

CHESAPEAKE BAY PROGRAM
WATER QUALITY GOAL IMPLEMENTATION TEAM
November 28, 2016 CONFERENCE CALL
Meeting Minutes

Summary of Actions and Decisions

ACTION: WQGIT members and interested parties may submit nominations for at-large members to Lindsey Gordon (Gordon.Lindsey@epa.gov) and Lucinda Power (Power.Lucinda@epa.gov).

DECISION: The WQGIT agreed to support option 1 for defining the Wastewater Treatment Plant line in the Phase III planning target methodology. The lines will be drawn from 4.5 to 8 mg/L for nitrogen, and 0.22 and 0.54 mg/L for phosphorus. Potential changes to the E3 scenarios would have no effect on these lines.

ACTION: The WQGIT will be asked to reach a decision on the base year for setting the Phase III WIP planning targets in January 2017. The WQGIT will use preliminary state basin numbers to walk through examples.

ACTION: EPA will reach out to the Tetra Tech statistical design experts in helping to define a standard for what would be a sufficiently conservative application of book values.

DECISION: The WQGIT agreed to approve the Phase 6 Nutrient Management BMP Expert Panel report with the language shared with the WQGIT last week. EPA CBPO will consult directly with Phase 6 NM Expert Panel members to get their input on what a state would need to submit in order to demonstrate book values are equally or more conservative than manure/soil analyses when it comes to nutrient applications. A state would need to submit such documentation to EPA CBPO in time for review and approval by EPA CBPO prior to December 31, 2016 in order to receive credit in the Phase 6 Watershed Model calibration.

DECISION: The WQGIT approved the proposed responses to the STAC review of the Phase 6 Scenario Builder.

Introductions and Announcements

Three of the WQGIT's at-large members' terms are expiring at the end of the year: Tanya Spano (MWCOG), Sarah Diebel (DOD) and Chris Thompson (LCCD). The WQGIT will be soliciting membership nominations in the coming month, which may include self-nominations or re-nominations of any of the three current members.

ACTION: WQGIT members and interested parties may submit nominations for at-large members to Lindsey Gordon (Gordon.Lindsey@epa.gov) and Lucinda Power (Power.Lucinda@epa.gov).

Upcoming meetings:

- December 12: Agenda is currently open and the meeting may be canceled.
- December 19: Will be a 10am-3pm face-to-face meeting in Annapolis for those able to travel.
- December 26: Canceled for the holiday.

- March 2017: The WQGIT is planning a two-day face-to-face for either March 13-14 or March 27-28.

Phase III WIP Planning Target Methodology

Gary Shenk (USGS) reviewed the methodology and presented options for the Wastewater Treatment Plant line in the Phase III planning target methodology.

Discussion:

- Tanya Spano (MWWCOG): Going through and looking at the table of wastewater treatment plants, on average, the plants were operating at half of their capacity. The expectation is that loads will climb. They have planned for growth.
- James Davis-Martin (VA DEQ, WQGIT Chair): How are nonsignificant facility allocations accounted for?
- Shenk: They are a percent of the E3 scenario. For nonsignificant facilities, 90% of E3 is 9mg/L.
- Spano: On behalf of WWTP operators, I'd like to get some clarity as to what we are really doing here. Why are we proposing these changes 6 years into the Bay TMDL? We have plants just installing ENR and we are proposing changes. I am seeking to understand whether new science is driving this, and whether we are changing the Bay TMDL without really officially changing the Bay TMDL.
- Shenk: I am not proposing any changes. I am simply trying to set the rules for making the planning targets. The first thing we do is describe how it was done in 2010 and ask if we want to keep it that way. The default is the way it was done in 2010. In the TMDL, this WWTP line was defined two different ways, one is a percent of E3 and one is a concentration. Which definition we use effects whether there is an impact on the E3 definition or not.
- Spano: So because of how the TMDL was written, it was expressed two different ways. I tend to believe option 1 (concentration) was more consistent with the way it was understood.
- Davis-Martin: What was the justification or reasoning for the hockey stick approach?
- Shenk: The slides were just to illustrate that the PSC was shown concentrations rather than percentages. I'd have to go back again and look to find the justification for the hockey stick.
- Spano: As I recall in the process, there was a rationale that if you relate the tributaries to the actual effectiveness values, it clusters some of the larger tributaries with larger plants with greater impacts. Asking them to do more in a sector that is more easily permitted, setting the hockey stick was a way of deliberately pushing the wastewater envelop and it did give some relief to the rest of the sectors.
- Chris Day (EPA): There were a lot of considerations that went into this decision in 2010. Part of the decision was the equitability of point and nonpoint sectors, but part was that point sources are more reliable in terms of reductions.
- Chris Pomeroy (AMWA/VAMWA): The D.C. Potomac nitrogen is in the relative effectiveness range of 4-5 and the hockey stick came about to capture the Blue Plains facility.
- Davis-Martin: So Option 1 represents effectively no change. Option 1a is the same approach with maybe different concentration values. Option 2 phrases it as a percentage of E3.
- Pomeroy: On behalf of AMWA and VAMWA, I'd share the strong concern over any change this late in the construction process that alters the fundamental basis on which our planning was done, and would urge not to change anything related to wastewater. I'd ask for stability here.

