

~Pennsylvania Campaign for Clean Water~

Stormwater Workgroup

c/o Liz Deardorff, co-chair
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April 30, 2015

Sally Claggett
Chesapeake Bay Program
U.S. Environmental Protection Agency
410 Severn Avenue, Suite 112
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Via electronic mail: sclaggett@fs.fed.us and agreement@chesapeakebay.net
Re: Draft Riparian Forest Buffer Outcome Management Strategy

Dear Ms. Claggett,

Pennsylvania's Campaign for Clean Water Stormwater Workgroup (Workgroup) is a coalition of citizen-based watershed groups and individuals from across the Commonwealth of Pennsylvania focused on protecting waterbodies from the effects of stormwater runoff. Approximately 1/3 of Pennsylvania's land area is within the Susquehanna and Potomac River watersheds, two of the Bay's largest watersheds. Stormwater runoff from these land areas significantly affects the health of each river and consequently the Bay. The Workgroup has long championed forested riparian buffers to protect Pennsylvania's waterways and minimize the impacts of stormwater runoff. For this reason, the Workgroup appreciates Chesapeake Bay Program's (Program's) efforts developing the Riparian Forest Buffer Outcome Management Strategy draft (Buffer Strategy) and providing this opportunity to comment on the Buffer Strategy. We respectfully submit the following suggestions for improvement to the Buffer Strategy.

1) Broad and active support and engagement.

The Buffer Strategy does a good job identifying a need for participation from a variety of sectors and levels but should be sure to include, and emphasize, enabling local activity. This means delivering outreach, tools and resources to small, local non-profits, conservancy organizations and local governments. Tools such as Geographic Information System (GIS) and aerial imagery can be valuable for monitoring riparian buffer implementation but prohibitive technology for

those conducting buffer implementation locally thus coordination to deliver the analysis from such tools from state and regional entities to local initiatives is essential.

2) Ensuring connectivity.

While the Buffer Strategy is to be praised for including a “Non-Ag lands” section, outreach and implementation strategies do not include an urban focus and appear to be limited to agricultural activity. To garner the most benefit from forested cover, a buffer strategy must provide protection in rural landscapes, across suburban lawns and within urban areas. To help achieve this, the Biennial Workplans for Riparian Forest Buffer and Urban Tree Canopy should be coordinated and riparian buffer best management practices should be integrated into each state’s stormwater program. Forested riparian buffers can provide stormwater management control and improve stream health but they are not used widely enough in Pennsylvania. Leveraging stormwater permitting processes to advance greater use of riparian buffers will help provide the benefits of buffers from headwaters on downstream.

3) Strengthen Conservation Reserve Enhancement Program (CREP).

The U.S. Department of Agriculture’s program targets high priority conservation issues and has long supported riparian forested buffer practices. The Buffers Strategy should leverage local and state voices to support this federal program and encourage CREP participation across the Bay. And, the Buffer Strategy must work to ensure CREP produced or protected riparian buffers contribute to the Bay’s health over the long-term by resolving the problem of short-term landowner contracts not being renewed or facilitating the transfer of forested buffers to permanent protection via conservation easements.

In summary, the Workgroup suggests the Buffer Strategy strengthen participation with greater emphasis on enabling local entities, coordinate Urban Tree Canopy and state stormwater programs to help link buffer protections upstream to downstream, and develop effective CREP buffers through a focus on permanency. The Workgroup appreciates the Program’s consideration of our management strategy comments and welcomes any questions.

