SUMMARY OF DISCUSSIONS AND FOLLOWUP ACTIONS
Chesapeake Bay Program Partnership's
BMP Verification Review Panel
Wednesday, July 31st, 2013
www.chesapeakebay.net/calendar/event/19543/

Introductions and Objectives of Today's Conference Call
- Dana York (Green Earth Connection LLC; Chair, BMP Verification Review Panel) verified participants and outlined the agenda. She asked panelists to verify their receipt of the draft BMP Verification document (July 15, 2013 version); all panelists present had received their copy.

Review of Advance Briefing Materials Shared with the Panel Members
- Rich Batiuk (EPA, Chesapeake Bay Program Office) walked through Attachment A and highlighted key issues for the panelists' consideration over coming weeks.
  - o Rich Batiuk: As we'll learn from Mark Dubin and Roy Hoagland, there is perhaps a sixth BMP Verification Principle for the Partnership's consideration: transparency. He noted this is an important issue to the Partnership's Scientific & Technical Advisory Committee (STAC) and the Citizens' Advisory Committee (CAC).
  - o Rich Batiuk: We'll hear from Mark Dubin and Tetra Tech about the 80 percent threshold and the verification assessment tool. Critical to get feedback from Panel on this tool. The 80 percent threshold is not necessarily specific to agriculture, as other sectors (e.g., Urban Stormwater) may also consider applying it.
    - ▪ He asked panel members with an agriculture focus to read through Appendix Q of the draft BMP Verification Document (Appendix Q is the draft USGS report) before the August 29-29 meeting.
  - o See Attachment A for more details.
  - o Dana York recalled that Rich Batiuk had referenced an additional forthcoming item from STAC.
    - ▪ Rich Batiuk: STAC has a subgroup that is forming some recommendations on how the Partnership might address the evaluation and oversight of BMP verification implementation over the long term. STAC will provide a roughly 4-5 page summary documenting their finding and recommendations by August 15th. The recommendations will relate to section 12 [of the draft BMP Verification document] in more detail. STAC's recommendations will be shared with the Panel and BMP Verification Committee as soon as they are received.
  - o Rich Batiuk also noted the Panel should expect additional information coming from Mark Dubin regarding the agriculture verification package from the Agriculture Workgroup (AgWG) by August 15, including updated documentation for the verification matrix and documentation on the 80 percent threshold tool.

Addressing Issues of Transparency with a Focus on Agricultural Practice Data
- Mark Dubin (University of Maryland; Coordinator, Agriculture Workgroup) explained the Agriculture Workgroup requested additional guidance on transparency, which was mentioned in the Verification Principles. The Verification Committee formed a small ad hoc transparency subgroup to develop a finer definition of transparency.
- Roy Hoagland (HOPE Impacts LLC): Principle 3 states that transparency shall be included in the processes of verification and tracking and reporting of the underlying data. The principle also acknowledges that levels of transparency will vary depending upon source sector, given legal limitations and the need to respect confidentiality. This Public Confidence principle prompted discussion in the Agriculture Workgroup, which led to their request. Though this began at the Agriculture Workgroup, the transparency definition and principle is intended to apply to all nonpoint source sectors.
- Roy Hoagland: The recommendations from the subgroup are additional guidance as partners work through protocols. There may be different levels of transparency at different levels, e.g. great transparency at data collection, but poor transparency for data analysis.
  - o He explained the Ad Hoc Transparency Subgroup has two differing opinions on the second and third recommendations.
    - "Clearly defined" versus "independent" [recommendation #2]
    - "Finest possible" versus "most site specific scale possible" [recommendation 3]
  - o He noted the two versions will be vetted by the Partnership: a June 12, 2013 version (Attachment B) and a July 11, 2013 version.
- Rich Batiuk: We're not asking for definitive feedback from the Panel on the topic of transparency at this time. We'll discuss this in more depth at the August face-to-face meeting.
- Robert Traver (Villanova University): "Clearly defined" and "finest possible" could use more substance behind the exact definitions.
- Richard Klein (Community and Environmental Defense Services): For watershed groups and others, it would be ideal if all jurisdictions posted annual MS4 reports and appendices online.
  - o Roy Hoagland: For stormwater, that scale and example fits, but there are legal restrictions in agriculture so the data would not be available at the same level as stormwater.
- Tim Gieseke (Ag Resource Strategies): The "finest possible" scale will be defined by those legal and programmatic requirements. Would be helpful if we had a matrix or something to show different scales and programmatic constraints across the different source sectors.
- Mike Gerel (Sustainable Northwest): Something that conforms with legal and programmatic constraints may not be at a scale compatible with the Chesapeake Bay watershed model. Know this has been an issue before.
  - o Tim Gieseke: One may cancel the other. Interesting to see where the lowest scale resides between those two points.
  - o Mike Gerel: Those legal and programmatic constraints will ultimately govern, so when we talk about principles, we should not bound ourselves too much.