- Davis-Martin: Ultimately, this process is aggregated with the nonpoint source loads to create a state basin target. The state isn't obligated to keep the same split, though I think Chris' point is certainly still valid.
- Nicki Kasi (PA DEP): These numbers would not change the wastewater allocations?
- Davis-Martin: How they change the wastewater allocations is completely at the states' discretion. You can get your state basin planning target and allocate it as you wish to the sectors as you desire. It is simply a way to calculate the total load for the basin.
- Spano: I would note that when the concentrations were set, it was not binding, but it was in reality understood that if a state really had to rely on wastewater to achieve a certain level of reduction, that sort of reasonable ballpark was what everyone thought you could get out of wastewater in your basin. It bounded you in terms of the extra work you needed in the rest of your load to meet the planning target.
- Davis-Martin: Would anyone like to make a case for changing current assumptions from option 1?
- Spano: I support sticking with option 1.
- George Onyullo (DOEE): I am for not making any change and would support option 1. However, I think we need to establish a performance threshold level that would trigger a change in the E3 value.
- Sarah Diebel (DOD): I'm seeing that the other two options are really based on a difference in what the PSC saw. I think option 1 is the more logical way to go.
- No other alternatives were supported.

DECISION: The WQGIT agreed to support option 1 for defining the Wastewater Treatment Plant line in the Phase III planning target methodology. The lines will be drawn from 4.5 to 8 mg/L for nitrogen, and 0.22 and 0.54 mg/L for phosphorus. Potential changes to the E3 scenarios would have no effect on these lines.

- Gary Shenk reviewed the options for the base year for setting the Phase III WIP planning targets.
- Marel King (CBC): I thought under the Bay TMDL the jurisdictions had to demonstrate how all growth was going to be offset. But it appears that if the base year were set as something other than 2010, basin 1, which was not meeting that standard, is almost rewarded for not offsetting growth.
- Davis-Martin: How is basin 2 being punished if we are looking at applying no action and E3 scenarios on the land use for the given year? It is more about do we want to apply E3 and no action to our best understanding of the land use, or do we want to use some other year? In my mind, 2025 is our best estimate of what our land use will look at the end point.
- Lew Linker (EPA): We are talking about choosing the base year for the targets. These different basins will have to shoulder into the hockey stick. As they do that, in the case of basin 1, where there was a lot of growth, E3 and no action go up. If we select a 2012 or 2025 base year, all of that growth is forgiven. If we choose 2010, there is no grandfathering in growth.
- Kasi: Didn't we decide in October that we would all use 2025 so we wouldn't have to demonstrate growth offsets?
- Linker: That decision was related to defining the base year for the WIPs. This has to do with the assignment of the planning targets. They are two separate issues.