Sincerely,

Donna Morelli, Pennsylvania State Director
Alliance for the Chesapeake Bay

Liz Deardorff, Clean Water Supply Director
American Rivers

Mike Helbing, Staff Attorney
Citizens for Pennsylvania's Future (PennFuture)

Thomas Au and Barbara Benson, co-chairs Water Issues Committee
Sierra Club, Pennsylvania Chapter

Harry Campbell, Pennsylvania Executive Director
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Michael R Helfrich, Lower Susquehanna Riverkeeper®
Stewards of the Lower Susquehanna

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April 30, 2015

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Via electronic mail: rthomps@chesapeakebay.net and agreement@chesapeakebay.net
Re: Draft Healthy Watersheds Management Strategy

Dear Ms. Thompson,

Pennsylvania's Campaign for Clean Water Stormwater Workgroup (Workgroup) is a coalition of citizen-based watershed groups and individuals from across the Commonwealth of Pennsylvania focused on protecting waterbodies from the effects of stormwater runoff. Approximately 1/3 of Pennsylvania's land area is within the Susquehanna and Potomac River watersheds, two of the Bay's largest watersheds. Stormwater runoff from these land areas significantly affects the health of each river and consequently the Bay. For this reason, the Workgroup supports the Chesapeake Bay Program's (Program's) efforts and proposed strategies to ensure that one hundred percent of state-identified healthy waters remain healthy. Preventing deterioration of our best performing watersheds is essential if we are going to make progress in improving the Susquehanna and Potomac Rivers and the Bay.

We make the following two suggestions for improving the Healthy Watersheds Goal component of the Draft Management Strategy (Watersheds Strategy).

1.) Ensure that the term "healthy waters and watersheds" is defined for each jurisdiction.

The Watersheds Strategy states that it made a "strategic decision not to seek a common definition for "healthy waters and watersheds" but rather decided to respect each jurisdiction's

individual programs. (p. 2) Although this approach may be reasonable as long as all jurisdictions have reasonably compatible concepts of what constitutes a healthy watershed, this approach seems more problematic if not all jurisdictions have definitions of healthy watersheds. In this case, the Watersheds Strategy reports that “no healthy waters or watersheds are identified” in Delaware or the District of Columbia. (p. 10) It is unclear from the Watersheds Strategy whether those states simply do not have a definition for “healthy waters and watersheds” at all, or whether those jurisdictions have a definition for “healthy waters and watersheds” but no watersheds within the jurisdiction satisfy that definition. If there is no established definition, the Program should work with the jurisdictions to establish one. Failing that, the Program should establish a definition for those jurisdictions for the Program’s own purposes of monitoring and assessing the goals (especially “Management Approach #1) in the Watersheds Strategy. If those states have a definition but no watersheds meeting the standard, the Watersheds Strategy should be revised to refer to the existing definition.

2.) Establish a priority on “cumulative impacts” analyses in state and federal permitting decisions.

The impairment of healthy watersheds often results not from the effects of one or two large projects, but instead, from the combined effect of numerous smaller projects throughout the watershed. Thus, prevention of watershed degradation is most likely to be effective if higher-level government bodies, such as states, are actively considering the aggregate effect of smaller land use decisions.

The Watersheds Strategy recognizes that state and federal agencies have roles in regulating land use through their permitting decisions. (p. 8) One important piece of some permitting decisions (at least in Pennsylvania) is a cumulative impacts assessment. Under Chapter 105 of the Pennsylvania regulations, the Department of Environmental Protection (DEP) must consider the “cumulative impact of this project and other potential or existing projects” when reviewing an application for a water obstruction and encroachment permit. 25 Pa. Code §105.14(b)(14). The regulations go even further for projects being permitted in exceptional value wetlands; in that case, before granting a permit, the DEP must determine that the “cumulative effect of this project

and other projects will not result in the impairment of the Commonwealth's exceptional value wetlands resources." 25 Pa. Code §105.18a(a)(6).

Unfortunately, our experience is that the cumulative impacts assessments are not given high priority by overworked, under-staffed government agencies with many competing priorities. Cumulative impacts analyses in the files of approved permit applications are often very sparse (if they exist at all). Working with DEP and other state government agencies to ensure that they fully consider and apply all cumulative impacts requirements in permitting decisions could be significant to ensuring that our highest performing watersheds continue to function at the highest possible level.