ACTION: Chesapeake Bay Program Office staff will develop the Panel requested matrix comparing the different source sectors and the legal/programmatic constraints on the scale at which data can be made accessible to the public.

- Rebecca Hanmer: Would argue that the degree to which the data is available to outside reviewer constitutes transparency. Perhaps only site specific information is transparent and anything else is a compromise. We should not call it transparency when it is not transparent. The Chesapeake Bay Program should justify reasons when transparency is compromised and what measures are being taken to overcome the lack of transparency.
- Dana York: Are we referring to transparency of the data, or the process?
    - Roy Hoagland: We wrestled with "data generation" and "collection." We didn't want too many words. Roy directed Dana York to the "definition" paragraph above the recommendations.
    - Dana York: As the "verification" Review Panel, we ought to assess whether the process for verification is transparent.
    - Mark Dubin: If there is high confidence in the process and documentation for a certain dataset (e.g., USDA NASS data), then that can compensate for a lack of transparency of the individual data points themselves.
- Andrew Sharpley (University of Arkansas) commented that he agreed with Rebecca Hanmer's earlier comment. Also feel it is problematic to call something transparent if it's aggregated at a statewide level.

ACTION: Panelists should send comments or questions on the draft transparency definition and recommendations to Jeremy Hanson (jhanson@chesapeakebay.net). Jeremy will compile and share the input with Transparency Subgroup.

Application of the 80th Percent Threshold for Verification Using an Assessment Tool
- Mark Dubin: Verification is more of a challenge for agriculture than other sectors. The Agriculture Workgroup is working to provide guidance for the six jurisdictions and other partners. They have been working with Tetra Tech to develop a tool that all jurisdictions and partners could use to evaluate their programs and methods. The tool is still in draft form and currently undergoing beta testing.
    > Mark Dubin offered to set up an online webinar for interested panelists to review the tool in more depth. He felt the tool could ultimately be adaptable to other nonpoint source sectors.

ACTION: If panel members are interested in Mark Dubin scheduling a separate webinar demonstration of application to the tool under development by Tetra Tech, please contact Jeremy Hanson (jhanson@chesapeakebay.net) directly.

- Steve Dressing (Tetra Tech) went through some slides and described the objectives, methods and process for developing the tool. View the presentation for more detail.
- Mark Dubin and Steve Dressing asked for questions from the Panel.
- Dana York asked for clarification how this tool relates to the 80 percent threshold.
    - Mark Dubin: The tool provides a general sense of how well their methods might perform. Something with a medium or low rating would not meet the threshold.

This tool is just one piece of a package, which will include: a background piece about verification inside the watershed and nationally; the matrix and a supporting narrative document. The final piece of the package is this verification tool to allow jurisdictions to evaluate different methods and programs, to give them relative rating values. All the pieces work together. One piece by itself is not sufficient.

- o Richard Klein: So this 80 percent threshold is not a confidence level?
    - ▪ Mark Dubin: The 80 percent was based on the research, which was an approximate median of the range found in that research. This will be described in more depth in the supporting document.
- o Tim Gieseke: So this is really a tool to hint whether the partner's methods are likely to produce reliable results or not. Seems that the key is the "BMP detection" box on slide 21. We are really looking at: does the gathered information tell us anything useful? Ideally we'd like to know about the effects, but also what is being implemented. Suggest looking at this very carefully to see what can be removed and make this as simple as possible for the user.
    - ▪ Mark Dubin agreed that detection is a critical aspect.
- Rebecca Hanmer: The tool seems completely subjective and relies on users of the tool. This is the opposite of transparent. Important to have BMP verification procedures and protocols spelled out and documented by the states. At the August Panel meeting, we should clarify to the states what we are asking for. Had hoped for more details on this scoring tool by now.
- Dana York noted the Panel will develop a checklist for the states during the August 28-29 meeting. We want to give the jurisdictions a very thorough list.

Status of Maryland's and Virginia's Agriculture Certainty Programs and Connections to BMP Verification
- Kelly Shenk (EPA) noted she serves as Agriculture Advisor for the Regional Administrator (EPA Region 3).
    - o Provided some background information as Attachment D. See her presentation for a summary of the Maryland legislation and Virginia regulation.
    - o Virginia is only state with an official program with regulations that were released this year and are effective November 6, 2013. Maryland is developing regulations following passage of legislation in 2013 Session. Delaware is in an exploratory phase.
    - o She explained requirements to qualify for Virginia's program and noted that details are still being determined as Maryland develops its regulations under the legislation. She pointed out Maryland will have performance based standards, while Virginia's program is practice-based.
- Tim Gieseke: is cost an issue in either of these? For transaction of certification.
    - o Kelly Shenk: Maryland is discussing it needs to be cost-neutral, but we have to see what that means. The program must also be cost-sustaining and revenue neutral. They have not estimated the costs yet.
- Andrew Sharpley: any look at costs of implementing this? Doubt they may have enough staff or personnel to write plans or conduct inspections.

