

CAC Members Present: Chanté Coleman, John Dawes, Andrew Der, Bill Dickinson, Matt Ehrhart (CAC Chair), Bill Fink, Dale Gardner, Charles Herrick, Ann Jurczyk, Anna Killius, David Lillard, Mike Lovegreen, Bill Matuszeski, Jorge Ribas, Charlie Stek and CAC Staff Jessica Blackburn and Adam Bray

Speakers/Guests Present: Jim Edward, Tanner Haid, Alana Hartman, Matt Pennington, Kathy Steckler

Meeting presentations and materials are located at:

https://www.chesapeakebay.net/what/event/citizens_advisory_committee_quarterly_meeting_feb_2020

Thursday, Feb 20, 2020

The CAC Chair Matt Ehrhart called the meeting to order at 11:00 AM. He gave an overview of the agenda and introduced the goal of the meeting - to learn about WV's approach to Chesapeake Bay restoration starting at the state level, looking then to the regional and local government level, and then from a watershed organization where advocacy and local projects are priorities. Matt acknowledged that this was the first time CAC has met in a headwater state. He also announced that Meg Bradshaw has resigned and is expecting a baby in early summer.

Welcome and Opening Remarks– *David Lillard, CAC Member and Matthew Pennington, Eastern Panhandle Regional Planning and Development Council*

David and Matthew welcomed CAC to West Virginia and provided an overview of the eight WV counties in the Chesapeake Bay watershed. David explained how Jefferson and Berkeley counties are experiencing significant population growth and development with the fastest pervious to non-pervious conversion in the country. The WV legislature has the challenge to manage growth in the area while the rest of the state has negative population growth. Matt showed socio-economic data of Bay-watershed counties. Despite population growth due to the area's proximity to D.C., the growth is not reflected in higher wages or salary. Agriculture is less than 1% of employment in the region, but large industries have opened in the area and rely on blue collar workers. The rapid growth of population and industry has created mobile congestion that has led to water and air pollution challenges. Matthew shared the economic impact of pollution taxes and the financial burden of the "Chesapeake Bay Upgrade" fee on utility bills.

Updates and Comments on Events

Chuck Herrick led CAC in a debrief of the most recent PSC meeting. There was pointed discussion on whether EPA would enforce WIPs/TMDLs. It was clear that MD and VA are concerned that the EPA maintain strict accountability. He said that there was good conversation about the Conowingo WIP that included awarded contracts and an emphasis on integrating with other existing WIPs. MD spoke about the MD/Exelon settlement and emphasized they would be seeking public input about how best to use the money. The Forest Buffer Action Team (FBAT) reported to the PSC that the status quo for implementation is not working and they are seeking input on how to improve the program. FBAT was reminded that CAC is available for guidance and suggestions. He shared that all of the action items CAC submitted have been assigned for action and from now on EC directives will no longer need to be unanimous but will only need a seven-member majority to move forward.

West Virginia's Approach to Phase III WIP's– *Alana Hartman, Potomac Basin Coordinator, West Virginia Department of Environmental Protection*

Alana discussed the challenges and opportunities of WV's Phase III WIP and what makes it unique. She shared that WV's monitoring results are good, their load reductions are on track and because it is a small area, they are able to reach out to many stakeholders. She shared that EPA's Midpoint Assessment for WV was positive in every area. The approaches they have found successful include wastewater treatment upgrades, volunteer tree plantings and stormwater ordinances. She showed slides of capital improvement projects that help reduce flooding while beautifying downtown corridors. Alana also explained WV's approach to BMP verification. For agricultural BMPs, verification activities are on a voluntary basis in order to protect producer privacy. It is a challenge to track and report but they are experimenting with NRCS aerial photos to flag projects that are still under contract and not looking well.

