue involves the addition of individual waste load allocations for the Virginia Phase I in the final TMDL.

Commissioner Shepperd stated he had not completely read the letter but Mr. Evans have raised the issue so are we going to ask the EPA to address this. Are we going to say this is a problem? We want to use good data.

Mr. Evans stated there are a series of questions dealing with all three of these issues, but among the questions to EPA are do they intend to use satellite imagery as part of the Phase II process to update the MS4 waste load allocations or do they intend to work with the localities towards gathering the available GIS data and input that information into the Phase II process so we get the most accurate waste load allocations possible?

Commissioner Shepperd asked do we need to ask question about this letter as there is a EPA representative there.

Mr. Evans stated if Mr. Corbin will answer the questions today, we have it on video, we can take it out of the letter.

Mr. Farmer stated in reference to Mr. Shepperd's question, in fairness to EPA, he thought Mr. Corbin would agree it would be a cooperative effort. Some of the localities, Dave Evans and HRPDC staff have talked about this and some of our localities have this information, some do not. EPA will accept Mr. Evans' comments in this letter as something they would work on with us. We also need to step up and have some of this work done and made available in a timely fashion so EPA could then consider it and have it implemented.

Mr. Evans stated that was a very good point because EPA is not in a position to simply gather the data themselves. It is going to require a cooperative effort on the part of the MS4 and EPA and the state to gather this data, input it into the process and make sure that at the end of the day when we complete Phase II process, EPA has the most accurate waste load allocations possible. He was glad to hear EPA agreed to push back the date scheduled for the Phase II process because this is going to take some time. It is absolutely critical. If you don't have accurate land use data for an MS4 control program you are operating in the dark.

Commissioner Shepperd said the statement in the letter addresses the MS4, not all the localities are under the MS4 permit. York County is one of them. If EPA is going to use the impervious surface to make the determination of our TMDL; why is it just the MS4s? What if I want to give them the right data to give us the correct loads that are needed?

Mr. Evans stated Mr. Shepperd was correct, however we are focusing on the MS4s; accurate land use data is important for all localities whether they are MS4s or not. Most of the localities in the region have areas within the jurisdictional boundaries that are not within an MS4. The point is the same.

Commissioner Shepperd asked why we don't just point that out in the letter.

Mr. Evans stated if EPA were to agree to work with the localities to update the waste load allocations based upon the best available GIS data, then that agreement would extend to all the localities wanting to participate in that cooperative effort. The reason we are focusing

on it for the MS4s is simply because MS4s are regulated under federal law. If you are not part of an MS4 you are not part of the federal regulatory program at least as far as your stormwater is concerned for existing development. What we are concerned about are the ultimate consequences of having these waste load allocations incorporated into the MS4 permit, being federally enforceable, and then the compliance consequences that flow from operating an MS4 program based upon inaccurate data.

Commissioner Shepperd asked if Mr. Evans was making the assumption that EPA is going to extend this into the rest of the operation.

Mr. Evans stated if that is a concern, then we can certainly make it clear.

Mr. Shepperd stated it would take it out of the assumption phase and gets it right into the question. If we get an answer from EPA we will know where we are going.

Mr. Evans stated the second issue relates to the EPA having included the individual waste load allocations for Phase I MS4s in the final TMDL. EPA added after the draft TMDL was noticed so we really did not have an opportunity to comment. Because we did not have an opportunity to comment, we really do not know the underlying basis for it. EPA did not explain in the final TMDL document how the individual usage of allocations was derived. What the basis for the allocations were and why they established individual allocations in the first place is particularly significant since it has been generally agreed by EPA, the states, and the participating localities that there simply was not enough information available during the Phase I process in order to establish reasonably accurate and reliable individual allocations. We are absolutely astonished that EPA would establish individual allocations.

Mr. Evans stated if the allocations do stay in the final TMDL after the conclusion of the Phase II process, EPA will then insist that the Department of Conservation and Recreation include those individual waste load allocations in the Phase I MS4 permits when they are re-issued. If the allocations contain inaccurate data and if in fact they are included within the MS4 boundaries areas that are beyond the regulatory authority of the scope of the MS4 program, then that poses a very serious risk to those MS4 localities, and ultimately they will not be able to comply with their permits. A recent decision out of the Ninth Court of Appeals through California held the City of Los Angeles liable for all discharges that occurred from the MS4 system even though those discharges originated in parts of the regional counties that were not under the City of Los Angeles' control. We have areas included in these Phase I MS4 waste load allocations that these jurisdictions have no regulatory authority over. They are going to be held responsible over activities that they do not control. The consequences of having derived these waste load allocations in the way they have are significant in terms of future liability for the Phase I MS4s. Mr. Corbin stated it is an issue still in discussion and I think I may have heard him even say they decided to take them out, go back to the aggregates and if in fact that is the case, we will confirm it, and then we will remove it from the letter. Hopefully, it will come out and will become a non-issue, but if it stays in, they stay in there. We think it is a very serious issue.

Chairman Clark stated that was one of his concerns. Forbearance is a two way street. EPA has fines and injunctions and all kinds of legal remedies at the tail end of this. Nobody wants to sue anybody and nobody wants to get fined at the end of this either.

Mr. Evans stated the final issue concerns the 2025 deadline and from the comments on the draft TMDL, the Commission took the position that EPA did not have the authority to include a deadline in the TMDL. The comments the MS4s are uniquely affected by the deadline because unlike other land based sources, such as agriculture and septic systems, they are regulated under the federal Clean Water Act. Unlike municipal waste water treatment plants or industrial waste water treatment plants, the challenges they face to implement and achieve compliance with waste load allocations are far more significant than any other source sector. We all recognize that achieving these allocations is going to require widespread implementation of best management practices, not only on public land, but on private land as well. We would all agree that these retrofits can be implemented on a cost effective basis if they are done as redevelopment occurs and are imposed through local government zoning and land use approval process. With the 2025 deadline, redevelopment simply does not occur at a rate that would allow the retrofits to be implemented on private land at a rate sufficient to meet the 2025 deadline. The concern is that it will require these localities then to acquire easements, stormwater retrofit easements on private property, either by acquisition or condemnation. It poses potentially serious long term consequences, not only in terms of the cost of implementing the measures needed to achieve the waste load allocations because not only do the localities need to install, operate and maintain best management practices on public property, but they also have to acquire by easement or condemnation the stormwater retrofit easements on private property and install and operate the retrofits themselves. The concern is the cost of acquiring those retrofits could equal, if not exceed, the actual cost of installing the BMPs, and acquiring the land, particularly by condemnation is a very lengthy and time consuming process. That calls in question whether the localities would be able to acquire enough land, install enough BMPs, and retrofits in order to meet the 2025 compliance obligation. This gets translated into permit obligations and can the localities reasonably expect to achieve that. We believe the concerns are legitimate.

Commissioner Shepperd said we basically did not like the 2025 deadline; it is too stressful a deadline. What are we telling them we like? What is acceptable?

Mr. Evans stated the comment raised a pure legal question does EPA have the authority to impose any deadline at all, whether it be 2025 or some other deadline? The point he was going to get to is that it is difficult at this point, even though we can certainly have concerns about the ultimate consequences of that. We do not know what the consequences of that will be until we see how these permits are written. All of this gets translated into the Phase I and Phase II MS4 permits. We know that the Department of Conservation and Recreation has started the process of issuing the MS4 permits. They are in discussion with the County of Fairfax. There is some indication from what we have seen so far in those discussions that DCR and perhaps EPA are looking to include Phase I waste load allocations into those permits and possibly implementation schedules designed to achieve those waste load allocations by 2025. There are a number of things in the works now which could

conceivably affect the ultimate impact of that deadline. Mr. Moore talked about the trading program. It certainly is one possible way to deal with the easement acquisition issue that I have talked about and whether or not in fact it will be the ultimate solution to the kinds of threats that I see with the imposition of the deadline remains to be seen.

At this point, I would say these are legitimate fears, legitimate concerns; whether they are well founded, remains to be seen. We are raising these concerns, not so much because we are able to predict the future, but because there is a lot of information that we do not have right now. We do not know what EPA's expectations are with respect to the Phase II Watershed Implementation Plans and perhaps more importantly, we do not know what EPA's expectations are with respect to how these MS4 permits that have to be written in order to provide for the assumptions and requirements in the TMDL. If EPA is going to take the position that each and every MS4 permit has to meet its waste load allocations and it has to be on a schedule to accomplish that in incremental phases and achieve that by 2025, there really are not any viable alternatives, such as trading, or other options available to the localities in order to achieve that, then it is going to present some very serious compliance problems for the localities. At this point, it appears that DCR is moving forward with the re-issuance of the Phase I MS4s, we have not finished that process. We are talking and relying extensively on a trading program to comply with these obligations or any other measures that might ultimately come out of the Phase II process that may be approved by the General Assembly in 2012; they are not here yet. We are faced with the prospect of having permits issued before we have had a chance to put into place the various measures that have been addressed this morning that are designed to provide for cost effective compliance for flexibility, more meaningful solutions to enable these MS4s to achieve their compliance obligations by 2025. The timing in all this is critical and one of the questions that we have for EPA, perhaps ultimately for DCR because they work together on this, then is what is the relative timing between the re-issuance of the Phase I MS4 permits that will include TMDL derived permit conditions and the conclusion of Phase II process and putting in place the various mechanisms such as expended point and non-point source trading program. What is the relative timing on those things so that we can have some assurance that there are options available other than going out and undertaking widespread condemnation in order to acquire the property to retrofit BMPs, stormwater BMPs on private property?

Commissioner Shepperd asked if MS4 communities are already under consent order or is MS4 part of a consent order.

Mr. Evans stated no.

Commissioner Shepperd asked they are not under a consent order for the sewer systems?

Mr. Evans stated no, and one of the larger concerns is if we do not do this right, you are going to have the entire MS4 system in the Hampton Roads region under a consent decree.

Mr. Evans stated he would hope neither the environmental community nor the governments want to end up there but if we are not careful, and do not deal with these

issues before this TMDL process is concluded, we may be on a path towards a regional consent decree that covers all the stormwater systems in Hampton Roads.

Commissioner Shepperd stated he thought we were under a consent order for sewers already.

Mr. Evans stated we are.

Mr. Evans stated these concerns may represent the worst case scenarios, we are not sure, and we simply do not have enough information with respect to what EPA's intentions are. In order to advance a cooperative working relationship with EPA and DCR and to make sure that we all get to the same place we want to and not expose these MS4s to unreasonable liability, what we would like to do is to pose a series of questions to EPA. If EPA will respond to these questions completely, then we will have a lot more information than we have now. We can make a better assessment of what the potential and likely consequences of these issues and concerns are and can better advise you on what if anything you want to do in response to that.

Commissioner Goodson stated in the previous meeting, one of the other questions about the chlorophyll A and the James River and how it related. The question is does it actually relate to the dissolved oxygen levels in the bay? It is not addressed in this letter or did staff decide that was not a real issue?

Mr. Evans stated we did not think it was characterized as a significant issue of concern largely because the state and the EPA have agreed to conduct a study to look at whether or not the chlorophyll A standard needs to be changed as Mr. Moore stated, and I think the resolution on that issue will come out of the results of that study. There is little that we can do at this stage of the TMDL process that would affect the outcome of that process, we did not feel that it would be particularly productive to dwell on the chlorophyll A issue in this letter to EPA.

Commissioner Goodson stated it is probably more of a concern for the James River localities.

Mr. Evans stated he and the staff developed the letter for all consideration as part of the deliberations connected with the TDML, and they are prepared to make any modifications to it as appropriate.

Chairman Clark thanked Mr. Evans.

Mr. Farmer stated in light of Mr. Shepperd's earlier remarks to modify the letter we would say under item 1A, second paragraph, staff would suggest where it says, "the implications of underestimated imperviousness are significant because it means that the" and we would insert 'Hampton Roads localities including the' in front of "MS4 localities...etc." so there is no misunderstanding, that it applies to everyone. The simple modification should take care of it.

Mr. Farmer stated this has been a long meeting. The HRPDC staff's perspective is to get your authorization to have the Chairman sign this letter, as modified that is addressed to Mr. Corbin of EPA. The HRPDC staff would like to say thank you, Mr. Corbin who was very gracious to adjust his schedule to be here, and thank you Mr. Moore and Mr. Johnson.

Chairman Clark asked for a motion to approve the authorization of the Chairman to sign the letter addressed to EPA as modified.

Commissioner Shepperd Moved to approve the authorization of the Chairman to sign the letter addressed EPA as modified; seconded by Commissioner Kearney. The Motion Carried.

Chairman Clark stated he would like to thank all of our distinguished guests and speakers. He appreciated the candor and efforts to come here and we appreciate all that you do for your country and your state.

Mayor Krasnof stated before you adjourn he thought would it be appropriate to ask our state legislators because being on the Transportation Planning Organization they want to be at the table to hear our concerns because sometimes just by hearing the dialogue as opposed to long distance. He keep hearing the word "unfunded mandate" and let them at least hear the concerns. We certainly feel compelled to invite our legislators from all our localities to come to the table to hear this because I appreciate the EPA and the state being here, and if they heard it they would have the letter already. It would be the same for our legislators, so would that be an unreasonable request.

Chairman Clark stated he thought it is great idea.

Mr. Farmer stated HRPDC staff will copy all of Hampton Roads General Assembly Legislators, the Board members of the Commission, copies in the Secretary's office, and Mr. Moore will get a copy.

Mayor Krasnoff stated he would like them at our next meeting if we could have our legislators here.

Mr. Farmer asked Mayor Krasnoff was he suggesting we have another briefing at the next meeting in two and a half weeks.

Mayor Krasnoff stated he would leave it to the Chairperson to make that decision. He thought our legislators should be at the table to hear this because each and every one of them represents our same citizens.

Chairman Clark stated there needs to be some discussion about how we are going to do that.

Mr. Krasnoff stated that was fair enough.

Mr. Farmer stated that could be in six weeks.

Chairman Clark stated this has been a long meeting spent on an important topic about the bay and the potential cost to all of our citizens for this cleanup. I appreciate your time and efforts.

**ADJOURNMENT**

With no further business to come before the Hampton Roads Planning District Commission, The meeting adjourned at 12:30.

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Stan D. Clark  
Chairman

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Dwight L. Farmer  
Executive Director/Secretary

**Hampton Roads Planning District Commission**  
**Quarterly Commission Meeting**  
**Minutes of April 21, 2011**

The Quarterly Commission Meeting of the Hampton Roads Planning District Commission was called to order at 9:35 a.m. at the Regional Boardroom, 723 Woodlake Drive, Chesapeake, Virginia, with the following in attendance:

**COMMISSIONERS:**

Stan D. Clark, Chairman (IW)	McKinley Price, D.DS (NN)
Thomas G. Shepperd, Jr. Vice Chairman (YK)	Sharon Scott (NN)*
James O. McReynolds, Treasurer (YK)	Marcus Jones(NO)*
Dr. Alan P. Krasnoff (CH)*	Thomas Smigiel (NO)
William E. Harrell (CH)	J. Randall Wheeler (PQ)
Dr. Ella Ward (CH)*	Kenneth Wright (PO)*
Greg McLemore (FR)	Selena Cuffee-Glenn (SU)
Brenda Garton (GL)	John Seward (SY)
Gregory Woodard (GL)*	Harry E. Diezel (VB)*
Mary Bunting (HA)	Robert M. Dyer (VB)
Molly Joseph Ward (HA)*	Barbara M. Henley (VB)
W. Douglas Caskey (IW)	Louis R. Jones (VB)
Bruce Goodson (JC)	James Spore (VB)
Robert Middaugh (JC)	Jackson C. Tuttle II (WM)
Neil A. Morgan (NN)	

**Executive Director:**

Dwight L. Farmer

\*Late arrival or early departure.

**ABSENT:**

Amar Dwarkanath (CH), Clifton Hayes, (CH), June Fleming (FR), Ross A. Kearney (HA), Paul D. Fraim (NO), Anthony Burfoot (NO), Theresa Whibley, MD (NO), E. Eugene Hunt (PQ), Kenneth L. Chandler (PO), Michael W. Johnson (SH), Anita Felts (SH), Linda T. Johnson (SU), Tyrone W. Franklin (SY) John E. Uhrin (VB), Rita Sweet Belitto (VB), Clyde Haulman (WM)

**OTHERS RECORDED ATTENDING:**

Earl Sorey (CH); Jeff Raliski (NO); Albert Moor (SU); Tom Slaughter, Jerri Wilson (NN); Robert Matthias (VB); Sherri Neil (PO); Steven Hicks (JC); Dennis Heuer (VDOT); Leo Rutledge – RK&K; Randy Darden – Dewberry; Ellis James – Sierra Club Observer; Buddy Green - Poquoson City Council; Peter Huber – Wilcox & Savage; Kathy Aiello – Biggs & Fleet; Staff: John Carlock, Camelia Ravanbakht, Rick Case, Jennifer Coleman, Nancy Collins, Richard Flannery, Kathlene Grauberger, Greg Grootendorst, Julia Hillegass, Jim Hummer, Rob Jacobs, Whitney Katchmark, Sara Kidd, Jay McBride, Ben McFarlane, Kelli Peterson, Katie Rider, Tiffany Smith, Jennifer Tribo, Joe Turner and Chris Vaigneur.

## **PUBLIC COMMENTS**

One person requested to address the Hampton Road Planning District Commission.