- o Kelly Shenk: In Maryland, producers are required to have these plans already. Maryland believes they likely have the necessary infrastructure already. In Virginia, the staff resources may be more of an issue.
- Tim Gieseke: These programs have components we are looking for. If one entity is collecting this data for their purposes, couldn't we use it for verification purposes?
- Kelly Shenk: Yes we should. Think there is an opportunity here work towards more consistency. These practices have meet NRCS specs and states are trying to align these certainty programs with how practices are tracked and reported to the Chesapeake Bay Program.
- Dana York noted the oversight committees assisting with Maryland's regulations have broad sector representation, which is helpful before the regulations are finalized.
- Kelly Shenk: Even though these programs are built into regulatory structure they are voluntary. A farmer chooses whether or not to sign up.
- Tim Gieseke: For Minnesota's certainty program, we estimated that 40% of practices on farms in were done with farmer's time and money. So without these certainty programs or something similar, we may be missing large chunk of implemented practices.

Draft Agenda for August 28-29 Panel Meeting
- Rich Batiuk directed participants' attention to the draft agenda for the August 28-29 meeting (Attachment E). When drafting the agenda we've tried to avoid any formal presentations in favor of discussion and interaction between panelists and experts throughout the course of the meeting.
  - o He asked panelists to consider for afternoon of second day: do we want interaction with larger community?
- Rich Batiuk: We will finalize the agenda by mid-August based on input from panel members.
- Dana York: There will probably be some writing assignments for panel members coming out of the August meeting. We will also talk more about the timeline following the meeting.
- Rich Batiuk: Also built in some time into the draft agenda for the panel members to talk among themselves at the end of each day.
- In response to a question from Rebecca Hanmer, Rich Batiuk noted that additional forthcoming information on the verification protocols will be mostly on agriculture side. Mark Dubin and Tetra Tech continuing to develop their package of materials and we will work to provide it to the Panel in mid-August.
- Dana York: Panel development and discussion of a recommended documentation elements, or checklist, should be added to the agenda.
- Rich Batiuk: There will be some time on the second day devoted to that discussion. Panel members should look through section 13 of the draft BMP verification document as starting point.
- Rich Batiuk explained travel logistics for the panelists. Please follow the written instructions previously provide and contact Kim Scalia or Rich Batiuk with any questions.

ACTION: Panel members should contact Jeremy Hanson with additional input for presenters or experts to invite to the August panel meeting.

Adjourned

Teleconference Participants

Name	Affiliation
Panelists	
Dana York, Chair	Green Earth Connection LLC
Mike Gerel	Sustainable Northwest
Tim Gieseke	Ag Resource Strategies
Rebecca Hanmer	Retired, CBP Citizens' Advisory Committee
Dianna Hogan	USGS, Eastern Geographic Science Center
Richard Klein	Community and Environmental Defense Services
Andrew Sharpley	University of Arkansas
Gordon Smith	Wildlife Works Carbon LLC
Robert Traver	Villanova University, Dept. of Civil & Environmental Engineering
Dan Zimmerman	Warwick Township
Panel Staff	
Rich Batiuk, Coordinator	U.S. EPA, Chesapeake Bay Program Office (CBPO)
Jeremy Hanson, Staff	Chesapeake Research Consortium/CBPO
Presenters	
Steve Dressing	Tetra Tech
Mark Dubin	University of Maryland, CBPO
Roy Hoagland	HOPE Impacts, LLC
Don Meals	Tetra Tech
Adam Orndorff	Tetra Tech
Kelly Shenk	U.S. EPA, Region III
Other Participants	
Karl Blankenship	Bay Journal
Sally Claggett	U.S. Forest Service, CBPO
Jack Frye	Chesapeake Bay Commission
Norm Goulet	Northern Virginia Regional Commission
Marya Levelev	Maryland Department of Environment
Teresa Koon	West Virginia Department of Environmental Protection
George Onyullo	District of Columbia, Department of Environment
Andra Popa	U.S. EPA, CBPO
Jeff Sweeney	U.S. EPA, CBPO
Ted Tesler	Pennsylvania Department of Environmental Protection
Hank Zygmunt	Resource Dynamics, Inc