

MEETING SUMMARY
CHESAPEAKE BAY TMDL STEERING COMMITTEE
November 3, 2011
1:00 P.M.

1. Meeting Summary

The summary of the October 6, 2011 Steering Committee meeting was approved.

2. Phase II WIP Process Update

HRPDC staff briefed the Committee on correspondence between EPA and Virginia that may impact the expectations of the level of local governments' involvement in the Phase II WIP process and the use of local targets in the Phase II WIP process. A copy of the slide presentation is available on the HRPDC website. A copy of Maryland's revised schedule for phase II WIPs was distributed as a handout.

In a March 31, 2011 letter to the EPA, HRPDC requested that individual Waste Load Allocations (WLAs) for the localities with Phase I MS4 permits be removed from the TMDL. HRPDC has not received a response resolving this issue. Virginia's Secretary of Natural Resources sent correspondence on September 28, 2011 to the EPA stating that the model "is not appropriate for use in assigning loads in permits, developing local load targets, or measuring reduction progress." This position supports HRPDC's request for the WLAs to be removed from the TMDL. The Secretary's proposed "Path Forward" recommends additional model revisions, a shift in focus from local target loads to maintaining implementation levels, and a deadline of June 1, 2012 for interim Phase II WIPs. HRPDC staff briefed the Commission on this issue at their October 20, 2011 meeting and recommended that the HRPDC send letters 1) to Virginia requesting guidance to localities and PDCs in light of this new information; and 2) to EPA requesting an update on the WLA issue. Letters were sent on October 20, 2011.

DCR intends to send correspondence to PDCs and localities explaining that local strategies for the Phase II WIP should focus on the level of effort expressed in the Phase I WIP and performance standards rather than pounds of pollutants removed. HRPDC staff recommended that localities focus developing narrative descriptions for local strategies and on planning efforts to prepare for MS4 permit renewals. The Committee discussion is summarized below:

- Along with the information on Maryland's efforts, it would be helpful to have information of work in Washington D.C. and Pennsylvania, where there may be less focus on urban lands.

- Maryland is providing pounds of pollutants removed at the basin level, not local level.
- Maryland's schedule is more reasonable given impending elections. Also, it is preferable to have the state do the initial submittal and allow localities to have councils act on local strategies.
- DCR's approach is to provide process-focused information to EPA by December 15, and basin-level scenarios and BMPs by March 30, 2011. A schedule for local input to the March submittal is pending. DCR is looking for "level of effort" information and BMP preferences from localities.
- Locality budget cycle deadlines are a concern. Localities are wrestling with how to translate strategies into fiscal year budgets. Planning work done now may help cost estimates for FY 2014/2015 implementation of projects.
- Virginia needs to be 60% toward total target across all sectors by 2017. Much of this progress will be made by wastewater sector improvements already underway. As wastewater flows increase with growth, other sectors will need to demonstrate progress.
- Local strategies should identify gaps, including areas where local enforcement authority is lacking. Localities may put forth ideas and initiatives that DCR and EPA can implement to facilitate action at local levels. A list of initiatives can also be sent to the local delegation.
- Virginia will have difficulty managing the coincidence of the 2017 TMDL deadline, the next Phase II permit cycle in 2013, and potential backstops to become effective 2018-2019.
- The Phase I WIP is Virginia's plan; localities should not be responsible to equate actions to percent treatment.
- A potential approach is to estimate interim two-year measures or goals, making commitments to strategies that do not require immediate funding.
- The City of Virginia Beach Public Works is developing a stormwater work plan that addresses all TMDLs in the City and explains how funds from the stormwater fee increase will be applied for flood control, water quality improvements, and operations and maintenance activities. The plan is intended to educate both elected officials and citizens; the City Council will be briefed on the plan in the near future.
- The City of Chesapeake intends to use wastewater Special Order of Consent work as the City's primary strategy for the Phase II WIP. Cities should also consider the capacity of the average citizen to afford more utility costs. The potential exists for a water quality/stormwater consent order.

- Although “pooling” funding resources across jurisdictions to target nutrient reductions at the basin level may result in less overall costs, there are significant obstacles that are likely to disallow such an approach. However, Virginia should be looking at the potential for state facilitation of efforts to focus resources as part of their strategy refinement. The state has the ability to raise revenue to fund basin-wide programs to address the Bay TMDL and other local TMDLS. The Phase II WIP is an opportunity for localities to put forth such ideas and encourage the state to pursue action.