### ***Ellis W. James***

*Thank you very much, Chairman Clark, members of the Commission. My name is Ellis W. James. I reside in Norfolk, Virginia, and I have done so for all of my life. Before I begin my remarks, I would like to extend my personal condolences to our friends and neighbors to the west of us who were so hard hit by the elements, we learned now that there were eleven tornado touch downs. I was very proud to learn that Hampton Roads PDC has helped to organize and consolidate the reactions of our local communities in assisting our friends and neighbors to the west of us. I would like to call something to your attention briefly. For those of you who did not see the Nova program on April 20th, I would highly recommend it to you. It is called power surge, and it had an excellent review of what we're confronted with both nationally as well as locally, and I think it would be very instructive. It was certainly instructive for me and I thought I was a pretty smart guy about these issues. The fact of the matter is that there is a good deal of information in there, not the least of which is about Salgeria, where they are now currently putting CO<sub>2</sub> into the ground and doing it obviously successfully. Mr. Chairman, a year ago yesterday, I stood before this commission calling attention to the tragedy that was beginning to unfold in the gulf. The Deep Water Horizon tragedy even I had no clue how serious and severe it would become. I just recently went to the library and pulled up the information. Sixty-two pages worth on what is popularly called down there the Macondo blowout. There is something happening now that alarms me greatly and that I would like to be sure that this Commission is fully apprised of and aware of. Going back a few years, there was a Congressman, Doc Hastings, who got too closely involved with and tied to Jack Abramoff. If you recall Jack Abramoff went to jail, to prison specifically. The congressman is now the chairman of one of the critical Commissions that deals with the question of offshore drilling. He is pushing three bills one of which is very very troubling to me personally and a lot of people that I know. It would in essence using layman's language, force the granting of a permit for offshore drilling within a period of 60 days if there is no action taken by the United States government. Now, whether you like what the United States government does or don't, the fact of the matter is that it is very important that we be able to assess what the impact of that is going to be on Virginia. Governor McDonnell and others have developed consortiums and efforts to try to develop our offshore winds, and as this Commission has been briefed, we have some of the best winds in the country offshore. We do not need in my humble opinion offshore drilling to come roaring through and interfere with that effort, and it certainly would do that. The force of these bills could greatly jeopardize our efforts to try to develop a good deal of our energy from clean energy as opposed to fossil fuels, and so I would urge the Commission and staff to please pay close attention to what is evolving and what's happening so that we can get a good handle on what the impact will be here. Thank you, Mr. Chairman.*

Chairman Clark stated this concludes the public comment session.

*(Commissioners E. Ward, G. Woodard and Mayor M. Ward arrive)*

## **APPROVAL/MODIFICATION OF AGENDA**

Chairman Clark asked if there were any changes to the agenda.

Mr. Farmer stated he would like to remove Item #11 from the consent agenda and have a brief presentation from Mr. Richard Flannery and add correspondence from the Secretary of National Resources to the HRPDC staff to Item #20, and add a New Business note concerning UASI Designation Funding to Item #22.

Chairman Clark asked for a motion to approve the amended agenda with noted changes.

Commissioner Jones Moved to approve the agenda as amended; seconded by Commissioner Garton. The Motion Carried.

Chairman Clark asked for a motion to approve the consent agenda with item #11 omitted.

Commissioner Smigiel Moved to approve the Consent Agenda with Item #11 omitted; seconded by Commissioner Seward. The Motion Carried.

### **CONSENT AGENDA**

The Consent Agenda contained the following items:

Minutes of March 17, 2011 Meeting

Treasurer's Report

Regional Reviews

A. PNRS Items Review

VADEQ FY 12-13 Pollution Prevention Initiatives – Virginia Department of Environmental Quality

FY 2011-2012 Beach Monitoring in Virginia – Commonwealth of Virginia State Board of Health

Pinewood Heights Phase II Redevelopment Project – Town of Smithfield

B. Environmental Impact Assessment/Statement Review

Wild Duck Lane Property Acquisition, Virginia Port Authority

Warehouse E Newport News Marine Terminal, Virginia Port Authority

Norfolk & Portsmouth Belt Line Rail Yard Reconstruction, Virginia Port Authority

Mooring Upgrade to Pier I, Naval Station Norfolk, DoD/Department of the Navy

Demolition of Building C at Lafayette River Annex, Naval Station Norfolk, DoD Department of the Navy

Contract – City of Williamsburg Comprehensive Plan

State Homeland Security Grant Program (SHSGP) Fiscal Year 2011 Application

Donation Agreements for Shelter Support Units

Personnel Manual Updates and Revisions

*(Commissioner M. Jones arrives.)*

#### **URBAN AREA SECURITY INITIATIVE CONTRACT – ANALYTICAL TECHNICAL SUPPORT**

Chairman Clark stated Mr. Richard Flannery will present the Urban Area Security Initiative Contract – Analytical Technical Support.

Mr. Flannery stated staff is asking the Commission to authorize a contract with Old Dominion University's Virginia Model Analysis Simulation Center to provide analytical support for a homeland Security program known as the Urban Area Security Initiative. Over the last year they have provided support to help us in our selection process, as well as the overall process in improving our Homeland Security posture by providing and developing some instruments to help with our selection process for the grant programs and looking at all the requirements that UASI had to meet for the Department of Homeland Security for this program. There are a number of requirements UASIs have to meet and one of the things we tried to do was to make sure that UASIs are good stewards of the grant money that is provided in Hampton Roads. Using some of the instruments that ODU has developed for UASI over the last year allows UASI to make good selections for Homeland Security Initiatives here in Hampton Roads. ODU has provided pro bono work. In order to continue their support, UASI is going to need funding, and in order to do this UASI needs to utilize some of its grant funding. The UASI investment justifications last year for this grant included as a line item for analytical support in order to continue this process and make sure we are good stewards of the money. The Department of Homeland Security has recognized what UASI has done for Hampton Roads and asked HRPDC staff and VMASC to speak at the National Homeland Security Conference for the UASIs in June. One of the things that all the UASIs have to deal with is the downturn of the economy, how to sustain these initiatives and the capabilities and keep them in place in Hampton Roads. VMASC has been helping us with a sustainment model and looking at future initiatives to make sure we do not take on new initiatives or implement new capabilities that we cannot sustain. The Department of Homeland Security will be looking to VMASC this year to see if it is the best practice that can be implemented nationwide. That's why we are looking for the support.

Chairman Clark asked if there are any questions for Mr. Flannery.

*(Mayor Wright arrives)*

Commissioner Spore indicated he did not give any information on the cost of the contract.

Mr. Flannery stated the cost of the contract is \$20,000 and it would get two years of support from VMASC.

Commissioner Shepperd asked when does the Commission need to make a decision about this project and how are the funds used.

Mr. Flannery stated the funds are used to get analytical support from the homeland security section at VMASC. They provide support to the Department of Homeland Security as well as supporting Hampton Roads.

Mr. Shepperd asked if the funds are available.

Mr. Farmer stated it will be pass-through funds.

Commissioner Harrell Moved to authorize the Executive Director to execute a contract with the Old Dominion University Virginia Modeling, Analysis and Stimulation Center for support for the Urban Area Security Initiative; seconded by Commissioner Cuffee-Glenn. The Motion Carried.

#### **BYLAWS AMENDMENT – SECOND READING**

Chairman Clark stated in accordance with the HRPDC Bylaws any proposed amendments to the Bylaws must be presented in writing and read at any regular meeting of the Commission. The proposed amendment to the HRPDC Bylaws is to change the HRPDC meeting day to the third Thursday of each month. This was the second reading and final approval before implementation.

Commissioner McReynolds Moved to approve the Bylaws Amendment; seconded by Commissioner Tuttle. The Motion carried.

*(Commissioner Scott arrives)*

#### **AFFORDABLE HOUSING AWARENESS WEEK – RESOLUTION**

Mr. Farmer stated the Housing Roundtable is requesting the assistance of the Hampton Roads Planning District Commission to sign a resolution to proclaim the last week of April as “Affordable Housing Awareness Week”. This effort has been adopted in other areas of Virginia where several community activities and events are planned to recognize the importance of affordable housing. This year’s Affordable Housing Awareness Week will take place during the week of April 24-30 2011.

Chairman Clark asked for a motion to support the resolution.

Commissioner Garton Moved to approve the resolution proclaiming the last week of April as Affordable Housing Awareness Week; seconded by Commissioner Cuffee-Glenn. The Motion carried.

*(Mayor Krasnoff arrives.)*

## **HAZARD MITIGATION PLANNING UPDATE**

Chairman Clark stated Mr. Richard Flannery will present the Hazard Mitigation Planning Update.

Mr. Flannery stated he would give a brief update on Hazard Mitigation Plans. The HRPDC staff, in coordination with Franklin, Southampton County and Southside which includes staff representatives from the Cities of Portsmouth, Norfolk, Suffolk, and Virginia Beach along with the County of Isle of Wight, are in the process of updating their Hazard Mitigation Plans. Mr. Flannery indicated the Peninsula is in the process of updating its plan as well.

Mr. Flannery stated there is a ten step process with four phases to updating the hazard mitigation plans. Phase I involves getting organized, having public involvement, and coordinating with other departments and agencies. Phase II involves identifying the hazards to Hampton Roads and assessing the risks. Some additional hazards have been added such as mosquito borne disease and sea level rise. Landslides, extreme heat and sink holes were removed because we do not have those kinds of hazards in Hampton Roads. Flood is Hampton Roads number one hazard between hurricanes and tropical systems. Floods are looked at in four different parts: 1) risk to structures in regards to the hundred year flood event and a Category 3 storm surge; 2) critical facilities such as fire stations, police stations and EMS government facilities; 3) structure analysis; and 4) qualitative assessment.

Mr. Flannery stated the plans are primarily an update. We are not revising these plans comprehensively. FEMA requires plans to be updated every five years. The plans were adopted in 2006. The flood history was updated with the data from the National Climatic Data Center and there have been 17 new events since 2006. The National Climatic Data Center listed the November 2009 as a nor'easter because it is more flooding than wind which is typical for nor'easters. FEMA requires Hampton Roads to use as part of the model the One Hundred Year Flood Loss Estimate and updates for collecting data. The Plans had to include updates to the National Flood Insurance Program Insured Structural Analysis which is a sampling what flood insurance policies are in force, how many for each of these localities, as well as the insurance in force. We had to look at the repetitive loss properties, how many of those properties are constantly or continually having repetitive losses which are defined as two or more claims greater than \$1,000 to the national flood insurance program. Staff also looked at severe repetitive losses. Repetitive losses and severe repetitive losses are only those that are looked at through the National Flood Insurance Program which does not include those that do not have a claim against flood insurance programs. The update also includes a hurricanes and tropical storms section. There have been five new events since the plan was last adopted in 2006. Another thing provided for in the update is maps were used to show recent storms instead of pictures. A Probability Risk Index Model is used to look at the qualitative assessment for these different hazards. They are based on the probability of the event, the impact of the event, spatial area how large of an area does it extend to, as well as the warning time and duration of the different

types of hazards. We are updating the tornado data in these plans as well. We have already completed this part and will be adding the tornadoes that happened in April 2011.

Mr. Flannery stated the National Weather Service and the Virginia Department of Emergency Management will make sure they are accurate, as well as make sure the correct information is in these plans once they are updated. This is not an emergency response plan or an emergency management responsibility; this is a community plan that looks to mitigate hazard in a community. The next steps are developing goals and objectives for mitigation plans for the next five years. The Southside, Franklin and Southampton County will be reviewing other capabilities and assessments and begin working on goals and objectives for the mitigation plan. The goal is to have both reports completed in the month of July. The reports will then be sent to the Virginia Department of Emergency Management for approval, and once they are approved; the reports will be sent to FEMA for final approval. After final approval, HRDPC staff will come back to the Commission for adoption by the communities.

Chairman Clark asked for questions for Mr. Flannery.

Commissioner McLemore asked why extreme temperature was not included in the plan.

Mr. Flannery stated the previous plans had extreme temperature and the language was focused on heat, there was a title change to extreme heat versus extreme temperature.

Commissioner Diezel stated he was not sure he agreed with the critical facility's definition, although he understood. As long as we are dependent on tower to tower communication relays under catastrophic conditions, no one in this room can function as an elected official trying to tie your communities together until that communication system is restored; unless you have satellite capability. It would be interesting even if it does not go to FEMA, if this particular group found that as an appendix those three items because I know Dominion Power has a pretty sophisticated one. I think you would be surprised at their view of restoring and/or responding as it may or may not fit in the community process that you are advocating and he did agree with the community process. They are vital links and not to have them included if for no other reason the education of this panel in terms of your multiple jurisdiction representation is very important.

Mr. Flannery stated they had invited those entities to participate. We have had some participation although not a lot from those different critical facilities.

Commissioner Diezel stated a lot of their plans are a matter of public record so even if they are reluctant to come to the talks, we can solicit the plans from them to look at.

Mr. Farmer stated that we would come back and do a follow up report.

*(Commissioner Diezel departs)*

Commissioner Shepperd stated he attended a meeting at Sandy Bottom Park in Hampton and there was a briefing on sea level rise hosted by the Sierra Club and present was a Doctor from NASA who made the presentation and he wanted to point out that Mr. John Carlock and Ben McFarlane were there and Mr. McFarlane gave a great presentation. He wanted the Commission to know that the HRPDC staff is doing their job and helping out. If you have not seen the briefing you need to. The stunning part was the irreversible aspect of sea level rise and the impact here which falls into the flooding. This plan is going to be very important.

Commissioner McLemore stated the report deals with natural hazards if there is a problem with surge, but have we included in the plans if there is a problem in Surry and perhaps consider what type of plans in case of there is a problem.

Mr. Flannery stated there are plans for the nuclear power plant. They are primarily at the state level. The state does an exercise every year called VOPEX, which usually occurs in July, where they do exercises in preparation for some sort of incident at the nuclear power plant. In the hazard mitigation plans, a page was included in regard to radiological emergencies and making reference to those plans.

Mr. Farmer stated the sea level rise and climate change will be back on the agenda in May.

## **VIRGINIA STORMWATER MANAGEMENT PROGRAM PERMIT REGULATIONS**

Chairman Clark welcomed Marcus Jones, City Manager for Norfolk.

Chairman Clark stated Ms. Jenny Tribo will present Virginia Stormwater Management Program Permit Regulations and indicated there was handout for Ms. Tribo's presentation that was not part of the agenda packet.

Mr. Farmer stated the handout contains a letter that is referred to in the packet. It was developed after the packet was mailed and as Ms. Tribo makes her remarks, you will see a strong correlation with her presentation and the letter.

Ms. Tribo stated she would be giving an update on revisions to the Virginia Stormwater Management Program Regulations. These regulations have been under revision since 2005 with the transfer of the program from the Department of Environmental Quality to the Department of Conservation and Recreation (DCR). Three years ago, the DCR published its second Notice of Intended Regulatory Action (NOIRA) to revise the regulations. She stated first she would talk about the history and schedule and high point of the regulations and HRPDC comments and the letter.

Ms. Tribo indicated in 2009, the regulations went out for public comment and there was significant concern regarding how the regulations were going to be implemented and the impact they would have on development. At the end of 2009, the Board approved the regulations and put them out for public comment and then suspended the regulations. The General Assembly took action in 2010 and passed legislation that would delay the

stormwater regulations until the Chesapeake Bay TMDL was completed and directed the Department of Conservation and Recreation to revise the stormwater regulations within 280 days of the Chesapeake Bay TMDL and to establish a regulatory advisory panel to make those revisions. Last July, that regulatory advisory panel started meeting to revise the regulations and over the last nine months, they met to develop new regulations that incorporate the Chesapeake Bay TMDL requirements.

Ms. Tribo stated a couple years ago there were concerns with the regulations having a high cost for redevelopment, the time line for implementation was too short and the HRPDC staff thought the local governments were going to have concerns in developing their programs. There was no grandfathering for Master Plans local program criteria were too prescriptive. The localities felt the local program criteria in order to adopt and implement the program were too strict and did not allow flexibility to the localities. Much of the associated documentation for the regulations for the specifications for the stormwater management facilities had not been updated and was not available for review prior to approval of regulations. There have been some major changes and improvements to the regulations proposed: the implementation date will be July 21, 2014; statewide phosphorus standard for water quality will be 0.41 pounds per acre per year; additional grandfathering provisions; and greater local program flexibility. The state has added some effluent limit guidelines for construction activity based on recent activity from the Environmental Protection Agency.

Public comment ends April 29, 2011; Soil Water Conservation Board is expected to adopt regulations in May 2011; October 2011 will be the effective date of the regulations to coincide with the requirement to have the regulations in place within 280 days of the TMDL approval; and the implementation will coincide with the reissuance of the general construction permit on July 1, 2014. The regulations for water criteria were to create a statewide standard to protect local water quality from development and also have a standard for the Chesapeake Bay Watershed that would meet the TMDL. The committee came up with a statewide standard .41 pounds per acre per year based on linkage between impervious cover and water quality impacts. The previous proposed standard was .45 statewide and in addition to .28 in Chesapeake Bay Watershed, based solely on information from Chesapeake Bay Model and Chesapeake Bay Program.

Ms. Tribo stated with this revision, the advisory panel had agreed this was a good way to move forward and protects local water quality and it meets the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan requirement. She stated by meeting one of the following criteria one can be grandfathered until June 30, 2019. If you receive a Virginia Stormwater Management Program permit (VSMP) prior to July 1, 2014; be part of a common plan of development for sale that has obtained VSMP general permit coverage prior to July 1, 2014; or have the site plan approved by the locality where they certify that you meet the current regulations by the effective date; or have obligation for funding of your project this is something new that the DCR instituted with this revision that allows issuing permits starting with the current construction permit that is in effect right now and permits can be renewed for a additional two permit cycles which is ten years. The technical criteria implementation date is July, 1, 2014. However, there is inconsistency with the

current Stormwater Act. It was revised based on previous regulations that required the local programs to be in place by July 2013. The local programs will be implemented through local government ordinance - the prescriptive elements in the regulations will be removed and DCR will issue the permit and have oversight of the program. Effluent limit guidelines were mentioned at the December 2010 meeting. EPA published its final rule for effluent guidelines for construction and state programs that run the construction program are required to incorporate this into their stormwater regulations, it adds requirements to the construction site for their Pollution Prevention Plan, and it specifically requires them to control volume and velocity, minimize soil erosion, minimize the surface of steep slopes, maintain natural buffers, minimize soil compaction and preserve top soil.