- Shenk: Even if E3 loads were equal to forest, no action loads would certainly go up as forest is converted, so your allocation would go up as you move out in time.
- Davis-Martin: I think it is better that we run E3 on something we actually will face in 2025, which is when we factored in all our progress. Why would we use anything but 2025 because we want targets to meet forecasted conditions?
- Shenk: It is good to run a 2025 E3 scenario for information purposes, but we are trying to tackle the idea of fairness.
- Kasi: What happens to the progress we made from 2010 to 2017 that brought some of that load down?
- Shenk: Nothing happens to it, that is a different process. This is for setting what the targets will be. The progress runs and WIPs are planning and tracking how you're doing. One of the original principles we had is that everything that has been done will be taken into account. This allows us to fairly take into account what we have done already.
- Spano: By saying 2010 is consistent with the Bay TMDL, it implies that anything else is inconsistent with the TMDL. I don't think being inconsistent with the Bay TMDL should be done lightly.
- Davis-Martin: I also don't think I'm ready to make a decision on this today.
- Kasi: I don't think I am ready either.
- Teresa Koon (WV DEP, WQGIT Vice-Chair): West Virginia definitely wants to stick with 2010 as the base year. We feel very strongly about maintaining consistency with the Bay TMDL.
- Shenk: This is a really confusing concept, so please give me a call to discuss any further questions you have. We can bring this back for decision.
- Rich Batiuk (EPA): How about we hold off until January and bring some actual numbers to the table to look at 2025 projections. We can show some numbers and the impacts of those different approaches. That way we don't have to use quite so many hypotheticals.

ACTION: The WQGIT will be asked to reach a decision on the base year for setting the Phase III WIP planning targets in January 2017. The WQGIT will use preliminary state basin numbers to walk through examples.

- Onyullo: One of the things that comes through here is that choosing 2010 would exclude the use of the best available land use dataset. I think that needs to be reconciled. The second thing is that I agree with Tanya that we need to be careful about implications to the Bay TMDL.

Phase 6 Nutrient Management BMP Expert Panel Report

James reviewed the four options for approving the Nutrient Management BMP Expert Panel report for WQGIT consideration:

1. No credit for manure and soil book value-based Core N and P nutrient management.
2. Full credit for manure and soil book value-based Core N and P nutrient management.
3. 50 percent credit for manure and soil book value-based Core N and P nutrient management.
4. Language shared with the WQGIT last week. [Upon Partnership approval, EPA CBPO would consult directly with Phase 6 NM Expert Panel members to get their input on what a state would

need to submit in order to demonstrate book values are equally or more conservative than manure/soil analyses when it comes to nutrient applications. A state would need to submit such documentation to EPA CBPO in time for review and approval by EPA CBPO prior to December 31, 2016 in order to receive credit in the Phase 6 Watershed Model calibration.]

Discussion:

- Davis-Martin: As part of option 4, Rich Batiuk was going to reach out to the expert panel to get their professional opinion as to what would constitute appropriate justification for a program being demonstrated as “sufficiently conservative”.
- Kasi: The proposed language for option 4 is straightforward enough. We have an approved verification program, and we shared numbers with the AGWG to show where our numbers were comparable. I don’t want to get into a quantitative comparison. We thought this was a good approach. If the science supports a reduced credit, we are willing to do that, but without the science to justify it, we can’t support credit only for programs based on manure analysis.
- Davis-Martin: So with this language (option 4) you could live with the panel report?
- Kasi: Correct.
- Spano: If PA feels comfortable, I think folks did a nice job coming up with a compromise. I would be in support.
- Jason Keppler (MDA): How do we know it is protective of water quality? I feel this language is vague. How and who will make the determination of what is sufficiently conservative?
- Davis-Martin: As written in the proposal, because it is part of the verification program plan, EPA would have the final determination.
- Kasi: Our original idea would be that this would be incorporated into our verification programs, which could be modified if it needed to be strengthened.
- Davis-Martin: So the answer to the “who” would be EPA. And the answer to the “how” is probably related to Rich reaching out to the panel to get their input on what the jurisdictions would need to document in order to demonstrate what is considered sufficiently conservative. If you have input, I’d suspect the EPA would be happy to receive that input.
- Keppler: The 50% method (option 3) was a recognition that PA’s program does have value, but I think there was concern at the AGWG about uncertainty associated with book values. The 50% compromise was agreed upon, but it isn’t etched in stone either. If there is a documentation method or analysis that could be performed that would improve upon that value, we could talk about that.
- Batiuk: We (EPA), with the WQGIT concurrence, would look into whether PA or others could match the bar that is laid out in Option 4. That would be the immediate issue. This group could also ask for a 3rd party study to see if there is a better set of numbers to better understand how book values compare to manure analysis.
- Kasi: In that study, it would need to consider that there is no standard for how the manure analysis is collected and analyzed as well as the science behind how the book value is created. If a relative number can be placed on that, I’d support it.
- Jill Whitcomb (PA DEP): I support everything Rich said about getting a 3rd party assessment of the validity and reliability of book values. I’m also supportive of doing that for all six states. I don’t think the burden should be on one or two states.