In summary, the Workgroup requests that the Program utilize the Watersheds Strategy 1) to provide each jurisdiction a clear definition of healthy waters and watersheds to help ensure each has a goal to identify for its waterbodies and 2) set a framework for integration of cumulative impact analyses in decision-making for healthy watersheds. The Workgroup appreciates the Program's consideration of our management strategy comments and welcomes any questions.

Sincerely,

Donna Morelli, Pennsylvania State Director
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April 30, 2015

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Via electronic mail: power.lucinda@epa.gov and agreement@chesapeakebay.net
Re: Draft Water Quality Management Strategy

Dear Ms. Power,

Pennsylvania's Campaign for Clean Water Stormwater Workgroup (Workgroup) is pleased to provide comment on the *Draft Water Quality Chesapeake Bay Management Strategy* (Water Quality Strategy). The Workgroup is a coalition of citizen-based watershed groups and individuals from across the Commonwealth of Pennsylvania focused on protecting waterbodies from the effects of stormwater runoff. Approximately 1/3 of Pennsylvania's land area contributes runoff to the Susquehanna and Potomac Rivers impacting the Bay's water quality, thus the Workgroup takes great interest in management strategies intended to protect the Bay. We appreciate the Chesapeake Bay Program's (Program's) efforts compiling draft management strategies to guide the 2014 Chesapeake Watershed Agreement and the opportunity to comment on the Strategies. We also look forward to reviewing the Biennial Workplan (Workplan) later this year.

The Workgroup applauds the Pennsylvania Department of Environmental Protection (DEP), and other state and federal agencies, for making significant progress in implementing pollution reduction practices. However, there is more work to be done to reach the water quality goals set in the 2017 & 2025 Watershed Implementation Plans (WIP). Improperly managed stormwater pollutes our streams and the Bay with nutrients, sediment, and other pollutants, accelerates stream bank erosion and property loss, and contributes to severe flooding. Although, the

Workgroup acknowledges the role that other source sectors and jurisdictions play in the nitrogen, phosphorus, and sediment entering the Bay, the following comments of the Workgroup focus solely on the management approaches to stormwater related issues in the Commonwealth of Pennsylvania.

Implementation of Phase I WIPs, Phase II WIPs, and Two-Year Milestones

The first factor influencing the success of obtaining water quality goals acknowledged by the Water Quality Strategy is the capacity of governments and the private sector to implement practices. We agree. The Workgroup supports efforts to ensure the DEP has adequate resources to carry out an efficient, effective, and transparent Municipal Separate Storm Sewer System (MS4) program. In addition, the Workgroup encourages collaboration between the DEP and community-based groups engaged in educating the public about polluted runoff and installing practices that reduce the negative effects of stormwater. These local groups bring to the partnership expertise in stormwater runoff education and can provide the manpower and outreach capabilities to install best management practices, if supported with grant funding, which would accelerate WIP goals.

Another factor that influences the success of meeting WIP goals, specific to the Commonwealth of Pennsylvania, is the need to reestablish funding and update the Pennsylvania Stormwater Management Act (Act 167). Enacted in 1978, Act 167 had been an integral planning tool for developing watershed, and later county-based, stormwater management plans and local municipal ordinances. The evolution of the program in the early 2000s resulted in the integration of water quality considerations into the plans and ordinances. By the mid-2000s, however, financial support for this program was eliminated by the legislature. Given the challenges facing municipalities and the anticipated increase in the pace of land development over the next few decades, assistance for this program should be reinstated. In addition, the program should be updated to address current engineering standards, with a particular emphasis on reducing existing stormwater pollution sources and integration of low impact development design standards and green infrastructure techniques.

The capacity of MS4s, to utilize detailed, fine-scale modeling tools to better inform decision-making for the placement of stormwater best management practices (BMPs) would help accelerate progress toward WIP goals. Site-specific analysis from small scale models would assist MS4s in the calculation of efficiencies and cost effectiveness to better determine the location of stormwater BMPs. Existing stormwater models, such as the System for Urban Stormwater Treatment and Analysis Integration (SUSTAIN) and Source Loading and Management Model for Windows (WinSLAMM), evaluate the optimal and most cost-effective BMPs for a MS4. These types of area specific models should be used by MS4 communities and integrated into the Bay Model. Small scale models can be a tool to ensure waste load allocations are met.