Ms. Tribo indicated in terms of the comment letter, the localities' stormwater and planning staffs have reviewed the regulations and discussed their major comments and concerns, and HRPDC staff developed this letter based on those comments and discussions. The effluent limit guidelines that DCR chose to incorporate verbatim from EPA's language are very big and the terms are not defined. Local governments feel they will have to interpret permit applications and not have adequate guidance on whether the localities are meeting the regulations because the regulations are too big. The grandfather language with the additions of the two permit cycles for the general permit, could allow projects to be grandfathered until 2029 and we do not think this was the intent of the provision. HRPDC staff is asking DCR to take a closer look at that. We think it needs to be grandfathered, but twenty years seems too generous. HRPDC staff asked DCR to look at the inconsistency between the proposed regulations that would have local programs in place by July 1, 2014, versus the existing Stormwater Management Act that requires them to have them by July 2013. Also, localities are going to need financial and technical assistance to get these programs in place. There needs to be a partnership between the state and local governments in the next several years. There are some smaller technical issues concerning the definitions for the grandfathering criteria that were removed and need to be replaced. Also, there needs to be some provisions for efficiencies for stormwater management practices for pollutants other than phosphorus, and there is an issue with the date; what is appropriate for the design specifications for the clearinghouse. HRPDC staff is also asking DCR to coordinate and define procedures for oversight of local programs and for them to provide model ordinance and program development guidance.

Ms. Tribo stated the recommendation is to authorize the HRPDC Executive Director to submit the comment letter to DCR based on the concerns presented.

Commissioner Harrell asked the way grandfathering is currently stated is it saying after June 30, 2019 we have to meet the new standards based on the way it is currently configured?

Ms. Tribo stated the way the grandfathering is written if you have your permit now and it expired in 2019 and you did not have it renewed, any further construction activity would have to meet the new regulations.

Commissioner Harrell asked if the project is complete.

Ms. Tribo stated there are provisions to have your permit renewed for an additional two permit cycles. Depending on when you get your permit, it could be extended to 2029 and then you would have to meet the new criteria if you were still developing past that point.

Commissioner Goodson asked under redevelopment you still having to improve by ten percent and are we going to get credit for that under the TMDL Program, or is there a baseline.

Ms. Tribo stated it will be credited. The way reductions are set in the TMDL, it requires the MS4 locality to reduce a certain amount and the percent reduction that comes from redevelopment will be credited for that amount.

Chairman Clark asked is this based for developers and does this mean bigger and better BMP impervious requirements.

Ms. Tribo stated bigger and better BMPs and minimization of impervious cover and different design layouts.

Commissioner Shepperd Moved to authorize HRPDC Executive Director to submit the comment letter to DCR based on the concerns presented in the draft letter; seconded by Commissioner Price. The Motion carried.

#### **HRPDC ACTION ITEMS: THREE MONTH TENTATIVE SCHEDULE**

Chairman Clark indicated the HRPDC staff developed a tentative schedule for issues that will come before the Commission for action over the next three months.

#### **PROJECT STATUS REPORT**

No questions or comments.

#### **CORRESPONDENCE OF INTEREST**

Mr. Farmer stated there is a letter from the Secretary of National Resources asking Ms. Tribo to sit on a Stakeholder Advisory Group, which is a group looking at reducing loads in the Chesapeake Bay.

Chairman Clark asked if there was any response to our request to have more Commission members on the committee.

Mr. Farmer stated it is an acknowledgment that the HRPDC through Ms. Tribo does have expertise that can add to the dialogue.

## **OLD/NEW BUSINESS**

Chairman Clark indicated there was one new business item for review.

Mr. Farmer stated the HRPDC staff has developed a letter for submittal to the Hampton Roads Congressional Delegation and Governor McDonnell in support of maintaining the existing designation criteria and funding levels to support the UASI Program. HRPDC staff is asking approval to authorize the Chairman to sign the attached letter to the Hampton Roads Delegation and Governor concerning designation of funding for the Hampton Roads Urban Areas Security Initiative Program.

Commissioner Shepperd Moved to authorize the Chairman to sign the letter to the Hampton Roads Congressional Delegation and the Governor about the UASI designation and funding; seconded by Commissioner Garton. The Motion carried.

## **ADJOURNMENT**

With no further business to come before the Hampton Roads Planning District Commission, the meeting adjourned at 10:30 a.m.

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Stan D. Clark  
Chairman

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Dwight L. Farmer  
Executive Director/Secretary

**AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING**

**ITEM #7: TREASURER'S REPORT**

**FISCAL YEAR 2011  
April 30, 2011  
BALANCE SHEET**

<b>ASSETS</b>		<b>LIABILITIES &amp; NET ASSETS</b>	
Cash & Cash Equivalents	803,580	Current Liabilities	935,320
Accounts Receivables	1,437,032	Net Assets	6,157,879
Investments	3,437,671		
Other Current Assets	664		
Net Capital Assets	<u>1,414,253</u>		
<b>Total Assets</b>	<u><b>7,093,199</b></u>	<b>Total Liabilities &amp; Equity</b>	<u><b>7,093,199</b></u>

**STATEMENT OF REVENUES AND EXPENDITURES**

<b>REVENUES</b>	<b>Annual Budget</b>	<b>Current Month</b>	<b>YTD</b>
Grant and Contract Revenue	9,028,006	1,233,881	5,175,883
VDHCD State Allocation	132,124	11,010	110,104
Interest Income	20,000	864	13,925
Local Jurisdiction Contributions	1,342,835	335,641	1,342,562
Other Local Assessment	1,166,835	287,310	1,392,794
Sales and Miscellaneous Revenue	117,530	3,683	36,684
Special Contracts	1,493,758	-	-
<b>Total Revenue</b>	<u><b>13,301,088</b></u>	<u><b>1,872,389</b></u>	<u><b>8,071,951</b></u>
<b>EXPENDITURES</b>			
Personnel	4,036,965	311,418	3,191,081
Standard Contracts	223,525	8,764	134,457
Special Contracts / Pass-Through	8,286,838	402,587	3,301,602
Office Services	723,760	44,267	450,081
Capital Assets	30,000	-	-
<b>Total Expenses</b>	<u><b>13,301,088</b></u>	<u><b>767,037</b></u>	<u><b>7,077,221</b></u>
<b>Agency Balance</b>	<u><b>-</b></u>	<u><b>1,105,352</b></u>	<u><b>994,730</b></u>

HRPDC Executive Committee Meeting - May 19, 2011

## **AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #8: REGIONAL REVIEWS – MONTHLY STATUS REPORT**

#### **A. PNRS Items (Initial Review)**

The HRPDC staff is routinely involved in the review of applications for grants to support projects involving federal or state funding. To ensure that all Commissioners are aware of projects being reviewed, brief summaries of these projects and anticipated review schedules are included in the Agenda. The HRPDC staff will continue to request comments directly from staff in localities that appear to be directly affected by a project. Review and comment by more than one locality is requested when a project may affect the entire region or a sub-regional area. There are no outstanding comments as of May 11, 2011 on this project.

Attachment 8A - PNRS

#### **B. Environmental Impact Assessment/Statement Review**

The HRPDC staff is routinely involved in the review of environmental impact assessments and statements for projects involving federal funding or permits as well as state development projects. To ensure that all Commissioners are aware of projects being reviewed, brief summaries of these projects and anticipated review schedules are included in the Agenda. The HRPDC staff will continue to request comments directly from staff in localities that appear to be directly affected by a project. Attached is a listing and summary of projects that are presently under review.

Attachment 8B – Environmental Impact Assessment/Statement Review

# Project Notification and Reviews

**Date** 5/6/2011      **CH #** VA110413-1523760

**Title** FY2012 Chesapeake Bay Monitoring Program

**Applicant** Virginia Department of Environmental Quality

**State/Federal Program** Chesapeake Bay Program

**Type of Impact** Chesapeake Bay Watershed

**Project Staff** Sara Kidd

## Project Description

The funding will provide for continued long term Chesapeake Bay watershed monitoring projects (mainstem, tributary, and ecosystem) to measure the effectiveness of point and non-point source nutrient input reduction, determine attainment of water quality standards, and determine progress toward attaining living resource water quality habitat goals.

<b>Federal</b>	\$723,942.00	<b>Local</b>	\$0.00
<b>Applicant</b>	\$723,942.00	<b>Other</b>	\$0.00
<b>State</b>	\$0.00	<b>Income</b>	\$0.00

**TOTAL** \$1,447,884.00

**Date** 5/6/2011      **CH #** VA110413-1423760

**Title** VADEQ Monitoring Technical and Scientific Support Services

**Applicant** Virginia Department of Environmental Quality

**State/Federal Program** Chesapeake Bay Program

**Type of Impact** Chesapeake Bay Watershed

**Project Staff** Sara Kidd

## Project Description

The funding will provide for continued long term Chesapeake Bay watershed monitoring projects to measure the effectiveness of point and non-point source nutrient input reduction, determine attainment of water quality standards, and determine progress toward attaining living resource water quality habitat goals.

<b>Federal</b>	\$382,927.00	<b>Local</b>	\$0.00
<b>Applicant</b>	\$170,268.00	<b>Other</b>	\$0.00
<b>State</b>	\$0.00	<b>Income</b>	\$0.00

**TOTAL** \$553,195.00

**Date** 5/6/2011      **CH #** VA110401-1623830

**Title** Blayton Site Housing Production Project

**Applicant** City of Williamsburg

**State/Federal Program** 2011 Virginia Community Development Block Grant Program

**Type of Impact** City of Williamsburg

**Project Staff** Sara Kidd

**Project Description**

The City, in partnership with the Williamsburg RHA, will construct a new building in the vacant section of the Blayton site to contain 38 new rental housing units dedicated to LMI elderly residents. RHA owns the property where the new units will be constructed.

<b>Federal</b>	\$3,085,480.00	<b>Local</b>	\$1,305,785.00
<b>Applicant</b>	\$0.00	<b>Other</b>	\$472,710.00
<b>State</b>	\$0.00	<b>Income</b>	\$0.00
<b>TOTAL</b>		\$4,863,975.00	

# Environmental Impact Reviews

**Received** 4/7/2011

**Number** N/A

**Name** Environmental Assessment (EA) for proposed Force Structures Changes at Langley AFB, V

**Sponsor** DOD/U.S. Air Force

## **Description**

In compliance with the National Environmental Policy Act (NEPA) of 1969, U.S. Air Force Headquarters Air Combat Command is preparing an EA to identify and analyze the potential impacts of proposed force structure changes at Langley AFB, VA. These changes involve increasing the number of permanently assigned F-22 aircraft and stationing T-38 aircraft at Langley AFB to act as aggressor aircraft for F-22 air combat training. HQ ACC requested input in identifying general or specific issues or areas of concern to be addressed in the Environmental Assessment.

**Affected Localities** Hampton

## **Finding**

Based on this review, we recommend that the Environmental Assessment include and address these issues and areas of concern: local and regional impacts on air quality and pollution, noise impacts on surrounding areas, and socioeconomic impacts to the city and region from additional personnel.

**Comments Sent** 4/29/2011

**Final State Comments Received**

**Received** 4/19/2011

**Number** 11-075F

**Name** Wormley Creek Pier Extension

**Sponsor** DHS/U.S. Coast Guard

**Description**

The Department of Homeland Security (DHS) U.S. Coast Guard (USCG) proposes to extend three existing finger piers located on Wormley Creek at the Coast Guard Training Center Yorktown in York County. Each of the three piers will be extended 60-feet in order to accommodate new boats that will replace existing boats over the next several years. In addition, the existing fueling system (both gasoline and diesel fuels) will be reconfigured to allow for safer and more efficient fueling. This will require a fueling pier to be built off the existing pier facility. Some minor construction associated with the fueling system may take place onshore. The USCG has submitted a Federal Consistency Determination that finds the proposed project consistent, to the maximum extent practicable, with the enforceable policies of the Virginia Coastal Zone Management Program.

**Affected Localities** York County

**Finding**

**Comments Sent**

**Final State Comments Received**

## **AGENDA NOTE – HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #9: CONSULTANT SERVICES CONTRACT FOR THE “WATER SUPPLY ASSESSMENT AND EMERGENCY RESPONSE TRAINING” PROJECT**

#### **SUBJECT:**

Authorize a contract for consultant services for the “Water Supply Assessment and Emergency Response Training” project.

#### **BACKGROUND:**

On March 4, 2011, the Virginia Department of Emergency Management Grants Office awarded FY 2010 Homeland Security Grant Program (HSGP), Urban Area Security Initiative (UASI) funding in the amount of \$554,250 for the “Water Supply Assessment and Emergency Response Training” project. The project will establish a regional approach to assess significant water system hazards and vulnerabilities and to identify coordination issues in responding to a major disruption of the water supply system.

The HRPDC staff, on behalf of the HRPDC Directors of Utilities Committee, and the Hampton Roads UASI Region, released a request for project proposals on March 17, 2011; six submittals were received. The Committee has completed the proposal evaluation process and has identified a preferred consultant. The Committee is proceeding with contract negotiations to address the following:

Contract Amount: Not to exceed grant funds

Period of Performance: Completion by December 31, 2012

#### General Scope of Work:

Task 1: Provide initial briefing to the HRPDC Directors of Utilities Committee.

Task 2: Provide draft methodology for the project to the HRPDC project manager.

Task 3: Identify risk scenarios and resultant impacts to water systems in the Hampton Roads region.

Task 4: Review and conduct an analysis of the emergency response or operation plans and standard operating procedures for the publicly-owned community water systems in each locality, as well as the emergency operation plan for the jurisdiction in which the water system is located.

Task 5: Analyze critical infrastructure interdependencies in the water sector. Utilize guidance from EPA, DHS, and state agencies and include an analysis of public and private sector relationships.

- Task 6: Conduct a regional gap analysis of emergency response and recovery capabilities for the water sector (water and wastewater). Identify asset (i.e. equipment, staff, material resources) and resource gaps needed for emergency response (acts of terrorism and an all-hazards approach).
- Task 7: Based on Tasks 3, 4, 5, and 6, assess needs and develop a regional plan for improving water system emergency response and recovery, including cost estimates for short-term plan implementation.
- Task 8: Develop and execute seminar followed with a tabletop exercise based on the water infrastructure assessment and plan.
- Task 9: Submit the After Action Report (AAR) and Improvement Plan (IP) based on the tabletop exercise.

**RECOMMENDED ACTION:**

Authorize the Executive Director to execute a contract for the FY 2010 UASI-funded “Water Supply Assessment and Emergency Response Training” project with the selected consultant following successful contract negotiation per the project scope, budget, and period of performance described above.

**AGENDA NOTE – HRPDC EXECUTIVE COMMITTEE MEETING**

**ITEM #10: FY 2011 HRPDC BUDGET AMENDMENT**

**SUBJECT:**

The second, and final, Budget Amendment for FY 2011 is presented to the Commission for its review and approval.

**BACKGROUND:**

As changes occur in the normal day-to-day operations and financial awards, staff notifies the Commission in the regular monthly meetings. Semi-annually, these changes are formalized in the Operating Budget, which is brought before the Commissioners for approval. These formal approvals are requested in November and May of each fiscal year.

After all amendments were posted for this amendment period the HRPDC Operating Budget remains balanced, with no surplus or deficit proposed.

Significant changes were in:

**REVENUES:**

Greenhouse Gases (N, C, VB): (project deleted)	\$ (85,020)
DCR Roundtable 11: New project	4,000
UASI FY10 New Awards	<u>1,470,550</u>
TOTAL REVENUES AMENDED	\$1,389,530

**EXPENDITURES:**

Greenhouse Gases Pass-Through (project deleted)	\$ (75,020)
UASI FY10 Awards: Pass-Through	1,455,550
Contingency: revised	<u>9,000</u>
TOTAL EXPENDITURES AMENDED	\$1,389,530

NET CHANGE IN FUND BALANCE \$ -0-

**RECOMMENDED ACTION:**

Staff recommends approving the May Budget Amendments shown above.

## **AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #11: REGIONAL PRIVATE PROPERTY INFILTRATION/INFLOW (I/I) ABATEMENT PROGRAM**

#### **SUBJECT:**

The Regional Special Order by Consent (SOC) addressing Sanitary Sewer Overflows requires that HRSD and the localities develop a Private Property Infiltration/Inflow (I/I) Abatement Program.

#### **BACKGROUND:**

The SOC was issued by the State Water Control Board in 2007 and requires the Hampton Roads Sanitation District (HRSD) and thirteen Hampton Roads localities pursue comprehensive strategies to prevent sanitary sewer overflows and subsequent water quality and human health impacts. Among other requirements, the SOC requires HRSD and the localities to develop a program to correct identified system deficiencies that contribute Inflow and Infiltration to the regional sanitary sewer system.

Inflow and Infiltration or I/I are terms used to describe the ways that groundwater and stormwater enter into the sanitary sewer systems. Inflow is stormwater that enters into sanitary sewer systems via footing/foundation drains, roof drains or leaders, downspouts, etc. Infiltration is groundwater that enters sanitary sewer systems through cracks and/or leaks in the sanitary sewer pipes. The required I/I abatement programs will address problems with portions of the sewer systems in both the public right of way and on private property.

The HRPDC Directors of Utilities Committee evaluated two options to address private property I/I. One option requires each locality to administer its own program and implement new ordinances, rules, and regulations to establish authority to work on private property. The second option takes advantage of HRSD's existing authority to address private property I/I with a regional program.

On February 2, 2011, the Directors of Utilities Committee unanimously agreed to endorse the option for a regional program. On March 17, 2011, the Commission was briefed on the two options. The Commission deferred taking action, requested the Chief Administrative Officers discuss it further at their April 21, 2011 meeting, and requested the item be reconsidered at the May 19, 2011 Executive Committee meeting.

The CAOs discussed this matter at their April 21, 2011 meeting. It was discussed further by the HRPDC Directors of Utilities Committee at its meeting on May 4, 2011. Both the CAOs and Directors of Utilities recommend that a Regional I/I Abatement Program be developed by HRSD in cooperation with the Directors of Utilities. Once developed the I/I Abatement Program will be brought to the HRPDC and localities for approval.

HRSD General Manger, Ted Henifin, will brief the Commission on the recommended Private Property I/I Abatement Program.

**RECOMMENDED ACTION:**

Approve the development of the Regional Private Property I/I Abatement Program.