- Davis-Martin: I agree that is a good idea, but we also need a decision for how to move forward now, understanding that our knowledge may improve through time.
- Keppler: It is our opinion we are lowering the bar.
- King: They either meet the standard, and Rich will help define what that means with the help of the expert panel, or they don't. At this point the burden is on them.
- Davis-Martin: I understand both perspectives. I think this language and the compromise approach at least gives documentation and rationale behind how a decision was reached. I think while the 50% approach was a reasonable accommodation, option 4 will give us documentation of which programs and components are sufficient to meet the standard.
- Dinorah Dalmasy (MDE): Will this decision effect the calibration and planning targets if the numbers change later?
- Davis-Martin: Yes, but we need to have those decisions documented and rendered by December 31 of this year. Whatever is documented and approved would get credit, if they aren't, then they would not.
- Kasi: I think we have to be realistic. Rich needs to go to the panel, who then needs to meet to decide the standards, then get back to us, and then we need to collect the data before December 31.
- Davis-Martin: I recognize the challenge.
- Kasi: This may have to go into January a little. Because doesn't EPA then need to evaluate what we submit?
- Whitcomb: I think a recognition of the timeframe we have to work within would be important for the panel to consider when developing the standards. There are any number of directions they could point us to try to prove our program meets whatever standard they require.
- Spano: I think it would be helpful to provide clarity behind how the book values have been vetted.
- Davis-Martin: I'm not sure if it sounds like we have consensus yet. I'd like to poll for the preferred approach.

WQGIT members were polled for their preferred approach between options 1-4:

- Option 1: 1 vote (MD)
- Option 2: 1 votes (PA)
- Option 3: 2 votes (NY, At-Large)
- Option 4: 7 votes (DE, VA, WV, EPA, CBC, At-Large, At-Large)

WQGIT members were polled for whether or not they could live with each of the preferred options:

- Option 1: 5 can live with it (MD, NY, WV, VA, At-Large); 6 cannot live with it (DE, PA, EPA, CBC, At-Large, At-Large)
- Option 2: 5 can live with it (PA, NY, At-Large, At-Large, At-Large); 6 cannot live with it (DE, MD, VA, WV, EPA, CBC)
- Option 3: 7 can live with it (MD, NY, VA, WV, EPA, At-Large, At-Large); 4 cannot live with it (DE, PA, CBC, At-Large)
- Option 4: 10 can live with it (DE, NY, PA, VA, WV, EPA, CBC, At-Large, At-Large, At-Large); 1 cannot live with it (MD)

Following the polling, members were asked to elaborate upon their responses.

- Keppler: I was the dissenting view on option 4. I think the language proposed is too vague. I need clarification on how tight of a role EPA will play in oversight of this process, and who will be doing the evaluation of the program to determine if it is sufficiently conservative.
- Davis-Martin: Is there anything we can provide today that would alleviate your concerns?
- Keppler: I realize too that it is outside of EPA's wheelhouse a little and we are relying on the experts to establish the standards for what is sufficiently conservative. I want to ensure it is an independent process. Whether it is the expert panel or another group, I just want some clarity, I just don't want blanket statements without real data to back it up.
- Davis-Martin: I assume your Maryland colleagues support your vote on this if we asked for WQGIT membership only to weigh in on this?
- Keppler: Yes, Lee and Dinorah asked me to speak for Maryland on this issue.
- Batiuk: I shared information with you on some of the steps we will take so it is clear and transparent. Similar to verification, we will keep everything as open as possible. I will certainly do my best to talk with the right folks, focusing first on the panel members themselves, and others as well, to define what is necessary, so PA is clear on what is being asked of them. We will share that with the partnership.
- Keppler: I would agree if there is an independent, quantitative assessment that is done, I could live with that.
- Batiuk: If I proposed we tap into the statistical experts we were tapping into to look at the PSU farmer survey etc., would that suffice?
- Keppler: Yes, I think so. However, I don't know if that type of analysis is really right for the expert panel either.