The Committee agreed that it is not possible for localities to provide specific information by February 2012, but general qualitative BMP strategies can be developed by that time. The development of any specific information requires a time frame beyond July 2012.

3. Using Monitoring Data to Measure Effectiveness of Management Actions

Mr. John Jastram, USGS, briefed the Committee on Fairfax County’s small urban/suburban watershed stream flow and water quality monitoring project. A copy of his presentation is available on HRPDC’s website.

The project includes 14 monitoring stations for flow and water quality data such as turbidity. Four of the 14 stations also collect samples to quantify nutrient loads. The 14 stations cost \$275,000/year to operate. This methodology will allow Fairfax County to estimate nutrient loads in the local watershed and measure the impact of BMPs and nutrient management programs on water quality. This methodology could be applied to small watersheds (1-6 square miles) in Hampton Roads; however, the monitoring stations would require more expensive equipment for tidal streams.

4. Impact of Reducing Sanitary Sewer Overflows (SSOs) relative to the Urban Nutrient Reductions

In response to an HRPDC request in March 2011, the Chesapeake Bay Program is considering the impact of reductions in illicit discharges, including SSOs, to urban nutrient loads. The Wastewater Treatment Workgroup and Urban Stormwater Workgroup have been directed to explore this issue beginning in early 2012. HRPDC staff asked HRSD to develop an order of magnitude estimate of the pounds of nitrogen attributable to past overflows. Mr. Ted Henifin described a conservative estimate of 15,000 pounds of nitrogen per year associated with SSOs across the region. This translates to approximately 10% of the total required urban load nutrient reduction for Hampton Roads based on comparison of 2009 progress loads and 2025 goal loads from the 5.3.2 model output.

The assumptions used in the estimate are listed below:

- The last five years of SSORS data used to determine total reported gallons of spills across the region (events with unknown volumes ranged from 4% to 32% of the total annual reported events).
- The total five-year data was averaged to estimate annual average of 4.5 million gallons in reported spills for the region. An order of magnitude was added to provide a conservative regional estimate of 45 million gallons per year in spills.
- It is acknowledged that SSOs are highly diluted due to the association with wet-weather events. However, for the purposes of a conservative estimate, it was assumed that the nutrient concentration of SSOs is the same as that of typical flows upon entering the wastewater treatment facility. Therefore, the total 45 million gallons of annual overflows is estimated to contain 15,000 pounds of nitrogen distributed across the region.

The equivalent 10% nutrient load reduction estimated to be achievable by eliminating SSOs largely overestimated due to the assumptions listed above; the estimate represent a best-case scenario.

For perspective, Mr. Henifin noted that HRSD's discharge allocation to the James River currently permits a maximum of 6 million pounds of nitrogen annually, which will be reduced to 3.2 million in 2021. Mr. Henifin clarified that the Special Order of Consent is an enforcement issue, not a water quality initiative, as sanitary sewer overflows are prohibited by the Clean Water Act.

5. Report from Septic System Legislative Subcommittee

HRPDC staff summarized the three recommendations developed at the September 21, 2011 septic system legislative subcommittee meeting. The subcommittee, composed of local government, HRSD, VDH, and HRPDC staff, was formed to discuss potential legislative action needed to achieve the nutrient reductions for the septic system sector identified in the Phase I WIP. The recommendations are listed below:

- Seek legislative changes necessary to establish tax credits for upgrade/replacement of existing conventional systems with nitrogen reducing systems, or connection to existing sewer.
- Look into steps for gaining General Assembly approval to grant all counties, at once, the authority to require hook-ups to existing sewer lines when appropriate. (Cities already have this authority.)

- Work with state agencies to establish a cost share program, similar to what is done with the Agricultural BMP Cost Share Program, to assist with the cost of required upgrades or replacements and incentivize non-failing septic system owners to upgrade to a denitrifying system.

The Committee agreed to include all three recommendations in the regional legislative package.

6. Facilitated Discussion/Roundtable

Updates provided by Steering Committee members are summarized below.

Chesapeake: The City continues to work with their consultant to apply the VAST tool and develop strategies. Work is focusing on BMP retrofits, and the City intends to begin identifying public property sites for implementation.

Hampton: The City has reconvened its work group and is exploring BMPs that address both water quality and quantity.

Gloucester: The County is working on groundtruthing and development of agriculture strategies, as it is not an MS4 community.