Discussion: CAC discussed WV's volunteer, non-MS4 stormwater ordinances such as rain gardens and bio swales. Members discussed streetscape projects and Matthew showed before and after photos to demonstrate how flooding in Berkeley Springs after the streetscape project. CAC discussed legacy industries as sources of pollution and learned that limestone extractive industries and quarries may cause problems for years to come. CAC also discussed the challenges of marketing the Chesapeake Bay to West Virginians because they live so far away. Alana shared a story of her local laundry mat having a sign explaining that the rise in cost to use the machines is due to the Chesapeake Bay. She said that environmental organizations are not marketing it that way, they focus on local streams, rivers and water quality.

Eastern Panhandle Regional Planning and Development Council – *Matt Pennington*

Matt Pennington provided an overview of the Regional Planning and Development Council, environmental programming for the Chesapeake Bay watershed and his role in the Local Leadership Workgroup. The Council is comprised of representatives from three counties and ten municipalities and focus primarily on infrastructure and economic development. They are funded by Appalachian Regional Commission, Federal Economic Development and the local communities they serve, but the majority of their projects are funded through grants. In developing WV's WIP III, they found that they could meet their targets without changing their current effort. Instead of keeping things the same, however, they reviewed each community's priorities to look for funding mechanisms to fix multiple problems. Several key themes emerged - source water protection implementation, MS4 Program Assistance, Green Infrastructure Implementation, sanitary sewer inflow and infiltration assistance, and utility asset management. An innovative approach in their WIP include partnering with a poultry litter transfer to move poultry litter outside of the Bay watershed. They are also working with the Army National Guard to reclaim abandoned mine lands by applying the litter and planting apple orchards while training veterans in agricultural industries. They are also the only jurisdiction experimenting with Biochar, a process that takes a carbon source and heats it slowly until it carbonizes. Research is showing that the end result is insoluble and does not leech into waterways. They have incorporated this into their Phase III WIP and working with STAC to study it and make recommendations. Matthew described his involvement in the [Local Leadership Workgroup](#). The group gets the goals and outcomes of the Chesapeake Bay Agreement into the minds of local officials by connecting it to what resonates with their members and colleagues: safety, health and welfare (flooding), economic development and clean drinking water.

Discussion: CAC discussed the challenges of writing and reporting grants and the time demands for small organizations. CAC discussed Biochar and learned that Stroud has tested it and found that it does leach phosphorus. Members discussed the possibility of selling or trading credits with other jurisdictions, something

that EPA is currently looking into but it is very complicated. CAC members were impressed by the great work in WV and emphasized the need to project credible success stories in the media. Members were also impressed how the movement is starting at the local/community level and building up.

West Virginia Rivers Coalition – Tanner Haid, Eastern Panhandle Field Coordinator, WV Rivers Coalition

WV Rivers Coalition is made up of six staff who work all throughout the state to protect our rivers and defend our public lands. They focus on sound science and sensible policy and create broad alliances to create constituent power for making positive change. He described how WV has some of the best whitewater on the East Coast and a history of defending public lands, but the state has also had serious environmental problems like the Water Crisis of 2014 when chemicals spilled into the Elk River. During this crisis, WV Rivers created a report that laid out regulatory failures, information gaps and recommended reforms. It led to the Aboveground Storage Tank Act and the Source Water Protection Act. The coalition's 2020 legislative priorities are to have DEP update WV's health criteria (that is currently based on science conducted prior to 1985) and to pass the Clean Drinking Water Act of 2020. Tanner described how WV Rivers serves as the state lead for 20 active Choose Clean Water Coalition (CCWC) members in the state. Their 2020 focus areas include advocating for appropriations, capacity building and DEIJ. Tanner described some of their programs including the [Safe Water Conservation Collaborative](#). The mission is to protect drinking water through land conservation. They also partner with Trout Unlimited to conduct a volunteer water quality monitoring program. With over 500 volunteers, they have conducted over 6,000 sampling trips since 2013 and submitted 162 violations to WV DEP.

Discussion: CAC discussed access to rivers and streams in WV and learned that in Berkeley County there is no public access to the Potomac River. CAC also discussed the Above Storage Tank Act and how other jurisdictions have similar legislation they are hoping to pass. CAC discussed funding for programs in the watershed and learned that WV Rivers gets funding through DEP and Land Trust Alliance. CAC suggested that there may also be NRCS funding for source water protection plan because of the new Farm Bill. CAC discussed education programs for children and learned about the Safe Water for Harpers Ferry youth education program.