In 2013, Pennsylvania passed Act 68 amending the Municipality Authorities Act to give municipalities the power to create stormwater authorities which charge fees to provide stable funding for regulatory stormwater planning, management, and implementation. The Workgroup recommends programmatic guidance to provide the municipalities with a framework for the establishment of stormwater authorities. A state program to support stormwater authorities could further provide assistance in incorporating WIP requirements into decision-making; thus, accelerating the rate of progress in reaching WIP goals.

Chesapeake Bay TMDL Accountability Framework

Accurate reporting and tracking of BMPs must account for practices which no longer exist or function. Currently, the Bay Model includes pollutant reduction BMPs that are no longer on-the-ground towards WIP goals. The Workgroup strongly recommends strengthening the verification of practices that count towards WIP goals.

Enhanced monitoring

We recognize the current assessment of chlorophyll-a in the tidal James River is critical for enhancing decision-making capabilities on effective water quality standards in that watershed.

In addition, we recommend increasing monitoring and water quality assessment activities in the Lower Susquehanna River watershed, complimentary to current efforts, for baseline and storm events.

Without doubt, the mobilization and deposition of sediment from stream banks and beds affect water quality. However, this impact to the aquatic ecosystem needs further study. Greater understanding of the fate and transport of sediments is a vital component to greater understanding of the factors affecting ecosystem response acknowledged in the Water Quality Strategy. Increased volume of stormwater from impervious surfaces and intensified rain events leads to the runoff having more energy to increase sediment loads.

Additionally, there is a need to monitor and quantify the thermal impacts to aquatic ecosystem response. Not only are urban and suburban streams witness to loss of their streamside trees causing the water to warm, they will simultaneously experience increases in temperature caused by the effects of climate change. In order to understand these thermal impacts in the Bay watershed, monitoring must occur.

2017 Midpoint Assessment

There is a missed opportunity, in Pennsylvania, for incentivizing collaboration between municipalities to address stormwater pollution reduction goals. If Pennsylvania communities are encouraged to work together on reducing polluted runoff, installation of stormwater practices will become more efficient and effective while reducing the cost for an individual municipality. Pennsylvania is also missing opportunities to incentivize and/or require green infrastructure or low impact development practices that are effective BMPs, can be implemented efficiently and provide multiple community values, adding financial sustainability to a stormwater management program.

As the deadline for the 2017 WIP approaches, rapid acceleration in the implementation of pollution reduction practices is vital for Pennsylvania. Recent assessments by a number of

entities, including the U.S. Environmental Protection Agency and the Chesapeake Bay Foundation (CBF), have found that the Commonwealth is falling considerably behind in the pace of implementation of a large number of pollution reduction practices committed to by the Commonwealth in the Blueprint and related 2-year Milestones. A peer reviewed report produced for CBF by noted economist, Dr. Spencer Phillips, documents a \$6.2 billion increase to the Commonwealth's economy and \$22 billion annually for the Bay region, when the Bay TMDL and WIPs are fully implemented. This Water Quality Strategy provides guidance toward the 2017 & 2015 WIPs. We anticipate the forthcoming Workplan to have significant actions, including the proper tools to ensure TMDL waste load allocations are collectively met, to put the Bay and its tributaries on track to meet water quality goals.

The WIPs are an integral component of the "reasonable assurance" for improvements in the health of the Chesapeake Bay and its tributaries. This Water Quality Strategy lays a framework for accomplishing water quality goals. We will be looking to the Workplan to be state specific and clearly defining a path to reaching the two-year milestones goals. In the interim, the Workgroup appreciates the Program's consideration of our management strategy comments and welcomes any questions.

Sincerely,

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