Virginia Beach: The City is working on cost issues.

Suffolk: The Chesapeake Bay Program Urban Stormwater Workgroup Retrofit Panel has been formed. Please send LJ Hansen any studies of methods that may justify or support BMP efficiencies.

James City County: The County's activities are on hold pending the anticipated guidance letter from DCR.

Norfolk: The City has finalized the Community Conservation Information and is looking at potential strategies for consideration by City Council.

Newport News: The City's consultant is completing the Community Conservation Information. The City's budget cycle is commencing, and the City Council was primed last year regarding stormwater fee increases.

VDH: The AOSS regulations were approved by the Governor and the 30-day review period begins November 7, 2011.

Poquoson: The City continues to groundtruth information and is developing GIS information for land cover. The City is also beginning to discuss potential means of raising funding.

DCR: Vacancies at the regional office are impacting staff response time. Consideration is appreciated.

Isle of Wight: The County is working with a consultant on developing scenarios. Staffing is strained due to vacancies.

Meeting Attendance

Regional Steering Committee for the Chesapeake Bay Phase II WIP:

Chesapeake Bay TMDL Steering Committee members in attendance at the September 1, 2011 meeting are indicated by a “√” in the list below. Those represented by an alternate are indicated with a “Δ” (see list of alternate representatives below).

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|--------------------------|------------------------------------------------------|
| √ Amar Dwarkanath, CH | √ Ted Henifin, HRSD |
| √ Eric Martin, CH | Δ Carl Hershner, VIMS |
| Stanley Stein, NO | Δ Marjorie Mayfield Jackson, Elizabeth River Project |
| √ June Whitehurst, NO | √ Christy Everett, Chesapeake Bay Foundation |
| √ Dave Hansen, VB | Karen Forget, Lynnhaven River NOW |
| √ Clay Bernick, VB | Bill Street, James River Association |
| √ Randy Wheeler, PQ | Tara Outland-Williams, Peanut SWCD |
| √ Ellen Roberts, PQ | Chuck Griffin, Peanut SWCD |
| Mary Bunting, HA | √ Roy Flanagan, Virginia Dare SWCD |
| √ Lynn Allsbrook, HA | W. Brian Noyes, Colonial SWCD |
| √ Brian Lewis, NN | Laverne Calhoun, Tidewater SWCD |
| √ Dave Kuzma, NN | Δ Joan Salvati, DCR |
| Richard Hartman, PO | √ Mark Sauer, DEQ - TRO |
| √ James Wright, PO | John Carroll, Forestry |
| √ Steve Martin, WM | Δ Robert Hicks, VDH |
| √ Carolyn Murphy, WM | √ Andrew Scott, VDOT |
| John Hudgins, YK | John Gordon, DOD – Air Force |
| √ Connie Bennett, YK | √ David Cotnoir, DOD - Navy |
| √ Fran Geissler, JCC | √ Mark Bennett, USGS |
| Darryl Cook, JCC | |
| √ Rhonda Mack, SY | |
| Patrick Roberts, SU | |
| √ L. J. Hansen, SU | |
| √ Frank Haltom, IW | |
| Gretchen Gonzalez, IW | |
| Δ Peter Stephenson, SM | |
| Δ Brenda Garton, GL | |
| √ Martin Schlesinger, GL | |
| Michael Stallings, WN | |

Alternate Steering Committee Representatives in Attendance:

Wayne Griffin, SM
Scott Rae, GL

Pamela Mason, VIMS
Joe Rieger, Elizabeth River Project
Noah Hill, DCR
David Tiller, VDH

Additional Attendees:

Danny Barker, HRSD
Barbara Brumbaugh, CH
Joseph M. DuRant, NN
Rachel Friend, CH
William J. Johnston, VB
Kari Lynch, PO
Casey Magruder, CH
Justin Schafer, NO
Weston Young, HA

Mike Barbachem, URS
Claudia Cotton, Tidewater Builders Assoc.
Shelly Frie, CH2M Hill
Time Hare, CH2M Hill
Greta Hawkins, Kimley-Horn
Mike Hess, Brown and Caldwell
Cindy Linkenhoker, Parsons Brinckerhoff
Robyn Niss, Kimley-Horn
John Paine, URS
Richard Phillips, College of William & Mary
Lisa Scheessele, Timmons Group

HRPDC Staff:

John M. Carlock
Whitney Katchmark
Jennifer Tribo

Lisa Hardy
Tiffany Smith