## **AGENDA NOTE – HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #12: CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL)**

#### **A. EPA RESPONSE TO HRPDC LETTER**

##### **SUBJECT:**

Mr. Jeff Corbin, Senior Advisor to the EPA Administrator for Chesapeake Bay, has responded to the Commission's letter regarding its concerns with the Chesapeake Bay TMDL.

##### **BACKGROUND:**

The EPA responded to the questions raised in the HRPDC letter dated March 31, 2011 (Attachments A/B). HRPDC staff identified the following key points:

- The EPA and State have not reached a resolution on whether or not to remove the individual Waste Load Allocations (WLA) from the TMDL for the Phase I MS4s (Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Virginia Beach).
- Phase I MS4 WLAs included nutrient loads for other National Pollutant Discharge Elimination System (NPDES) permittees (military installations, industrial facilities, etc.) located within the locality boundaries.
- MS4 permits will be based on Maximum Extent Practicable (MEP) standard.
- EPA might consider adjustments in the implementation schedule for MS4 nutrient reductions based on the MEP standard.

Whitney Katchmark, Principal Water Resources Engineer, will provide a presentation summarizing the responses and the region's potential next steps.

##### **RECOMMENDED ACTION:**

The HRPDC Chesapeake Bay TMDL Subcommittee should reconvene during the first week of June to draft follow up questions for the EPA and state agencies. Authorize the Chairman to respond to Jeff Corbin, EPA, and Anthony Moore, Virginia's Assistant Secretary for Chesapeake Bay Restoration, based on the Subcommittee's recommendations.

Attachment 12A HRPDC letter to Corbin  
12B Corbin's response to HRPDC

#### **B. PHASE II WATERSHED IMPLEMENTATION PLAN (WIP) UPDATE**

##### **SUBJECT:**

Virginia has requested the Hampton Roads Planning District Commission support the State's effort to develop the Phase II Watershed Implementation Plan (WIP).

**BACKGROUND:**

Virginia has developed a framework for Statewide WIP development. Ms. Joan Salvati, Acting Regulatory Program Manager, DCR Division of Stormwater Management presented the state's concept to the HRPDC Joint Environmental Committee on May 5, 2011 (Attachment C). Virginia's framework would utilize PDCs to coordinate development of "Community Conservation Information" containing locality scale resource assessment, source identification, baseline assessment, program evaluation, and conservation strategies. HRPDC staff developed talking points for the Chesapeake Bay Local Government Advisory Committee (LGAC) representatives from Hampton Roads to summarize concerns with the Phase II WIP process (Attachment D).

HRPDC staff recommends a two tier approach to develop the region's input for the Phase II WIP. The regional tier would be a steering committee with members from local government staffs, HRSD, Soil and Water Conservation Districts, Virginia Health Department, Department of Defense, VDOT, other state agencies and local environmental groups with the caveat that they are non-voting members. Each locality would designate one or two representatives that could represent all departments in their locality. The regional steering committee would develop agreements between sectors and identify the nutrient reduction commitments from non-locality entities.

The local tier of this approach would be a multi-department team in each locality. Team members should include the CAO or his/her representative and staff from public works, utilities, planning, GIS, parks and recreation, legal counsel, economic development, and the school board. The locality teams would identify the feasible nutrient reductions that could be implemented by the locality. Implementation strategies might include: stormwater retrofits at parks, schools, and municipal centers; development of green streets, new nutrient management techniques or materials to maintain ballfields and golf courses; no discharge zones in tidal waters; increased tree canopy requirements, increased street sweeping; septic tank pump-outs or upgrades; increased sewer maintenance or recordkeeping to quantify leaks and overflows; proffers from new development; financial incentives for private property partners.

Whitney Katchmark, Principal Water Resources Engineer, will review the State's expectations for regional data collection and implementation strategies and the HRPDC staff's proposed approach.

**RECOMMENDED ACTION:**

Notify the State that HRPDC staff will coordinate data collection and facilitate development of implementation strategies for the localities in the region

Attachments: 12C Phase II Engagement presentation from DCR  
12D HRPDC Talking Points on Phase II WIP

MEMBER JURISDICTIONS

March 31, 2011

CHESAPEAKE

Mr. Jeffrey Corbin  
Senior Advisor to the Administrator  
U.S. Environmental Protection Agency, Region III  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
[Corbin.jeffrey@epamail.epa.gov](mailto:Corbin.jeffrey@epamail.epa.gov)

FRANKLIN

GLOUCESTER

HAMPTON

RE: Chesapeake Bay TMDLs

ISLE OF WIGHT

Dear Mr. Corbin:

JAMES CITY

Thank you for attending the March 31, 2011 special meeting of the Commission's Executive Committee and for presenting EPA's perspective on the Chesapeake Bay Total Maximum Daily Loads (TMDL).

NEWPORT NEWS

NORFOLK

POQUOSON

PORTSMOUTH

SOUTHAMPTON

SUFFOLK

SURRY

VIRGINIA BEACH

As you know from recent reports in the media, the Commission has been evaluating the potential impacts of the TMDL on its member localities that operate Municipal Separate Storm Sewer Systems (MS4s) together with legal options for addressing any flaws in the TMDL that could cause adverse socio-economic impacts on the Hampton Roads region without providing any meaningful water quality benefit. Based on that evaluation, we have concluded that there are legitimate reasons to be concerned about the potential impacts of certain aspects of the TMDL. Those concerns, however, largely reflect uncertainty about the outcome of the Phase II Watershed Implementation Plan (WIP) process now underway as well as EPA's intentions with respect to the way in which the Hampton Roads region's MS4 permits must be written to be consistent with the assumptions and requirements of the TMDL. Therefore, the Commission wishes to know EPA's answers to the following questions so that we can make the best informed assessment of the TMDL's likely impact on the region's MS4 localities. The Commission has decided to defer further consideration of its legal options pending receipt of EPA's response.

WILLIAMSBURG

To put the questions in context, the Commission wishes to make clear that it and its member MS4 localities are supportive of the TMDL's goals as reflected in their ongoing commitment of significant resources to implementation of the

YORK

Hampton Roads region's MS4 programs. No other region of Virginia has a greater stake in a clean Bay than Hampton Roads, and as stated in the Commission's comments on the draft TMDL, the region's MS4 localities are prepared to commit more money and resources to their storm water programs where needed to help restore the Chesapeake Bay and protect the James and York rivers. However, the Commission and its member MS4 localities believe that a clean Bay can be attained without wasting scarce resources or exposing the MS4 localities to enforcement actions for failing to achieve unrealistic and unattainable TMDL-derived compliance obligations. Unfortunately, it appears that these may well be the consequences of several flaws in the TMDL as reflected in the following issues of greatest concern to the Commission and the MS4 localities. I want to emphasize that the Commission and the MS4 localities believe the TMDL is flawed in other respects, but they are most concerned with the following issues because they are likely to have the greatest impact on the MS4 localities.

## **I. Issues of Greatest Concern**

### **A. Land Use Data Used to Derive the MS4 WLAs**

The waste load allocations (WLAs) in the TMDL are based on land use data, specifically the amount of impervious area within the locality. An analysis of representative Geographic Information System (GIS) land use data shows that the satellite imagery used by EPA for its land use inputs to the watershed model underestimates the extent of imperviousness in the Hampton Roads region by an average of approximately 48 percent. Locally developed imperviousness data is more accurate than the satellite imagery relied on by EPA, but EPA did not take the time to work with the Hampton Roads' localities to collect this information and use it in the model. EPA has acknowledged that the land use data used to develop the TMDL is inaccurate and has stated that it plans to develop revised load reduction estimates based on revised imperviousness data. However, we understand that EPA intends to continue using satellite imagery rather than local GIS data.

The implications of underestimated imperviousness are significant because it means that the Hampton Roads localities, including those with MS4 permits, will have to reduce their urban runoff loads based on modeling data which assumes that they are less impervious than they actually are. In other words, the urban land area that will have to be treated in order to attain the WLAs would be greater than the land area assumed in the TMDL. This has potentially serious implications for not only the ultimate cost of compliance, but also the ability of the MS4 localities to achieve their WLAs by the TMDL's 2025 deadline.

B. Establishment of Individual WLAs for the Hampton Roads Phase I MS4s

EPA should not have included individual WLAs for Virginia's Phase I MS4 localities (including the six Phase I MS4 localities in Hampton Roads) in the final TMDL. The individual WLAs were not included in the draft TMDL, so there was no notice of or opportunity to comment on the WLAs before they were established in violation of the Administrative Procedures Act. We are also troubled by the fact that Virginia's Phase I MS4s were singled out for individual WLAs as well as EPA's failure to provide any justification for adding the individual WLAs or explanation of how they were derived.

As you know, EPA and the Bay states agreed that not enough information was available during the TMDL development process to generate individual WLAs for MS4s, and therefore, agreed to defer dividing aggregate point source targets to a finer scale until the Phase II WIP process. Accordingly, we suspect that the individual WLAs are based on the same inaccurate land use data that was used to derive the proposed aggregate WLAs in the draft TMDL, but we have no way of knowing whether this is, in fact, the case or whether other errors are built into the WLAs because EPA has not explained how the individual WLAs were derived. In particular, we strongly suspect that the individual WLAs for Total Suspended Solids (TSS) are inaccurate because in addition to the use of inaccurate land use data, the TSS WLAs were derived using a model that EPA has acknowledged could not be calibrated for sediment.

The potential consequences are far reaching because the Phase I MS4 localities would be at significant risk of federal, state, and citizen enforcement for failure to comply with their permits if EPA proceeds with TMDL implementation using individual Phase I MS4 WLAs derived from erroneous land use data.

C. 2025 Deadline

As explained in the Commission's comments on the draft TMDL, we do not believe EPA has the authority to establish a deadline in the TMDL. MS4s are uniquely affected by the 2025 deadline because they are regulated as point sources, but face far greater implementation challenges than any other source sector, point or non-point. The MS4 WLAs will require widespread implementation of storm water retrofits on private property in a heavily urbanized region. The MS4 localities could implement these retrofits cost effectively through their land use approval process as redevelopment occurs, but the 2025 deadline will make it impossible for the MS4s to achieve their WLAs in this fashion because the average rate at which land is redeveloped will

not allow it. Instead, the MS4 localities will be forced to not only install and operate storm water retrofits on private property, but also to acquire retrofit easements by purchase or condemnation. Again, the potential consequences are far reaching. Aside from the cost, easement acquisition takes time, making it highly unlikely that the MS4s could achieve their WLAs by 2025, thereby exposing them to federal, state, and citizen enforcement despite their best efforts to comply.

## II. Questions for EPA.

While the Commission and the MS4 localities believe their concerns are well founded, they wish to hear from EPA. Therefore, it will be greatly appreciated if EPA will answer the following questions.

### A. Hampton Roads MS4 WLAs

1. Why does the final TMDL include individual WLAs for the Phase I MS4s in Virginia, but not the Phase I MS4s in the other Bay states?
2. Why weren't the individual WLAs included in the draft TMDL?
3. How did EPA derive the individual WLAs for the Hampton Roads Phase I MS4s?
  - i. What MS4 boundaries were used?
  - ii. Did the WLA calculations for the Phase I MS4s include areas in the Phase I boundaries that are covered by other permits held by private companies, the state, or federal agencies?
4. Is EPA prepared to work with the Hampton Roads localities during the Phase II WIP process to ensure that the urban runoff WLAs reflect the most accurate land use data available, including the available GIS data?
5. Under what circumstances will EPA modify the WLAs at the conclusion of the Phase II WIP process?

Specifically:

- a. The EPA has agreed to run the Bay model with revised land use data in 2011. Will the WLAs be revised if the WLAs increase for some Phase I MS4s?

- b. Why were Total Suspended Solids (TSS) WLAs included in the TMDL given EPA's acknowledgement that the Bay model could not be calibrated for sediment?
  - c. Does EPA intend to distribute any of the 9.5 percent TSS load reserve in the James River Basin or the 9.2 percent TSS load reserve in the York River Basin to Hampton Roads MS4s as part of the Phase II WIP process?
  - d. Can all of the MS4 sector WLAs be revised as part of the Phase II WIP process if the basin allocations are met?
6. How can the Hampton Roads region follow the Phase II WIP process when the Department of Conservation and Recreation (DCR) has already started writing permits based on the individual Phase I MS4 WLAs? EPA's Phase II WIP Fact Sheet states as follows:
- “EPA expects the Bay jurisdictions to develop Phase II WIPs that further divide final nonpoint source and aggregate point source target loads for the 92 303(d) segment drainage areas using a finer geographic scale such as counties, conservation districts, sub-watersheds, or, where appropriate, individual sources or facilities. EPA expects the local targets to be used for planning purposes and does not intend to establish local targets as separate allocations within the Bay TMDL.”
7. The Hampton Roads localities are already investing in programs that will reduce nutrient loads. Existing EPA documentation indicates that the localities cannot count these programs as efforts to meet the TMDL. How can localities get credit for investments that reduce Sanitary Sewer Overflows (SSOs)? Implementing no discharge zones for boats? Increasing oyster restoration?
  8. Will EPA count nutrient load reductions from non-structural BMPs like nutrient management and the fertilizer ban as MS4 reductions or treat them as nonpoint source reductions?
  9. Virginia's BMP efficiencies and EPA's model BMP efficiencies are not equivalent. Will EPA defer to Virginia's BMP efficiencies to assess compliance?

B. 2025 Deadline

1. Will EPA expect DCR to include compliance schedules designed to meet the applicable WLAs by the 2025 deadline in the Phase I MS4 permits when they are reissued and in the Phase II MS4 general permit when it is reissued?
2. NPDES (MS4) permits will be the enforcement tool to implement TMDL-based storm water nutrient reductions. NPDES storm water permits are based on the "maximum extent practicable" (MEP) standard. The evaluation of the MEP standard includes technical and economic achievability. Will the EPA consider adjusting the timeline for storm water load reductions in the TMDL if the existing timeline is not reasonably achievable?

We ask that EPA respond to the questions in writing within 30 days of the date of this letter. Should EPA choose not to answer the questions, we would appreciate knowing that as well within the next 30 days. EPA's responses to the questions may well lead to additional questions so it would be helpful to arrange a meeting as soon as possible to discuss the questions and answers before EPA responds in writing.

Thank you for your consideration of this request and we look forward to hearing from you at the earliest opportunity. Please contact the Commission's Deputy Executive Director, John Carlock at 757.420.8300 or at [jcarlock@hrpdcva.gov](mailto:jcarlock@hrpdcva.gov) if you wish to discuss this matter further.

Sincerely,



Stan D. Clark  
Chairman

copy: Douglas Domenech, Secretary of Natural Resources  
Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration  
David A. Johnson, Director, Virginia Department of Conservation and Recreation  
David K. Paylor, Director, Virginia Department of Environmental Quality  
Hampton Roads General Assembly Delegation  
HRPDC Commissioners  
Dwight L. Farmer, Executive Director, Hampton Roads Planning District Commission  
John M. Carlock, Deputy Executive Director, Hampton Roads Planning District Commission  
David E. Evans, McGuireWoods, LLP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

May 3, 2011

Mr. Stan D. Clark  
Chairman, Hampton Roads Planning District Commission  
The Regional Building  
723 Woodlake Drive  
Chesapeake, Virginia 23320

Dear Chairman Clark,

I want to thank you for the opportunity to appear before the Hampton Roads Planning District Commission when they met in special session on March 31<sup>st</sup>. It was a privilege to speak about EPA's Total Maximum Daily Load (TMDL) for the Chesapeake Bay and the critical role that Virginia's Watershed Implementation Plan (WIP) will play in restoring the health of Virginia waters.

As I said at the beginning of my remarks, while I can't guarantee that EPA's responses will alleviate every concern expressed by Commission members, I feel very strongly that continued, open, frank dialogue between all parties is essential – and can only help to resolve conflicts.

I believe that Commission members, as stated at the meeting and in your follow-up letter, are committed to protecting and restoring waters in the Hampton Roads region. In an effort to answer questions that the Commission has submitted to EPA, clarify remaining uncertainties, and correct any misinformation that may exist, please find attached a detailed response to your letter dated March 31<sup>st</sup>.

This response represents input from many EPA experts who have been involved with the development of the TMDL, evaluation of the states' WIPs, and implementation of Bay

restoration efforts for many years. I trust that you will find this response helpful as the Commission continues to work with the Commonwealth of Virginia on development of its Phase II WIP and implementation of necessary restoration activities.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Corbin', with a stylized flourish at the end.

Jeff Corbin  
Senior Advisor

Attachment

Cc:

Lisa P. Jackson, Administrator

Robert Perciasepe, Deputy Administrator

Shawn Garvin, Regional Administrator

Douglas Domenech, Secretary of Natural Resources

Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration

David A. Johnson, Director, Virginia Department of Conservation and Recreation

David K. Paylor, Director, Virginia Department of Environmental Quality

Dwight L. Farmer, Executive Director, Hampton Roads Planning District Commission

II. Questions for EPA.

A. Hampton Roads MS4 WLAs

1. Why does the final TMDL include individual WLAs for the Phase I MS4s in Virginia, but not the Phase I MS4s in the other Bay states?

**Response:** The Commonwealth of Virginia's final WIP submission and discussions with the Virginia Department of Conservation and Recreation (DCR) in the fall 2010 were the basis for EPA's inclusion of individual WLAs in the final TMDL. Other jurisdictions included discussion of more specific, anticipated permit requirements in their Phase I WIPs to explain how MS4s would meet aggregate WLAs, thus providing EPA with sufficient assurance that compliance with aggregate WLAs would be achieved. After EPA established the TMDL, VA DCR expressed some concerns about individual WLAs. We are currently in discussions with DCR to explore options for proposed refinements to the VA WIP and TMDL in Phase II and will stay in touch with the MS4 jurisdictions.

2. Why weren't the individual WLAs included in the draft TMDL?

**Response:** The draft TMDL proposed aggregate "backstop" WLAs for urban stormwater in which EPA assumed different retrofit and redevelopment standards than what the Commonwealth proposed in its draft Phase I WIP. Based on Virginia's final WIP submission and discussions with VA DCR to remove the draft "backstop" WLAs, EPA established final WLAs that assumed the same stormwater management actions as Virginia proposed in its final Phase I WIP. In order to increase EPA's assurance that Phase I MS4 jurisdictions would achieve these WLAs, EPA established individual WLAs for Phase I MS4 jurisdictions as described in the previous response.