Snapshot of NY's Approach to Non-point source implementation of Phase III WIPs – Mike Lovegreen, CAC Member, Upper Susquehanna Coalition

Mike provided CAC with a high-level view of the Upper Susquehanna Coalition (USC). Located in the headwaters, the coalition is comprised of 21 Soil and Water Conservation Districts (SWCDs) and represents 7,500 square miles covering 17 counties in NY and 4 counties in PA. He described the history of how the SWCDs grew out of the Dust Bowl of the 1930's to address soil erosion. Mike described the similarities and differences of conservation district law between PA and NY and how both contain the authority to create USC. When the USC began it introduced the Bay Program to NY. There was a strong local desire to participate and a history of cooperation among Districts that made partnerships easy. Counties were apt to share money and other resources even across the PA/NY state line. The USC decided to focus on nonpoint source projects and formed 3 standing committees (Executive, Education and Planning/Implementation) and had 3 focus areas (Stream Corridor Rehab, Wetland Restoration, and Sustainable Agriculture). Mike credited USC's success to partnerships (local, regional, state and federal), unique relationships between its member SWCDs, flexible funding and resource delivery system, and prioritizing work based on local needs.

Discussion: CAC discussed the USC process of buying land, turning it into wetlands and banking the credits. Mike explained how it is an extensive process that involves approval from the Army Corps and conducting

ongoing water monitoring. CAC also discussed the challenges of compensating farmers for Ag land converting to buffers and the solutions USC have employed.

CAC Discussion

John Dawes briefed CAC on abandoned mine reclamation and the methodology and funding streams to address the problem. In PA, there are 250,000 dead toxic acres, legacy mines are responsible for 119,000 dead toxic acres in the Bay watershed that kill 2,000 miles of stream. It is a 5 billion-dollar issue for PA and is included in PA's Phase III WIP. John described the AML (Abandoned Mine Land – HR 2156) Program, AML Pilot funding, the RECLAIM Act (HR 2156), and the Operation Maintenance Replacement of Passive Treatment Systems to fund to professionalize the operation of already existing water infrastructure to keep it on line. John proposed composing a letter to the Bay watershed governors to remind them that this is a substantive issue and funding is available, copy the Secretaries of Natural Resources and investigate how it relates to Phase III WIPs. Matt motioned to have John draft the letter for the CAC EC to approve. Jessica added the need to connect it to other jurisdictions as well as PA. Charlie led CAC in a discussion about the Conowingo Dam and provided background related to the settlement between Exelon and Maryland. The settlement would provide \$200 million of compensation but would waive authority of the Clean Water Act. And, the 200 million would not necessarily deal with the problem of built up sediment behind the dam. Charlie suggested that CAC adopt a public resolution that expresses concerns that conveys to the Executive Council and FERC. CAC decided to table the discussion and continue on the following day.

Friday, Feb 21, 2020

The CAC Chair called to order the meeting at 8:38 AM.

Working Breakfast / Business Meeting

Charlie motioned to adopt the November 2019 meeting minutes, David seconded and the minutes were adopted as submitted. CAC's chair opened the floor for thoughts and impressions from the previous day. CAC members appreciated learning about WV from multiple groups that represented local, regional and federal approaches, and how everyone is working together. CAC continued the previous day's conversation on the Conowingo settlement agreement and responded to a resolution drafted by Charlie overnight. Because the resolution focused on two things, the Exelon settlement and rule changes for the 401 Certification, CAC discussed whether to split the resolution in two. CAC concluded to write two separate resolutions and package them together with separate cover letters addressed to the Executive Council/EPA and FERC. Anna and Charlie volunteered to take the lead in drafting the resolutions and would involve Verna and John the process. They agreed to send it to CAC's EC for editorial changes and approval. Jess briefed CAC on recent changes to the National Environmental Policy Act (NEPA) and the Navigable Waters Protection Rule, also known as "Waters of the US" (WOTUS). In January 2020, the Council of Environmental Quality posted for public comment their intention to modernize the regulations of NEPA in an effort to simplify and streamline the process. NEPA is in place to require federal agencies to take into account environmental aspects of large infrastructure projects and managing and developing on federal land. According to a SELC review, the implications of the proposed changes would reduce public comment and set high barriers for communities to try and put a stay on activities. These new regulations are open to public comment until March 10th. CAC members discussed the need to learn more about how this will impact the Bay before weighing-in. Chanté volunteered to share a letter that the Choose Clean Water is drafting about this for members to read.