ACTION: EPA will reach out to the Tetra Tech statistical design experts in helping to define a standard for what would be a sufficiently conservative application of book values.

- Davis-Martin: Please make sure the data and findings are public so there are no surprises for anyone. That way they understand the basis for the decision.
- Bill Angstadt (Angstadt): I appreciate and understand your skepticism, Jason. Dr. Beagle was on the expert panel and was part of designing the PA program and I think that reaching out to Dr. Beagle for clarification would be useful. He will be able to provide evidence for safety margins that go into the book values.
- Keppler: Certainly, if Dr. Beagle is able to offer his support, that would be greatly appreciated.

DECISION: The WQGIT agreed to approve the Phase 6 Nutrient Management BMP Expert Panel report with the language shared with the WQGIT last week. EPA CBPO will consult directly with Phase 6 NM Expert Panel members to get their input on what a state would need to submit in order to demonstrate book values are equally or more conservative than manure/soil analyses when it comes to nutrient applications. A state would need to submit such documentation to EPA CBPO in time for review and approval by EPA CBPO prior to December 31, 2016 in order to receive credit in the Phase 6 Watershed Model calibration.

Oyster BMP Expert Panel Briefing

Julie Reichert (ORP, Panel Coordinator) reviewed the comments received during the open comment period, and the panel's responses.

Discussion:

- Diebel: Is this oyster BMP just for aquaculture and harvesting?
- Reichert: We are submitting incremental reports. The first report only covers oyster aquaculture practices.
- Diebel: Do you have a schedule for when the next incremental reports will be issued and what they will cover?
- Reichert: Yes, our schedule is listed in the presentation. We will have the second incremental report issued hopefully in October 2017.
- Davis-Martin: Can you elaborate on the definition of "private" oyster aquaculture in the panel report?
- Reichert: Yes, we can make that change in the report.

Response to STAC Scenario Builder Review

Curt Dell (USDA/ARS) reviewed the proposed responses to the STAC's review of Phase 6 Scenario Builder.

Discussion:

- Davis-Martin: The Scenario Builder review done by STAC was of the documentation as it existed months ago. It is our role, as the WQGIT, to review model outputs coming out of Scenario Builder to make sure the system is working the way the documentation said it should be. I encourage as many folks as possible to take a look at that data.
- Davis-Martin: Are there any objections to approving the proposed responses?
- No objections were raised.

DECISION: The WQGIT approved the proposed responses to the STAC review of the Phase 6 Scenario Builder.

Adjourned

List of Call Participants

Member Name	Affiliation
James Davis-Martin (Chair)	VA DEQ
Teresa Koon (Vice-Chair)	WV DEP
Lucinda Power (Coordinator)	EPA
David Wood (Staff)	CRC
Lindsey Gordon (Staff)	CRC
John Schneider	DE DNREC
George Onyullo	DOEE
Dinorah Dalmasy	MDE
Lee Currey	MDE
Jim George	MDE

Jason Keppler	MDA
Alisha Mulkey	MDA
Bruce Michael	MD DNR
Sara Latessa	NYSDEC
Greg Albrecht	NYSDEC
Veronica Kasi	PA DEP
Janice Vollero	PA DEP
Ted Tesler	PA DEP
Jill Whitcomb	PA DEP
Doug Goodlander	PA DEP
Suzanne Trevena	EPA, R3
Ann Carkhuff	EPA, R3
Jen Sincock	EPA, R3
Chris Day	EPA, R3
Kelly Gable	EPA, R3
Rich Batiuk	EPA, CBPO
Lew Linker	EPA, CBPO
Tom Wenz	EPA, CBPO
Kelly Shenk	EPA, CBPO
Bill Angstadt	Angstadt Consulting
Tanya Spano	MWCOG
Sarah Diebel	DOD
Jessica Blackburn	CAC
Mark Dubin	UMD
Norm Goulet	NVRC
Jeremy Hanson	VT
Skyler Golt	UMD
Gary Shenk	USGS
Julie Reichert	ORP
Jeff Cornwell	UMCES
Curt Dell	USDA/ARS
Emily Dekar	USC
Chris Pomeroy	AMWA/VAMWA
Joe Wood	CBF
KC Filipino	HRPDC
Heidi Bonnaffon	MWCOG
Tolar Nolley	OCV