3. How did EPA derive the individual WLAs for the Hampton Roads Phase I MS4s?  
i. What MS4 boundaries were used?

**Response:** EPA used the boundaries illustrated in Figure 4-12 of the Chesapeake Bay TMDL to define the boundaries for the 11 Phase I MS4 jurisdictions in Virginia. These boundaries align with the boundaries of MS4 jurisdictions.

- ii. Did the WLA calculations for the Phase I MS4s include areas in the Phase I boundaries that are covered by other permits held by private companies, the state, or federal agencies?

**Response:** Yes. EPA identified all loads associated with urban stormwater within each Phase I jurisdiction as currently regulated and included them within the individual WLA for the Phase I MS4. EPA did not have sufficient data to assign separate aggregate or individual WLAs for urban stormwater to sources subject to construction or industrial stormwater permits, or other NPDES permits for urban stormwater within the Phase I jurisdictions. Accordingly, loads associated with urban stormwater discharges that are regulated under separate permits were included in the individual WLA associated with the MS4 jurisdiction. However, by including such loads in the MS4 WLA, EPA does not assume that the NPDES permit requirements for the Phase I MS4 jurisdictions include any conditions or controls for regulating the activities of other NPDES permittees. EPA expects Virginia to continue to issue urban stormwater permits to other non-Phase I MS4 sources within Phase I jurisdictions, and that those permit conditions and controls are consistent with assumptions for nitrogen, phosphorus and sediment reductions and stormwater management actions associated with the Bay TMDL WLAs and Virginia's Watershed Implementation Plan.

4. Is EPA prepared to work with the Hampton Roads localities during the Phase II WIP process to ensure that the urban runoff WLAs reflect the most accurate land use data available, including the available GIS data?

**Response: Yes. EPA will work with the Commonwealth and the localities during the Phase II process to ensure that the latest GIS and other data are factored into the “data input deck” of practices that will be implemented on urban lands in the Hampton Roads region. The primary role for preparing a Phase II WIP rests with the Commonwealth’s environmental agencies.**

**EPA is not making additional modifications to the data used in Phase 5.3.2 of the Watershed Model in 2011 beyond the updates to address the land cover and nutrient management changes agreed upon by the Chesapeake Bay Principals’ Staff Committee. The agreed-upon land cover update, which will be used for the Phase II WIPs, is more consistent with local land use data where such data are available. If there are additional suggestions for simulating urban land uses in the Hampton Roads region or elsewhere in the watershed, EPA will work with localities and the Commonwealth to evaluate these options as part of the model reviews that will be happening in advance of the Phase III WIPs in 2017.**

5. Under what circumstances will EPA modify the WLAs at the conclusion of the Phase II WIP process?

Specifically:

- a. The EPA has agreed to run the Bay model with revised land use data in 2011. Will the WLAs be revised if the WLAs increase for some Phase I MS4s?

**Response: Yes. As described in the *Guide for Chesapeake Bay Jurisdictions for the Development of Phase II Watershed Implementation Plans*, one purpose of the Phase II WIPs is for the 7 Bay jurisdictions, in consultation with their local partners, to propose refinements to the TMDL allocations based on the agreed upon Chesapeake Bay Watershed Model updates. Following the Phase II WIP process, EPA intends to make revisions to the TMDL and WLAs if necessary and appropriate. In doing so, EPA will rely heavily on what the Commonwealth of Virginia proposes as modifications to its Phase II WIP, assuming the changes are designed to implement water quality standards.**

- b. Why were Total Suspended Solids (TSS) WLAs included in the TMDL given EPA’s acknowledgement that the Bay model could not be calibrated for sediment?

**Response: EPA disagrees that the Bay models are not calibrated for sediment. The Watershed Model Phase 5.3 and the Water Quality Sediment Transport Model of the Bay are calibrated for sediment. The number of sediment calibration stations increased from approximately 15 in the Watershed Model Phase 4.3 to 200 in Phase 5.3 used for the TMDL. The Water Quality Sediment Transport Model also provides a better calibration of sediment than previous model versions.**

- c. Does EPA intend to distribute any of the 9.5 percent TSS load reserve in the James River Basin or the 9.2 percent TSS load reserve in the York River Basin to Hampton Roads MS4s as part of the Phase II WIP process?

**Response: EPA will rely heavily on what the Commonwealth of Virginia proposes as modifications to its Phase II WIP, assuming the changes are designed to implement water quality standards. Virginia may propose reallocations of the load reserve. The Phase II WIP process allows Bay jurisdictions, working with their partners, to propose to EPA how to divide the nitrogen, phosphorus and sediment allocations for each major basin among the pollutant sources - including any reserves. This is first and foremost a state decision, with EPA providing oversight to ensure that pollutant discharges are consistent with TMDL and NPDES**

requirements and that water quality standards are attained in all tidal segments of the Bay and its tributaries.

- d. Can all of the MS4 sector WLAs be revised as part of the Phase II WIP process if the basin allocations are met?

**Response: Yes. Through the Phase II WIPs, Virginia and the other six Bay jurisdictions may propose refinements to the TMDL wasteload and load allocations. EPA will determine appropriate revisions to the WLAs based primarily on whether: 1) such proposed refinements would meet water quality standards in all tidal segments of the Bay; and 2) the jurisdiction has demonstrated assurance that these allocations will be achieved and maintained.**

6. How can the Hampton Roads region follow the Phase II WIP process when the Department of Conservation and Recreation (DCR) has already started writing permits based on the individual Phase I MS4 WLAs? EPA's Phase II WIP Fact Sheet states as follows:

“EPA expects the Bay jurisdictions to develop Phase II WIPs that further divide final nonpoint source and aggregate point source target loads for the 92 303(d) segment drainage areas using a finer geographic scale such as counties, conservation districts, sub-watersheds, or, where appropriate, individual sources or facilities. EPA expects the local targets to be used for planning purposes and does not intend to establish local targets as separate allocations within the Bay TMDL.”

**Response: Full achievement of the TMDL WLAs for urban stormwater may occur over multiple permit cycles so long as there is a demonstration that controls are being carried out to the Maximum Extent Practicable. Virginia's Phase I WIP commits to full conformance with the TMDL WLAs over 3 permit cycles, or 15 years. According to the WIP, the first permit cycle focuses on institutional changes necessary to achieve stormwater reductions and only assumes a 5% reduction in loads. As a result, some refinements can be made in the TMDL WLAs before the final compliance dates come due with little risk that permits issued this year would ‘overshoot’ reduction targets contemplated in VA’s Phase II WIP.**

**EPA will continue to work closely with VA DCR on both the content of permit proposals and their linkage to the current TMDL and any refinements resulting from the Phase II WIP process. EPA will consider MS4 jurisdictions’ input as it reviews individual permits and, working with DCR, will help explain permit and fact sheet provisions issued by DCR. EPA believes that through compliance staging, allocation refinements can be accommodated without further delaying the reissuance of MS4 permits in the Tidewater region which expired in 2006.**

7. The Hampton Roads localities are already investing in programs that will reduce nutrient loads. Existing EPA documentation indicates that the localities cannot count these programs as efforts to meet the TMDL. How can localities get credit for investments that reduce Sanitary Sewer Overflows (SSOs)? Implementing no discharge zones for boats? Increasing oyster restoration?

**Response: EPA acknowledges the important actions of HRSD to reduce nutrient loads including those efforts to address SSOs under the recently entered Consent Decree between EPA, Virginia and HRSD. *US & Virginia v HRSD*, Civil Action No. 2:09-cv-481 (E. D. Va). Under the CWA, SSOs are unauthorized discharges and therefore are not assigned a permit number or WLA in the TMDL. Therefore no additional credit can be given for removal of such SSOs, even though it is an important regulatory requirement and a component of restoring the local water quality and protecting public health. EPA looks forward to continued progress on reduction of SSOs under the framework of the consent decree.**

EPA will give credit in the Phase II WIPs and annual progress assessments for practices that 1) have been approved through the Chesapeake Bay Program Partnership's protocol; and 2) were implemented in 2006 or later, after the Watershed Model calibration time period. Partners may initiate a Chesapeake Bay Program review of practices at any time through the Chesapeake Bay Program Water Quality Goal Implementation Team (WQGIT) and the relevant WQGIT sector workgroup.

Jurisdictions may include "placeholder BMPs" in their Phase II WIPs for practices that have not yet been approved so long as they 1) submit supporting documentation; 2) EPA agrees to nitrogen, phosphorus and TSS reduction values; and 3) the practice is reviewed and approved through the Chesapeake Bay Program protocol prior to reporting in an annual progress assessment. EPA is willing to work with Virginia to consider crediting oyster restoration and no-discharge zones as placeholder BMPs.

8. Will EPA count nutrient load reductions from non-structural BMPs like nutrient management and the fertilizer ban as MS4 reductions or treat them as nonpoint source reductions?

**Response: Yes. EPA can count nutrient load reductions from non-structural BMPs when they are reported and verified by the state in annual progress reports. If Virginia reports urban nutrient management and fertilizer bans within MS4 jurisdictions where the loads from urban stormwater are included in the Bay TMDL WLAs, those MS4 jurisdictions will receive credit toward meeting TMDL WLAs.**

9. Virginia's BMP efficiencies and EPA's model BMP efficiencies are not equivalent. Will EPA defer to Virginia's BMP efficiencies to assess compliance?

**Response: No. As discussed above, EPA will only use BMP definitions and efficiencies approved by the Chesapeake Bay Program Water Quality Goal Implementation Team for annual progress assessments. While EPA doesn't "defer" to the efficiencies used by Virginia, there is an established process in place for Virginia to propose a revision to the efficiencies currently used in the Bay Watershed Model. Additionally, in their Phase II WIPs, Virginia and other jurisdictions may take credit for nitrogen, phosphorus and sediment reductions resulting from "placeholder BMPs" so long as Virginia 1) submits supporting documentation; 2) EPA agrees to a nitrogen, phosphorus and sediment reduction value; and 3) Virginia commits to have the BMP reviewed and approved through the Chesapeake Bay Program protocol prior to reporting it in an annual progress assessment.**

B. 2025 Deadline

1. Will EPA expect DCR to include compliance schedules designed to meet the applicable WLAs by the 2025 deadline in the Phase I MS4 permits when they are reissued and in the Phase II MS4 general permit when it is reissued?

**Response: Yes. The Chesapeake Bay Executive Council, comprised of governors of the Bay states, the Mayor of the District of Columbia, the Chair of the Chesapeake Bay Commission, and the Administrator of EPA, set a goal that all practices necessary to restore the Bay be in place by no later than 2025. EPA referenced this goal in the Chesapeake Bay TMDL, and jurisdictions set strategies to meet this goal in their Phase I WIPs. EPA assumes that jurisdictions will use their permitting and other authorities to ensure that practices to reduce loads from point and nonpoint sources are in place as soon as possible but not later than 2025 as part of their efforts to meet this shared commitment. EPA will assess progress toward this goal.**

May 3, 2011

**At the present time based on the information at hand EPA believes the existing timeline should be adequate to achieve the necessary reductions. However, the crafting of an appropriate compliance schedule for each permit will be governed by Clean Water Act regulatory requirements, e.g., 40 CFR 122.47, as well as state regulations governing NPDES permits. The schedules would be proposed by DCR in a public process and be subject to EPA review on a facility-by-facility basis.**

2. NPDES (MS4) permits will be the enforcement tool to implement TMDL-based storm water nutrient reductions. NPDES storm water permits are based on the “maximum extent practicable” (MEP) standard. The evaluation of the MEP standard includes technical and economic achievability. Will the EPA consider adjusting the timeline for storm water load reductions in the TMDL if the existing timeline is not reasonably achievable?

**Response: Yes. On a case-by-case basis EPA would consider a request to adjust the timeline, although at the present time based on the information at hand EPA believes the existing timeline should be adequate to achieve these reductions.**

**Of course, the state NPDES authority has discretion to consider a number of factors in determining an appropriate compliance schedule. The determination of what is appropriate for each permit will be determined at the time of permit renewal.**

**MS4 permits are not the only avenue for achieving stormwater nutrient reductions. The Virginia Phase I WIP proposed to achieve significant urban nutrient reductions through a state-wide program to restrict turf grass fertilizer use. Other turf grass fertilizer restriction programs around the country have demonstrated very rapid nutrient reductions in receiving streams. As discussed above, if adopted, such reductions could be counted towards achieving the jurisdictions’ WLAs or LAs.**

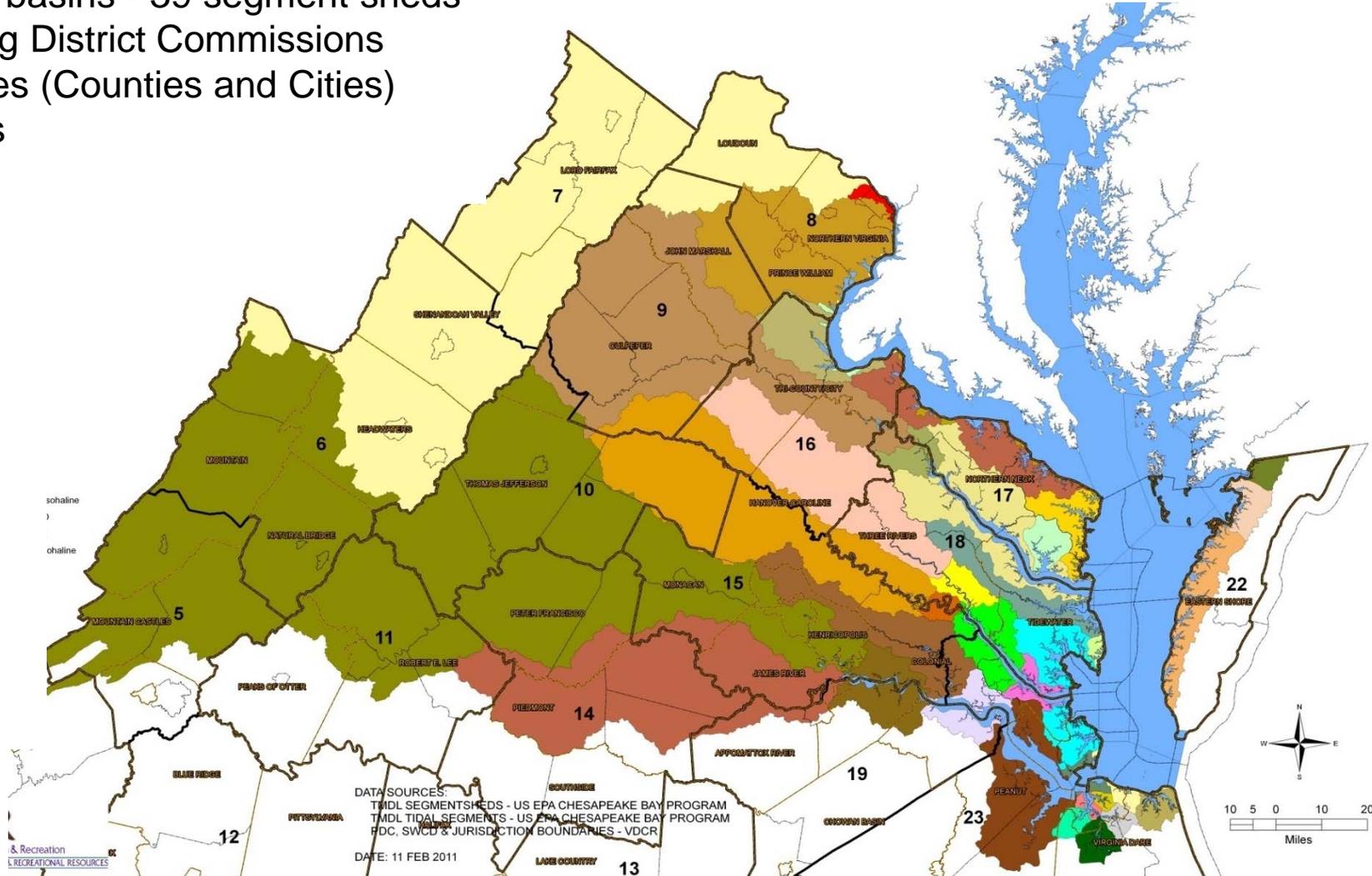


# Virginia Chesapeake Bay TMDL Watershed Implementation Plans (WIP) – Phase II



# Scale of Implementation

- Five Major basins - 39 segment sheds
- 16 Planning District Commissions
- 96 Localities (Counties and Cities)
- 32 SWCDs





# Phase II Goals

- Further divide the 39 segment shed allocations (as identified in WIP I) to a more local scale
- Work with local elected officials, staff, soil & water conservation districts, stakeholder organizations and citizens to identify strategies to be implemented
- Provide additional detail on practices and strategies to be implemented by 2017
- Include updates resulting from revisions to the Bay Watershed Model
- Include specific programs and practices in the first 2-year milestone (2012-1213)

# Phase II Project Elements

- Development of Local Reduction Goal for each of the 96 localities
- Local Engagement
- Local development of Community Conservation Information (CCI)
- Phase II WIP Development
- 2012/2013 Milestone Development

# Virginia's Phase II Approach

## Local Goal Load Development

- Utilize the Bay Model outputs to distribute the source-segment Bay TMDL allocations and WIP I BMPs to the local scale
  - Land Use / Land Cover
  - All source and segment loads aggregated to a single local goal for each pollutant
  - BMPs accounted for in the model
    - 2009 Progress BMPs
    - WIP I BMPs
  - BMPs scenario to meet Goal Load
- The local reduction goals and associated BMPs will be the starting point for localities to work from during the Phase II WIP development process
- Data will be revised upon EPA completion of the Phase 5.3.2 model (July/August)
- Absent any input from localities, these data will be used as the default values for the Phase II WIP

# Local Engagement Process

- Secretary's Office presentations to 16 PDCs – 15 completed
- Follow-up discussions with PDCs to explore their interest in participating - initiated
- Meeting with PDC staff
  - More detail on Phase II process
  - Discuss of the Community Conservation Information
  - Discuss potential roles with PDCs
    - Technical
    - Facilitation
    - Neither/both
    - Ability/capacity/resources (available and needed)

# Virginia's Phase II Approach

## Local Engagement & Outreach Process (cont.)

- Meeting with PDCs, Localities, SWCDs and other stakeholders
  - Overview of Phase II process
  - Discussion of desired local deliverables
    - Current BMPs
    - Land Use / Land Cover
    - Strategies
    - Resource needs
  - Discussion of timeline
  - Provide local goals and model output data
  - Provide assessment tool for evaluation of scenarios
- Ongoing support and technical assistance

# Virginia's Phase II Approach

## Community Conservation Information

- Baseline Data
  - Goal loads and model outputs for localities
  - Locally available data (land use, BMPs on the ground, etc.)
- Resource Assessment
  - Local conditions
  - Incorporate local data into assessment tool
  - Source identification
- Existing Program Evaluation
- Conservation Strategies
  - 2017 Implementation goals
  - 2025 Strategies
- Identify additional resources and programs required to achieve implementation goals
  - Estimate costs of local implementation

# Virginia's Phase II Approach

## 2012 – 2013 Milestone Development

- Evaluate Phase I WIP actions
- Evaluate 2011 milestone actions and contingencies
- Identify new State programs (Fertilizer control, Enhanced Nutrient Credit Exchange Program, etc.)
- Develop 2012-2013 Actions
- Identify additional resources required to achieve implementation goals
- Submit preliminary milestones to EPA (11/1/2011)
- Submit final milestones to EPA (1/03/2012)

# Potential Role of PDC

- Technical
- Facilitation
- Neither/both
- Capacity/resources - available and needed

# Project Schedule

- Draft Local Goals to Localities - 06/01/2011
- EPA Delivers Phase 5.3.2 Model – 07/1/2011
- Final Local Goals to Localities - 08/01/2011
- Local Conservation Strategies Finalized – 11/01/2011
- Preliminary 2012-2013 Milestones to EPA - 11/01/2011
- Draft Phase II WIP to EPA - 12/01/2011
- Final 2012-2013 Milestones to EPA - 01/03/2012
- Final Phase II WIP to EPA – 03/30/2012

# How the PDC can help

- Assist local governments with collection of local land use and BMP data
- Evaluate model information related to loads, land uses, 2009 and 2025 BMP implementation level and compare to local data
- Work with localities identify additional BMPs and strategies to implement them

# How the State can help

- Continued engagement and some technical assistance
- Provide “Assessment Tool”
- Pass through EPA contract assistance
- Possible grants

**Questions?**

**Joan.Salvati@dcr.virginia.gov**

## **Talking points for Hampton Roads participation in the development of Virginia's Phase II Watershed Implementation Plan (WIP) for the Chesapeake Bay TMDL**

Following the establishment of the Chesapeake Bay TMDL in December 2010, Virginia is required to develop a Phase II WIP that will:

1. Divide the TMDL allocations into local area targets.
2. Involve local stakeholders to identify strategies to reduce loads.
3. Provide additional detail on programs, technologies, and practices to be implemented by 2017.

Virginia has developed an approach to develop the Phase II WIP and has begun the local engagement and outreach process. The Assistant Secretary of Natural Resources briefed the HRPDC on March 30, 2011 and invited the HRPDC to participate in the Phase II WIP development. The Secretary of Natural Resources appointed a Stakeholder Advisory Group (SAG) to support the State in the development of the Phase II WIP. The first SAG meeting was held on April 26, 2011 and was attended by HRPDC's representative, Jenny Tribo. Virginia's approach to Phase II WIP development centers on the State's Planning District Commissions playing an active role in local government coordination and stakeholder involvement.

Following Virginia's presentations on its approach to Phase II WIP development, the Hampton Roads localities have significant questions and concerns regarding the approach.

1. Timeframe – Virginia wants local governments to develop local conservation strategies by November 1, 2011. These strategies will outline what actions can be taken to reduce nutrients within a locality from each source sector (agriculture, wastewater, etc). In order to complete this exercise, local governments will need to engage stakeholders from each source sector, analyze local nutrient reduction targets, quantify existing nutrient reduction practices by source sector, and assess each source sector's capacity for reductions. Virginia does not plan to give localities nutrient reduction targets until August 1, 2011. Three months is not enough time for local governments to adequately perform the above tasks and develop a plan that will guide nutrient reduction activities for the next fourteen years.
2. Scale – EPA guidance on Phase II WIP development specifies that States must develop "local area" targets, but it does not define the term. Virginia has stated it will develop targets for each local government, but has also stated that other scales may be used. The definition of local is important because the scale at which the nutrient reductions are defined will determine the cost of the reductions and who has the authority or responsibility to ensure that they are achieved.
3. Use of the Chesapeake Bay Model to develop local targets –Virginia has indicated that it intends to provide local governments with nutrient load targets derived from the Chesapeake Bay Watershed Model (CBWM). The local governments will then be tasked with identifying local Best Management Practices (BMPs) that will then be

fed back into the CBWM to determine compliance with the TMDL. In its 2008 review of the CBWM, the Scientific and Technical Advisory Committee (STAC) commented that this is inappropriate, “the current CBWM implementation is not appropriate for development and implementation of TMDLs at the local watershed scale. A major barrier appears to be the scale of information built into the CBWM, which is based on the county level data and river reach segmentation at the 100 cfs threshold and designed for full watershed or major tributary scale analysis.” They suggested that localities should “make use of additional modeling tools and data to resegment, recalibrate and implement the model at appropriate local scales using more site specific local information. Local-scale data can be obtained from specific sampling and measurement, or from higher-resolution spatial data sources and modeling tools.”

4. Relationship between Municipal Separate Storm Sewer System (MS4) permits and the Phase II WIP Nutrient Targets – Virginia’s Phase II WIP approach focuses on establishing local non regulatory nutrient and sediment targets for localities. It has not identified how it will address targets for localities with MS4permits. The State needs to identify how it will separate load reduction targets for permitted sources within locality boundaries (VDOT, federal, and industrial sources) and how the Phase II WIP load targets will relate to future MS4 permits.
5. Accountability for nutrient reductions in non regulated areas – Given that the actions proposed in the Virginia WIP rely heavily on voluntary programs, what assurance, policies and procedures will the state provide or promulgate to ensure that future allocation changes to the permitted entities, such as MS4s and wastewater treatment plants, will be fair and equitable? Virginia needs to outline an approach for holding non regulated sources accountable for necessary nutrient reductions. Without accountability, the permitted sources could ultimately be held liable for all nutrient reductions. In order to participate in this process, permitted sources need some assurance that the nutrient reduction gaps identified during the Phase II WIP process will not be expected to be filled by them. contingency-related Phase III allocation changes to
6. Data and Tools – Localities cannot actively engage in the Phase II WIP process until Virginia provides them with the load reduction targets and BMP baseline data. Virginia also needs to provide guidance on the BMP efficiencies to be used (State or EPA) and tools that should be used for calculating nutrient reduction potential from various sources.
7. Funding – Localities/PDCs do not have the resources to fully participate in the planning process that the State has identified in its Phase II WIP approach. They will need additional technical and financial assistance from the State and EPA in order to develop meaningful nutrient reduction plans. In the future, they will need significant financial resources in order to implement these plans.

## **AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #13: HRGREEN PROGRAM BRIEFING**

#### **SUBJECT:**

HRGreen's regional social marketing research will be presented to brief Commissioners on environmental attitudes and behaviors in Hampton Roads.

#### **BACKGROUND:**

The regional environmental education committees (HR WET, HR STORM, HR FOG and HR CLEAN) have begun to work together on more cohesive messages under the umbrella brand of HRGreen. Together, they have conducted some regional social marketing research, developed and tested a variety of messages and launched a regional environmental blog and Facebook page.

Ms. Julia Hillegass, HRPDC's Public Information and Community Affairs Administrator, will brief the Commission on the research results.

The HR Green Campaign will be formally introduced at the June 2011 Executive Committee meeting.

#### **RECOMMENDED ACTIONS:**

This briefing provided for background informational purposes.

## **AGENDA NOTE- HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #14: HRPDC ACTION ITEMS: THREE-MONTH TENTATIVE SCHEDULE**

The HRPDC staff has developed a tentative schedule of issues that will come before the Commission for action over the next three months. These issues are the primary action items the Commission will be considering for action. Other items may be added depending on new priority requests from the Commission, state and federal legislative and regulatory activities and new funding opportunities.

#### **June 2011**

Hampton Roads Data Book  
Housing Portal  
HR Green  
Chesapeake Bay TMDL  
Solid Waste Management Plan 2010  
FY 2012 Budget  
FY 2012 Unified Planning Work Program

#### **July 2011**

HRMFFA Briefing  
Regional Climate Change Study – Phase II Report  
Regional Competitiveness Study  
Regional Water Supply Plan  
Stormwater Indicators Report

#### **August 2011**

Recommend meeting cancellation

**AGENDA NOTE- HRPDC EXECUTIVE COMMITTEE MEETING**

**ITEM #15: PROJECT STATUS REPORTS AND ADVISORY COMMITTEE SUMMARIES**

**A. DIRECTORS OF UTILITIES COMMITTEE SUMMARY MINUTES**

The summary minutes of the May 4, 2011 Directors of Utilities Committee Meetings are attached.

Attachment 15A

**B. HAMPTON ROADS CHESAPEAKE BAY COMMITTEE, THE REGIONAL STORMWATER MANAGEMENT COMMITTEE AND THE CHESAPEAKE BAY IMPLEMENTATION SUBCOMMITTEE SUMMARY MINUTES**

The summary minutes of the May 5, 2011 Hampton Roads Chesapeake Bay Committee, Regional Stormwater Management Committee and Chesapeake Bay Implementation Subcommittee Committee Meeting are attached.

Attachment 15B

**C. PROJECT STATUS REPORT**

Attached are status reports on other HRPDC programs.

Attachment 15C

## **Attachment 1A**

### **MEETING SUMMARY**

#### **H2O – Help to Others – Program Board of Directors**

#### **AGENDA**

**May 4, 2011**

**Lee Hall Maintenance and Operations Center**

**425 Industrial Park Drive**

**Newport News**

**1:30 PM**

### **1. Discussion of Re-Launch of H2O - Help to Others - Program**

HRPDC staff briefed the Board of Director's on activities to support re-launch of the H2O Program. Staff has been coordinating with HRSD on envelope donations, targeted for launch in the October – December 2011 timeframe. Staff is also researching viability of PayPal online donations and text message donations and will be adding a link to the program to the HRPDC website.

Mr. Ted Henifin indicated that, although HRSD will continue to assist with the distribution of donation envelopes, the utility will be switching billing systems and will incur a cost per transaction. HRSD asked if any other utility would volunteer to take over receipt of program donations. HRPDC staff will follow-up with HRSD to estimate the cost associated with processing donations.

In order to streamline program management and unburden utility departments, staff is researching third-party program administration through a social services organization such as The Salvation Army. The Salvation Army is already involved in the Dominion Energy Shares program, where Dominion allocates funds to each Salvation Army office at the beginning of each fiscal period. The office handles client applications for assistance and is responsible for sending payment to the utility.

With respect to evaluating the assistance amount of \$250, staff is researching the amount of the average combined bill and will report findings to the Board at a future meeting. The Board discussed the timing of warning notices and water shut-off. In general, the group commented that the \$250 assistance amount is appropriate to cover the average combined fees for a four month period.

Staff is also considering revisions to the criteria document, as the current language may be perceived to encourage payment delinquency. The Board noted that, although delinquency is not necessarily a prerequisite to qualify for assistance, a delinquency notice may effectively demonstrate a client's need.

The Board discussed the use of program funds to pay for combined utility, trash, and stormwater bills. Many localities have a hierarchy of how payments toward combined

bills are applied toward water fees, stormwater fees, trash fees, etc. Water and sewer fees are not necessarily paid first. It was noted that the Board needs to decide if the application of program funds beyond water and wastewater fees is appropriate.

**ACTION:** HRPDC staff will report back to the Board with information on program administration options and the average combined bill. Staff will provide recommendations on revising the criteria document.

**MEETING SUMMARY  
DIRECTORS OF UTILITIES COMMITTEE  
May 4, 2011  
Lee Hall Maintenance and Operations Center  
425 Industrial Park Drive  
Newport News  
1:30 PM**

**1. Summary of April 6, 2011 Meeting of the Directors of Utilities Committee**

The Summary of the April 6, 2011 meeting of the Directors of Utilities Committee was approved.

**2. Private Property Infiltration and Inflow (I/I) Abatement Program**

The development of a regional private property I/I abatement program was discussed at the April 21, 2011 Chief Administrative Officers (CAO) meeting. Mr. Ted Henifin represented HRSD at the CAO meeting and briefed the Committee on the discussion. Mr. Henifin emphasized that addressing private property I/I flows is required per the Special Order of Consent (SOC) and, therefore, development of an abatement program is not optional. The CAOs expressed support for development of a regional program and committed to further discussions to inform their respective elected officials.

Mr. John Carlock indicated that the topic will be included on May 19, 2011 HRPDC meeting agenda, with Mr. Henifin providing a briefing to the Commissioners. The Commissioners will be asked to endorse the concept of a regional program, subject to program development by the Committee. It is anticipated that a follow-up briefing on detailed program plans can be presented to the Commissioners in the fall.

Mr. Carlock clarified that, although the HRPDC is not a party to the SOC, the Directors of Utilities Committee (DUC) had in the past agreed to seek PDC acceptance or approval for SOC-related activities prior to approaching locality boards and councils. The development of a private property I/I abatement program is following this same process.

**ACTION:** The Committee recommends that HRPDC endorse the concept of a regional private property I/I abatement program, subject to program development by the DUC and future program briefings. The topic will be included on the May 19, 2011 HRPDC meeting agenda.

### **3. UASI Grant Proposals and Selection Panel Review**

The selection panel completed the proposal evaluation and interview process. Mr. Eric Tucker briefed the Committee on the selection panel's activities. Of the six proposals received, four project teams were identified for further consideration and interviews. Following the interviews, the panel's general assessment of the four prospective project teams is summarized below:

- Tetra Tech EM Inc. did not demonstrate adequate knowledge of local water systems.
- URS Corporation's emphasis on a model/simulation project component was not balanced by an adequate treatment of security issues.
- Virginia Modeling, Analysis and Simulation Center proposed a logical analysis, but could have demonstrated better knowledge of local water and wastewater systems.
- Watermark Risk Management International, Inc. demonstrated good knowledge of local water systems and the capability to address the security component of the project.

The panel's recommendation for contractor selection is to move forward with contract negotiations with Watermark Risk Management. The panel also recommends that the project scope include two training exercises – one for the Peninsula and one for the Southside. The Committee unanimously accepted the panel's recommendation. Copies of the presentation made by Watermark Risk Management were circulated during the meeting.

**ACTION:** The Committee recommends commencing contract negotiations with Watermark Risk Management International, Inc. for consultant services in response to RFP no. WR-RFP-2011-01. Approval for the Executive Director to execute a contract, subsequent to successful negotiations, will be requested at the May 19, 2011 HRPDC meeting.

### **4. Committee Reports**

- **Water Reclamation and Reuse Regulations:** Mr. Eric Tucker provided a summary of the April 21 and May 2, 2011 Advisory Committee meetings on revisions to the Water Reclamation and Reuse Regulation (9VAC25-740, effective October 1, 2008). The Advisory Committee identified two key issues in the existing regulations:
  - Lack of flexibility to accept variations in system design.
  - Lack of provisions to allow temporary use of reclaimed water during periods of drought.

A total of 22 amendments were proposed; four areas were subject to significant discussion as follows:

- Permit requirements: The current regulations require that a contract be negotiated between the supplier and each customer of reclaimed water. There are no provisions for a rate-setting process. City ordinances should be allowed to address this.
- Permit applications: The current regulations hold the supplier responsible for the proper storage and use by customers, but there are no provisions to allow suppliers to access and inspect customer use and storage facilities to confirm compliance with regulations.
- Permit requirements: The current regulations require point of compliance monitoring at various locations. This is excessive and the Advisory Committee suggests only requiring monitoring at the plant and at the end user location, since water quality demonstrated at the end user location would require water quality to be maintained throughout the transmission line.
- Design Criteria: The current regulations require pipes transmitting reclaimed water to display proper markings every 10 feet. This is problematic with respect to the conversion of existing or abandoned underground water systems to reclaimed water. The existing regulatory requirements discourage such system conversions because of the costs associated with excavation/site restoration. The Advisory Committee suggests that the 10-foot interval marking requirement be applicable only to above-ground pipe installations. Underground systems transmitting reclaimed water could be marked by signage and by markings at start and end point valves/covers. It was noted that representatives from the Virginia Department of Health (VHD) expressed concerns with this suggestion, but did not articulate that they were against it.

Mr. Tucker will provide HRPDC staff with materials from the April 21 and May 2, 2011 meetings. The Advisory Committee has two more meetings scheduled prior to the deadline for final comments.

- **Consensus on Regional Hydraulic Model Inputs and Calibration:** The Capacity Team developed a document to memorialize consensus on the input data and application of the Regional Hydraulic Model (RHM). The agreement was to be executed by parties to the Special Order of Consent (SOC) no later than May 1, 2011. Mr. Henifin indicated that consensus was not reached by the deadline, and that HRSD will be providing a letter to DEQ indicating as such. HRSD is working with Chesapeake to resolve outstanding issues. Mr. Henifin commented that reaching consensus will become more challenging in the future, and encouraged parties to raise issues and concerns early.

Mr. Craig Ziesemer commented that delays in consensus on the RHM will affect downstream work.

**ACTION:** No action.

- **Rehabilitation Guidelines, Standards and Tools (RGST) Business Rules:** As a follow-up to the April 6, 2011 DUC meeting discussion, Mr. Richard Stahr, Brown and Caldwell, provided an update on the development of the RGST Business Rules. The latest version of the document (version 13) was distributed to the DUC prior to the meeting. Mr. Stahr noted that the document is almost complete and a revised document (version 14) is forthcoming with changes regarding the following:
  - Rehabilitation Toolbox: The purpose of this section is to provide consistency in the development of rehabilitation cost estimates. The table will be revised to show a minimum cost and a cost range for each rehabilitation technique
  - Growth: Language will be added to provide a mechanism to adjust for population growth over the implementation period of rehabilitation plans.

Mr. Stahr reviewed his communications with DEQ following the April 6, 2011 DUC meeting and noted that the agency is not amenable to developing the Business Rules into a Minor Revision to the Regional Technical Standards (RTS). Therefore, the Capacity Team will revise the Business Rules document into a technical memorandum to be signed by the SOC parties.

The Capacity Team is preparing rehabilitation plans for a sampling of basins in accordance with the Business Rules and plans to review these with DEQ. This exercise is intended to reinforce understanding of the Business Rules and facilitate future DEQ review of rehabilitation plans.

SOC parties have agreed to a deadline of 5/1/2012 for completion of all rehabilitation plans; this allows for inter-party coordination of plans prior to the November 2012 deadline for plan submittal to DEQ. The rehabilitation plans will provide the basis for the Regional Wet Weather Management Plan (RWWMP).

Mr. Stahr indicated that HRSD is planning a data call to support work with localities on quantifying private system flow contributions.

The Committee discussed the Business Rules text. Questions or comments from the Committee are italicized.

- *The rules currently focus on gravity lines. Language must be added to address the treatment of force mains and pump stations in rehabilitation plans.*

The requirement for rehabilitation plans to be inclusive of all facilities necessitates an “out clause” to allow the force mains and pump stations to be addressed in the RWWMP.

*The language regarding pump station upgrades needs to be flexible.*

- *Does HRSD plan to project for pump station design? The sooner we can agree on targets, the sooner we can deal with the pump station issue.*  
That is part of the overall policy review and will be addressed between the Capacity Assessment and the RWWMP – about a two-year period.

- *The formula for rehabilitation uses a gallons-per-day ERU approach. Do we need to convert these numbers to total flows or show both ERUs and total flows to correlate with data provided in prior DEQ submittals?*

This point is acknowledged; some interpretation will be needed.

- *Have the attorneys reviewed the document?*

The SOC language regarding rehabilitation plan cost is vague – only indicating that costs need to be provided. This document is intended to assist in determining costs.

*Parties have already agreed to these milestones. If attorneys are to become involved, parties need to be mindful of the SOC timeframe.*

*There is precedent that Capacity Team work is not reviewed by legal counsel.*

The Business Rules are an extension of the RTS.

*DEQ does not want an enforceable document – this discounts the need for attorney review.*

*A non-enforceable document could be advantageous. There is the concern that localities may not be able to make commitments beyond those approved by city councils.*

About 50 percent of localities have developed first order cost estimates at this point and are using this information to understand future commitments.

*EPA’s Region 3 has set precedent by rejecting Baltimore’s proposed 2-year level of service.*

Mr. Stahr asked the Committee if the Capacity Team may move forward or if there are any “show stopper” issues from the Directors’ prospective. Questions or comments from the Committee are italicized.

- *Consideration should be given as to how to address areas where development stopped prior to completion of construction.*

- *CDM population projections need further discussion.*

- *I/I flows from known defects on private property should be addressed.*

The single-family home aspect is addressed by estimating I/I flow contribution based on inch diameter miles of pipe, but the Capacity Team is still struggling with the treatment of commercial properties.

Mr. Stahr requested that any further comments be submitted as soon as possible and estimated that the Capacity Team will be able to provide updated Business Rules to the DUC for approval in July, as well as a summary of DEQ's review of the sample rehabilitation plans.

Mr. Stahr reviewed the following deadlines from Minor Revision No. 1:

- May 1, 2011: Consensus on the RHM inputs
- October 2011: HRSD boundary conditions
- December 2011: Model documentation
- July 2012: Locality conditions

**ACTION:** No Action.

## 5. Staff Reports

- **Committee Decision-Making Procedures:** The guidelines for committee decision-making procedures were finalized per comments received at the April 6, 2011 Committee meeting and distributed to the Committee on April 26, 2011. The Committee had no further comments or questions on this document.
- **Regional Water Supply Plan:** The Committee agreed that demand projections at the locality/system level should be included in an appendix to support the regional and sub-regional projections presented in the plan. The committee also agreed to include in an appendix the 10-year water use data used to develop per-capita use estimates.

HRPDC staff provided a handout outlining a proposed schedule for plan completion and submittal of the plan to HRPDC at the June meeting. The Committee accepted the schedule and indicated that Directors will likely brief city managers on the plan prior to the HRPDC meeting. Staff will distribute the final plan to DUC on June 3, 2011 when it is submitted for inclusion in the HRPDC agenda packet.

- **Hampton Roads Water Quality Response Plan:** HRPDC staff is conducting the annual update of the Hampton Roads Water Quality Response Plan Contact List. Many localities have already submitted updated information. Revisions should be sent to Tiffany Smith ([tsmith@hrpdcva.gov](mailto:tsmith@hrpdcva.gov)) by May 31, 2011.
- **Sanitary Sewer Overflow Reporting System (SSORS):** After reviewing the budget allocations, HRPDC staff recommends requesting a revised fee proposal from the consultant for this year and next year and that the contract amount remain the same

through next year. The Committee accepted this recommendation and HRPDC staff will follow-up with the consultant.

## **6. Other Business**

- The Committee considered topics for discussion at the June 1, 2011 Joint Meeting of the Utility Directors and Health Directors. The Committee agreed to include the following:
  - Water Reclamation and Reuse Regulation
  - UASI Water Supply Assessment and Emergency Response Training project
  - VDH regulatory updates

The following topics were suggested for the July DUC meeting:

- Planning for safe shelter for municipal assets during a major catastrophe.
- VDH requirements for boil water notices and the Total Coliform Rule revisions (invite Dan Horne for discussion)

**ACTION:** No Action.

**ATTACHMENT 1A**  
**THE DRAFT SUMMARY OF THE MEETING OF THE**  
**HAMPTON ROADS CHESAPEAKE BAY COMMITTEE, THE**  
**REGIONAL STORMWATER MANAGEMENT COMMITTEE AND THE**  
**CHESAPEAKE BAY IMPLEMENTATION SUBCOMMITTEE**  
**May 5, 2011**

**RESOLUTION OF APPRECIATION.**

A Resolution of Appreciation, recognizing his contributions to the efforts of the Regional Stormwater Management Committee, was presented to Chuck Fleming, Hampton, upon his retirement. (Copy Attached.)

**1. Summary of the April 7, 2011 Meeting of the Hampton Roads Chesapeake Bay and Regional Stormwater Management Committees and Chesapeake Bay Implementation Subcommittee**

The Summary of the April 7, 2011 Meeting of the Hampton Roads Chesapeake Bay and Regional Stormwater Management Committees and Chesapeake Bay Implementation Subcommittee was approved as distributed.

**2. Chesapeake Bay Phase II Watershed Implementation Plan (WIP) Update**

Ms. Joan Salvati, DCR, updated the Committee on the status of the Phase II Watershed Implementation Plan. Through the Phase II WIP, DCR will:

- 1) Further divide the 39 segments in Virginia into smaller, local units
- 2) Work with local elected officials and other stakeholders to identify strategies
- 3) Provide additional detail on practices and strategies to be implemented by 2017
- 4) Include updates from the Bay Watershed Model revision to be finished by this summer
- 5) Include specific programs and practices in the first 2-year milestone (2012-2013) report

The Phase II WIP contains five project elements: local reduction goals, local engagement, development of community conservation information, the Phase II WIP document, and milestone development. DCR will provide each locality with preliminary aggregate goals for each pollutant based on results from the existing watershed model; these goals may be revised when the updated model output is released this summer. The local engagement element includes meeting with PDC staffs to determine the role of each PDC in the process and meeting with localities and other stakeholders. The Community Conservation Information plan will include baseline data, resource assessments, evaluations of related existing programs (including non-obvious programs), and conservation goals (to be in place by 2017) and strategies (to be in place by 2025). This element will also include identification of additional resource or program requirements or needs, such as cost estimates or

staff needs. The 2012-2013 milestone development element mostly applies to the State, and involves identifying new State programs, developing actions for the 2012-2013 deadline, and identifying additional resource requirements for implementation.

Potential roles for PDCs include technical assistance, facilitation, and coordination. Each PDC's role will be determined by its member local governments.

Ms. Salvati provided an updated project schedule for the Phase II WIP, which is summarized below:

6/1/2011	Draft Local Goals to Localities*
7/1/2011	EPA Delivers Phase 5.3.2 Model
8/1/2011	Final Local Goals to Localities
11/1/2011	Local Conservation Strategies Finalized
11/1/2011	Preliminary 2012-2013 Milestones to EPA
12/1/2011	Draft Phase II WIP to EPA
1/3/2011	Final 2012-2013 Milestones to EPA
3/30/2012	Final Phase II WIP to EPA

\*Ms. Salvati released Hampton Roads localities' draft goals at this meeting.

PDCs can help in this process by assisting local governments with the collection of land use and BMP data, evaluating model information related to land uses, comparing the state's 2009 BMP data to local government data, and working with localities to identify BMPs and other implementation strategies to meet the 2025 goals. The state will provide assistance to local governments through continued engagement and technical assistance, provision of an "assessment tool," and pass-through EPA contract assistance. Some grant funds may also be available.

Ms. Salvati answered questions from the Committee. Several Committee members were concerned with how the state plans to enforce or ensure implementation of goals in unregulated sectors and localities. She noted that, unless provided by local governments, the State is ultimately responsible to develop strategies for unregulated sectors. Federal facilities are included in locality goals, but EPA has been working with federal agencies to ensure that they meet the requirements of the TMDL. Virginia will have to make sure they meet the Phase II WIP goals. Wastewater treatment plants are under a Watershed General Permit and goals for the wastewater sector are not included in locality goals. It appears that industrial stormwater permits are included in MS4 allocations currently.

DCR expects local governments to submit by the November 1 deadline reduction numbers and strategies and practices, along with the mechanisms they will use to implement those practices. The Committee asked for feedback from DCR that can be taken to councils and boards, signifying that those local plans have been accepted and/or approved.

Ms. Salvati stated that EPA will evaluate plans based on the implementation of practices and not on whether they have met any water quality performance metrics. Per the Phase I WIP, EPA and the State require reasonable assurances that practices and strategies will be implemented. Reductions are not necessarily tied to segmentsheds within localities. If there is regional consensus to do so, DCR is amenable to providing local scale goals by segmentshed or by sector rather than by locality.

Ms. Salvati provided an Excel file showing load reduction goals throughout the region. HRPDC staff will send out the file and Ms. Salvati's presentation to the Committee.

The Committee decided to hold another meeting on May 13 (tentatively) to have more discussion related to the Chesapeake Bay TMDL and Phase II WIP. The location will be arranged by HRPDC staff.

### **3. Stormwater Subcommittee Update**

Ms. Whitney Katchmark, HRPDC, updated the Committee on the results of the last Stormwater Subcommittee. The Subcommittee discussed the Chesapeake Bay TMDL and a comment letter to be sent to the state regarding the stormwater regulations. Dave Evans is putting together comments on the EPA memo concerning MS4 permits; a letter will be sent to EPA on May 19. Comments on the letter should be sent to Jenny Tribo or Ms. Katchmark by May 12. The Subcommittee also discussed TMDLs, the BMP Clearinghouse, HR Storm, and various grants.

### **4. HUD Sustainability Grant Update**

Mr. Benjamin McFarlane, HRPDC, provided an update to the Committee on the HUD Sustainable Communities Regional Planning Grant Program. There will be a second round of SCRPG funds released this fiscal year. HRPDC staff will alert local government staffs when HUD releases a NOFA.

### **5. Kodak Greenway Grant Update**

Ms. Sara Kidd, HRPDC, gave a brief presentation to the Committee on the Kodak American Greenways Program, which provides grants to local governments, land trusts, and similar organizations to create or improve greenways, trails, and waterways. The program is a partnership between Eastman Kodak Company, the Conservation Fund, and the National Geographic Society. Most grants are for \$500 to \$1,000, with the maximum award being \$2,500. This year's grant application is June 15. More information is available at [www.conservationfund.org/kodak\\_awards](http://www.conservationfund.org/kodak_awards).

**6. Climate Change Update**

Mr. McFarlane gave a brief presentation to the Committee on HRPDC’s climate change work. This past year’s final report, which will be presented in full at the June meeting, consists of a summary of the grant period’s outreach efforts and research, as well as an analysis of the region’s vulnerability to storm surge and sea level rise, in terms of impacts to population, businesses, critical facilities, infrastructure, and the natural environment.

**7. VIMS Subsidence Presentation Summary**

This presentation was postponed until the June meeting.

**8. Land Cover/Impervious Surface Update**

Ms. Katchmark updated the Committee on the HRPDC staff’s investigations into acquiring consistent land cover data for the region. The staff has been looking into several alternatives, including the development of minimum standards for localities acquiring their own data. This regional data could be used for the 2017 model update. HRPDC staff will also assist with communicating about data issues with EPA.

**9. Environmental Education Update**

Ms. Lisa Hardy, HRPDC, gave a brief presentation to the Committee on environmental outreach through HR STORM and HR Green. The Committee viewed several commercials for the Plant More Plants campaign, as well as a television clip from Fox 43 during Earth Week where local government representatives spoke about various environmental initiatives in the region. HR STORM and HR FOG are working together on a commercial to air on WVEC from May 16 to June 6.

**10. Status Reports**

**A. Hampton Roads Planning District Commission**

- 1) Mr. Robbie Coates provided contact information for localities wishing to apply for Hazard Mitigation Grants:

Southside Localities	Peninsula Localities
Robbie Coates Hazard Mitigation Coordinator (804)897-9976 Robert.coates@vdem.virginia.gov	Bill Lawson Hazard Mitigation Coordinator (804)897-9973 Williams.lawson@vdem.virginia.gov

- 2) Ms. J. McBride provided an update on the timeline for Alternative Onsite Sewage System (AOSS) Regulations. The Governor granted a six-month extension on the adoption of the final regulations on April 6, 2011. The

Virginia Department of Health (VDH) plans to present the final regulations to the Board of Health at the June 2011 meeting. The effective date of the regulations will be October 6, 2011.

- 3) EPA is seeking comments on its technical document, *Identifying and Protecting Health Watersheds: Concepts, Assessments, and Management Approaches*. Comments must be submitted by June 3, 2011. More information is available at:

[http://water.epa.gov/polwaste/nps/watershed/hw\\_techdocument.cfm](http://water.epa.gov/polwaste/nps/watershed/hw_techdocument.cfm).

- 4) The Southeast Rural Community Assistance Project is offering low-interest loans for low- to moderate-income individuals to construct, refurbish, and service household well systems where it is not feasible to connect to a new or existing community water system, as well as loans for low-income rural communities for predevelopment costs, system upgrades, and new construction of water and wastewater services and facilities. For more information, contact Dario Krolo at (540)345-1184 ext. 113, or [dkrolo@sercap.org](mailto:dkrolo@sercap.org).

#### B. Hampton Roads Sanitation District

Mr. Jay Bernas, HRSD's Chief of Planning and Analysis, reported to the Committee that he would be attending future meetings on behalf of HRSD. He also reported that HRSD will be releasing an RFP for the upgrade of the Virginia Initiative Plant near ODU soon, and another plant upgrade is forthcoming.

#### C. Soil and Water Conservation Districts

SWCD representatives had nothing to report.

#### D. Department of Conservation and Recreation

Mr. Todd Herbert, DCR, reported that the April 11-15 Extreme Stream Makeover event in Newport News, conducted by Newport News and the James River Association, was a success.

Mr. Noah Hill, DCR, reported DCR has set up a regional engagement process for the Chesapeake Bay TMDL. Questions can be directed to Ms. Salvati, Mr. Hill, Mr. Herbert, or others? Mr. Hill suggested that the Committee could designate contacts to funnel questions through to DCR. Mr. Hill also reported on the recent restructuring of DCR.

#### E. Department of Environmental Quality

DEQ will be holding kickoff TAC (technical advisory committee) meetings for PCB TMDLs. One meeting will be held for each of three areas: Upper James River

(Chickahominy), Lower James River (Tidewater), and the Elizabeth River. These meetings are open to the public. The Elizabeth River area meeting will be held next Wednesday, May 11 at 9:30 am in Virginia Beach at the DEQ Regional Office. The Lower James area meeting will be held May 17 at 10:00 am in Williamsburg at the James City County – Williamsburg Community Center.

F. U.S. Geological Survey

USGS representatives had nothing to report.

G. Department of Transportation

Mr. Andrew Scott, VDOT, reported that the department is looking into pipe rehabilitation using a spray concrete/fiber mix, and asked if any localities had any experience with that technique. Norfolk may have used it for a project.

H. U.S. Navy

In the absence of a U.S Navy representative there was no report.

I. Local Programs

Ms. Jill Sunderland, Norfolk, reported that the Lafayette Riverfest was a success, with approximately 1,500 people visiting the event. The event included several displays and activities, as well as the Learning Barge, which was opened to visitors.

Mr. Lynn Allsbrook, Hampton, reported that with the retirement of Chuck Fleming, Kimley-Horn would be providing significant stormwater support to the City.

**11. Other Matters**

The next meeting of the Joint Environmental Committee is scheduled for June 2, 2011 in the HRPDC Regional Board Room. Materials will be sent in advance for review.

## **PROJECT STATUS REPORTS**

### **A. Regional Housing Program**

#### **Housing and Human Service Technical Support**

Staff members are working to provide information and guidance to localities, non-profits housing agencies, and housing authorities on the newly enforced regulation requiring that housing agencies receiving secondary financing and/or purchasing HUD owned properties, become approved by HUD. The HRPDC staff is working with representatives from Virginia Housing Development Authority (VHDA), Department of Housing and Community Development (DHCD), and HUD to provide webinars and training on this matter.

#### **Regional Portal**

HRPDC staff members are continuing to work on the implementation of the Regional Housing Portal. Staff is continually researching methodologies to host and develop the portal system. Options concerning GIS tools and portal components are being defined to ensure this web based tool can be easily navigated by both consumers and regional housing providers. The finished tool will be used to create a regional web-based portal for consumers and housing providers to access appropriate services. Staff will be meeting with community stakeholders in May.

#### **Hampton Roads Loan Fund Partnership**

The staff is processing requests for downpayment and closing cost assistance funding from local administrators for qualified first-time homebuyers in the region. In an effort to ensure that all qualified candidates are receiving this much-needed program, staff has increased availability of material on this program through marketing efforts that include meetings with community partners to increase awareness of affordable housing tools and resources.

### **B. Regional Economics Program Report**

#### **Technical Assistance**

Economics staff routinely provides technical assistance and support to member jurisdictions and regional organizations. Both the HRPDC Data Book and the Commission's Benchmarking Study provide easy access to a great deal of regional information. Over the past month, staff has responded to information requests from individuals, member localities, regional organizations, and the media. Staff is currently assisting the Governor's office in assessing survey results distributed by the rapid response team to select JFCOM contract employees. At the request of a member locality, staff provided economic modeling assistance to a local developer who required an impact analysis for a grant application. Staff is currently exploring the development of an index of regional economic conditions in cooperation with economists from several higher education institutions. Staff recently presented to the

Hampton Roads Compensation and Benefits Association regarding the demographics and the state of the region's economy.

### **Regional Competitiveness**

Staff is working on a regional competitiveness study. The purpose of the study is to review the components of growth in competitive economies and evaluate the regional capacity for growth. This analysis will include an in-depth analysis of the region's occupational and industrial composition, with a particular focus on the region's labor supply.

### **Analysis of Energy Development Strategies**

Staff is beginning work on an analysis of energy development strategies in Hampton Roads. At present, very little is commonly understood as to the ability for the region to capitalize on various forms of energy development. Staff will be collecting and compiling information on the region's capacity to develop energy and to research the potential economic benefits associated with energy development.

### **Hampton Roads Regional Data Book**

The Hampton Roads Data Book is an annual publication of the HRPDC. Throughout the year, staff compiled data on the region's employment, income, population, retail sales, unemployment, and building permits. This information is published in the Hampton Roads Regional Data Book and is also made available for download via the Commission's website. Staff has begun the process of preparing the Data Book for publication.

## **C. Emergency Management Project Update (May 2011)**

### **Debris Management**

The annual debris management meeting will be held May 26, 2011 at the HRPDC.

### **Hampton Roads Tactical Regional Area Network (HRTacRAN)**

The EM Administrator continues to work with the Hampton Roads Interoperability Communications Advisory Committee (HRICAC) Oversight Group in an effort to find a funding solution for sustainment of the system for follow-on service and maintenance procurement. The FY09 Port Security Grant Application was submitted to VDEM in August 2010 as a potential temporary solution for sustainment. We are still waiting for DHS approval. Also, the FY08 UASI investment supporting ORION was modified to support HRTacRAN and sent to DHS for approval. This request was denied by DHS since the HRTacRAN was built with FY06 Port Security Grant Funds. On-going discussions with VDEM and the Governor's Office of Commonwealth Preparedness continue as we seek solutions to advocate an approval from DHS with a re-submission of the request.

### **FY 11 Healthcare Organization Emergency Preparedness Seminars (HOEPS)**

The HOEPS Seminars took place on May 4 & 5 on the Peninsula and Southside. This year's seminar included a scaled down tabletop exercise for participants which was well received. A majority of the participants were those who operate long term care facilities, home health care providers, hospitals, and residential facilities for various types of clients (i.e. seniors, disadvantaged people, etc.). Participants thought this year's event was one of the most valuable as they got to discuss their emergency preparedness plans and work through challenges with their jurisdictional emergency managers and/or health district emergency planners. There were over 125 participants each day.

### **Hazard Mitigation Planning**

The HRPDC and Hazard Mitigation Planning Committee (for the Southside Hampton Roads Hazard Mitigation Plan, the Franklin Hazard Mitigation Plan and the Southampton Hazard Mitigation Plan) are continuing to work with the consultant. The Hazard Mitigation Planning Committee for each of these plans continue to meet to provide input and review the updated materials developed for these plans. Additionally, public meetings will be held for all of these plans in June. The results of the on-line survey for public participation are complete and the results are being analyzed for incorporation into the plans.

The Emergency Management staff continues to work with the City of Hampton's Fire Chief (Project Manager) by providing support to update the Peninsula Hazard Mitigation Plan when requested.

A website supporting the mitigation planning project for the staff, local agencies and future public participation has been established: [www.remtac.org/mitigation](http://www.remtac.org/mitigation). Currently, the Peninsula plan is not represented on this site. This will change in the near future as the consultant is working with the HRPDC to have the Peninsula section included at their (peninsula localities) request.

### **Regional Catastrophic Planning Grant Program (RCPGP) Support**

The Emergency Management staff continues to support the Regional Catastrophic Planning Team and the three workgroups to ensure existing projects and data is integrated. Current efforts are focused on the Evacuation Demand Analysis that will be incorporated into the framework being developed.

### **Urban Area Security Initiative (UASI)**

The Emergency Management staff continues to manage and support the Hampton Roads Urban Areas Security Initiative (UASI) Grant Program for the Urban Area Working Group (UAWG). FY 11 UASI Grant planning continues in anticipation of grant guidance being released at any time. Staff continues to remain engaged by proactively developing the grant applications now so the HRPDC is ready to implement the actions of the guidance once released.

### **Hampton Roads Medical Special Needs and WebEOC Implementation Update (FY 08 UASI Project)**

The WebEOC Subcommittee continues to implement their plan for institutionalizing WebEOC in the region.

The Special Needs website and registry ([www.hrspecialneeds.org](http://www.hrspecialneeds.org)) continues to be populated by/for citizens with special needs in Hampton Roads. Registrations have recently increased as a result of outreach activities. Also, Newport News has incorporated its existing registry into the regional registry as part of the annual update. Finally, the new hurricane guide that will be distributed in the coming week, now has a page dedicated towards special needs emergency preparedness planning.

### **Multi-Region Target Capabilities Assessment (FY 08 UASI Project)**

The Emergency Management staff provides program management and implementation support for the Target Capabilities Assessment (TCA), through the UASI Grant program. Workshops to interview the health district staffs for additional data gathering have been established and will commence this month and continue into June. On-going activities are currently centered on analyzing the data received to date.

### **Pet Sheltering Support (FY 09 UASI Project)**

The first of seven trailers with pet sheltering supplies and equipment was delivered to the City of Chesapeake. Emergency Managers and animal control officials were able to view the trailer configuration and make recommendations for adjustments before the rest are built.

## **D. PUBLIC INFORMATION & COMMUNITY AFFAIRS UPDATE**

- HRPDC staffed an exhibit at Regional Day 2011, which showcased how HRPDC is assisting local governments in meeting reporting requirements through tailored, web-based systems.
- Conducted Food Service Employee (FSE) Stakeholder meeting and Certification Training for Isle of Wight County
- Organized regional stormwater nutrient management trainings on both the southside and peninsula.
- Conducted two regional FSE Certification Trainings
- Conducted two regional Grease Hauler Certification Trainings
- Staffed stormwater education exhibit at Chrysler Museum for Norfolk Garden Tour
- Organized daily segments about HRGreen initiatives on the Hampton Roads Show for Earth Week: April 18-22
- Special regional promotions and advertising for Drinking Water Week: May 2-8
- Attended Regional Communicators Roundtable
- Enhanced Regional Update e-newsletter
- Developed new Regional Citizen's Guide to Stormwater Runoff
- Developed new Regional Living with Tidal Waters Brochure

**AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING**

**ITEM #16: CORRESPONDENCE OF INTEREST**

**Letter, MAJ Amy DeHart to Jennifer Tribo**

Attached is a letter to HRPDC Senior Water Resources Planner, Jennifer Tribo, from the Virginia Military Institute Acting Deputy Director, MAJ Amy DeHart, acknowledging Ms. Tribo's contributions to the 22 Annual Environment Virginia Symposium.

Attachment 16



**22<sup>nd</sup> Annual Environment Virginia Symposium**  
**5 – 7 April 2011**  
**Marshall Hall, Center for Leadership and Ethics**  
**Virginia Military Institute - Lexington, Virginia**  
**[www.vmi.edu/environmentva](http://www.vmi.edu/environmentva)**

April 14, 2011

Jennifer Tribo  
Hampton Roads Planning District Commission  
723 Woodlake Drive  
Chesapeake VA, 23320

Dear Jennifer Tribo,

On behalf of the Virginia Military Institute, I would like to thank you for your outstanding contributions to the 22<sup>nd</sup> Annual Environment Virginia Symposium, *Sustainable Solutions in Uncertain Times: Partnering for Economic and Environmental Success*.

Over 750 environmental leaders came to the Institute to participate in the symposium. I believe this response is a testament to the pertinence of the topics, the reputation of the presenters, and widespread acknowledgment of the importance of environmental issues.

The symposium featured 112 speakers. This included five plenary session speakers and 107 breakout session presenters. Your contributions and the contributions of all speakers and moderators represent a major investment of time, knowledge, spirit, and patience. We are very grateful and humbled by these generous acts. The Symposium would not exist without your participation. All available presentations have been linked to the symposium web site for reference.

This year's symposium was the first in many years to feature a call for papers and/or presentations. We believe this was a valuable tool in acquainting us with the most pressing and significant environment issues. Moreover, it allowed us to craft a diverse program. We would like to have your feedback on this experiment, and more specifically, how it might be improved.

**RECEIVED**

APR 19 2011

**HRPDC**

Virginia Military Institute  
Center for Leadership and Ethics, 500 Anderson Drive, Lexington, VA 24450 -(540) 464-7300

Attachment 16

In the near future, we will launch an online survey to conference participants. We would appreciate your input into how we can continue to improve the Environment Virginia Symposium.

The program was developed by the staff at the VMI Center for Leadership and Ethics with the guidance, feedback, and help of the Program Advisory Committee, a group representing a broad spectrum of environmental leaders. We are very grateful to the committee members for their outstanding contributions.

We congratulate the winners of the Governor's Environmental Excellence Award and Cindy Berndt, Director, Regulatory Affairs/Citizen Boards, Department of Environmental Quality, the winner of the 2011 Erchul Environmental Leadership Award.

I hope that you enjoyed your participation in the Symposium and your visit to Lexington and VMI. The dates of next year's symposium are April 10 - 12, 2012. Please consider marking this on your calendar and planning to participate.

With best wishes from the Institute,

Sincerely,



MAJ Amy K. DeHart  
Acting Deputy Director  
Center for Leadership and Ethics  
Virginia Military Institute

**Virginia Military Institute**

*Center for Leadership and Ethics, 500 Anderson Drive, Lexington, VA 24450 -(540) 464-7361*

## **AGENDA NOTE – HRPDC EXECUTIVE COMMITTEE MEETING**

### **ITEM #17: FOR YOUR INFORMATION**

#### **A. Suffolk Transition Office**

On April 28, 2011, the Virginia Regional Center for U. S. Joint Forces Command (USFCOM) Workforce Transition and Business Development opened its doors to provide one-stop assistance to employees and business affected by the upcoming transformation of JFCOM. According to a press release from the Governor's Office, Governor McDonnell stated that "this transition center is the culmination of months of hard work between state and local government, as well as the Office of Economic Adjustment."

The center's website states the facility will support a wide variety of economic and workforce development activities, including: business attraction and retention, entrepreneurship assistance, communication and outreach activities and worker assessment, career counseling, job search assistance, skills training, and a variety of career-related workshops.

The Commonwealth of Virginia will administer the center in partnership with the City of Suffolk, Opportunity, Inc., the Virginia Employment Commission, Virginia Workforce Connection, the Small Business Development Center, and SEVA-Rapid Response. The center is funded through a grant from the U.S. Department of Defense, Office of Economic Adjustment.

The transition center is located at the Bridgeway Technology Center I building, 7025 Harbour View Boulevard, Suite 120, Suffolk, VA 23435. Hours of operation are 8:30 – 4:30 Monday - Friday. For more information call the JFCOM Transition hotline at (757) 461-7537 or visit [www.JFCOMtransition.com](http://www.JFCOMtransition.com)

#### **B. Virginia Municipal League (VML)/Virginia Association of Counties (VACO) Workshop**

Throughout the past year, much has been written about the U.S. Environmental Protection Agency's prescribed "pollution diet" for the Chesapeake Bay and its tributaries. EPA's Chesapeake Bay cleanup plan will significantly impact the local governments that fall within the Chesapeake Bay watershed that covers approximately 60 percent of Virginia's land mass. On May 26, 2011 from 9:30 am to 3:15 p.m. VML and VACo are hosting a one day seminar. This Seminar will be a working session for localities to help them understand what will be expected and how much these expectations might cost in regards to the restoration of the Chesapeake Bay and its tributaries. This seminar should also offer an opportunity for local officials to better familiarize themselves with the science behind the program, the history of the Chesapeake Bay Program, and innovative approaches that might help localities improve the quality of nearby rivers and streams.

# Restoration of the Chesapeake Bay and its Tributaries: A Working Seminar for Local Officials

**May 26**

**9:30 a.m.-3:15 p.m.**

**Hanover County Board of Supervisors Auditorium**

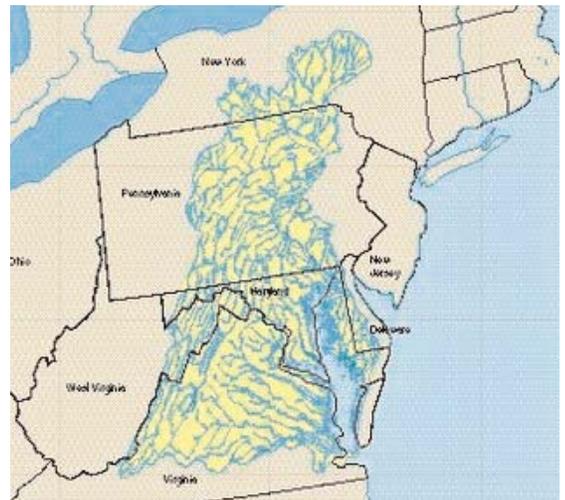
Throughout the past year much has been written about the U.S. Environmental Protection Agency's prescribed "pollution diet" for the Chesapeake Bay and its tributaries. EPA's Chesapeake Bay cleanup plan will significantly impact the local governments that fall within the Chesapeake Bay watershed that covers approximately 60 percent of Virginia's land mass.

In order to respond to this initiative, VACo and VML are hosting this one-day seminar to help local officials better understand:

- What will be expected of local governments.
- How much these expectations might cost.

This seminar should also offer an opportunity for local officials to better familiarize themselves with the science behind the program, the history of the Chesapeake Bay Program, and innovative approaches that might help localities improve the quality of nearby rivers and streams.

We hope to structure this seminar in a way that will be interactive and informal. Lunch and refreshments will be provided, courtesy of Joyce Engineering and the Sands Anderson.



## Sponsors



## Hosted By



## Registration Form

To register for this workshop fill out the following information:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

County/City/Town: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Mailing  
Address: \_\_\_\_\_

Phone number: \_\_\_\_\_ FAX: \_\_\_\_\_

Registration fee: \$10

Make check payable to the Virginia Association of Counties or include credit card authorization.

Circle one: Visa    MasterCard    American Express                      Exp. Date \_\_\_\_\_

Cardholder's Name \_\_\_\_\_ Card# \_\_\_\_\_

**The deadline to submit the registration form is May 19.**

Virginia Association of Counties, 1207 E. Main Street, Suite 300, Richmond, VA 23219  
FAX: (804) 788-0083. Any questions pertaining to the workshop may be directed to VACo Staff member Larry Land at (804)343-2504 or by email to Lland@vaco.org.

### Directions to the Hanover County Board of Supervisors Auditorium

The Hanover County Government Complex address is 7497 County Complex Rd. It is located approximately 5 miles east of the Town of Ashland, just south of the intersection of Rts. 54 and 301. From I-95: take Exit 92 (Rt. 54 East) towards Hanover. Travel approximately 7 miles to the intersection with Rt. 301. Turn right onto Rt. 301. Travel approximately one-half mile and turn left onto County Complex Rd.

## Preliminary AGENDA (subject to minor changes)

- **9 a.m.** Registration and Continental Breakfast (Provided by Joyce Engineering)
- **9:30 - 9:45 a.m.** Welcoming Remarks and Introduction
- **9:45 - 11 a.m.** "The Big Picture" (Joseph Maroon, Maroon Consulting and Adjunct Faculty Member, Virginia Commonwealth University)
- **11 - 11:15 a.m.** Break
- **11:15 - noon** The Science of the Bay and its tributaries (Carl Hershner, PhD, Director for Coastal Resources Management, Virginia Institute of Marine Science, College of William and Mary)
- **Noon - 12:45 p.m.** Lunch (Provided by Joyce Engineering)
- **12:45 - 1:30 p.m.** Watershed Implementation Plan, Phase II: What it means to localities (Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration)
- **1:40 - 2:20 p.m.** Nutrient Credit Exchange (Russ Baxter, Chesapeake Bay Coordinator, Department of Environmental Quality)
- **2:20 - 2:30 p.m.** Break (Refreshments provided by Sands Anderson PC)
- **2:30 - 3:15 p.m.** Perspectives: Panel Discussion Participants:
  - Moderator: M. Ann Neil Cosby, Esq., Counsel, Sands Anderson PC
  - Chris D. Pomeroy, President, AquaLaw
  - Ann Jennings, Virginia Executive Director, Chesapeake Bay Foundation
  - Katie Kyger Frazier, Vice President, Public Affairs, Virginia Agribusiness Council
  - Steven Williams, Executive Director, Thomas Jefferson Planning District
  - Jeff Corbin, Senior Advisor to the Administrator for the Chesapeake Bay and Anacostia River, U.S. Environmental Protection Agency
- **3:15 p.m.** Wrap up

**AGENDA NOTE- HRPDC EXECUTIVE COMMITTEE MEETING**

**ITEM #18: OLD/NEW BUSINESS**