Updates from the Chesapeake Bay Program

Jim Edward, Deputy Director, EPA Chesapeake Bay Program Office

Jim briefed CAC on the highlights of EPA's evaluations of the final Phase III WIPs, the Federal Agency budget highlights for FY2020 and provided an update on the EPA BMP verification assessments of 2019. He described the strengths and potential enhancements from each jurisdiction. He highlighted EPA's recommendation to PA to consider amending its Phase III WIP to include more robust implementation details and programmatic commitments. PA's WIP currently would only achieve 75% of their Nitrogen goal and they have an annual \$324 million funding gap in order to achieve that. By the middle of 2021, the EPA expects them to amend their Phase III WIP to include 39 additional county plans that would make up the remaining 25% nitrogen goal. Jim said that the EPA will provide oversight and technical assistance over the next two years to help get them to 100%. Jim updated CAC that the Chesapeake Bay Program's budget increased by \$12 million and \$6 million was budgeted for state-based implementation in the most effected basins based on relative-effectiveness of reducing nitrogen to meet water quality standards. The EPA is considering using this funding primarily for Ag BMPs reductions because it is the most cost effective and where the greatest needs are. Jim highlighted an action team that EPA is putting together to discuss BMP credit duration and life span and calls for representations from each of the advisory committees, including CAC. There is also discussion about having a permanent group on BMP verification that would meet quarterly and CAC should consider being a part of it.

Discussion: CAC members discussed the challenges facing PA and the changes they need to make with 35,000 small farms in the watershed. Unlike MD and VA, PA does not have state funding for a cover crop program. CAC members discussed whether the numeric goals for PA are achievable even if they received enough funding and given the amount of work that would need to be done by 2025. The technical assistance needs are too great. CAC asked about the Bay Program's staffing and learned that they are in the process of hiring six new people to fill all vacancies. Jim also shared that they are expected to move out of their current offices by November 2020. CAC suggested that some of the money for the most effected basins could focus on environmental justice concerns in those areas. Members discussed the model and monitoring numbers and how they relate. Jim explained that the model incorporates the latest monitoring data but the Bay Program has discussed ways to improve how they talk about results from a communication standpoint.

CAC Discussion

Jess announced possible dates for the next Executive Council meeting. They are considering August 13, 14 or 18th in Maryland. CAC's next meeting in May will be the last time to get recommendations together for the EC. Jess shared that the Diversity Workgroup received funding through GIT to hold cultural competency trainings and they have extended the invitation to advisory committees. Jess and Julie will be attending one on March 16th and there is currently an additional slot open. Anna, David, and Bill Dickinson all expressed interest. CAC discussed opportunities to increase CAC's diversity with appointment vacancies in MD and DC and having a similar training for CAC members during a future meeting. Members entertained adjustments to the way CAC meets in order to focus on topics long term that are not reactionary to the Bay Program. They discussed the possibility of having longer meetings, meetings with specific themes, and the challenges of funding the meetings. CAC also discussed ways for sub-committees to be more effective by increasing interaction between meetings. CAC brainstormed topics for future meetings. They included 1) learning more about the Conowingo Dam and how it will affect the TMDL with full and pulsed sediment, 2) a future meeting with STAC to learn about extracting credit from oysters, 3) learning about protected space and forest buffers along the Bay, 4) engaging with water utilities, 5) touring Conowingo Dam, 6) a possible panel discussion with the authors of an article about the "lessons of the Chesapeake" and how they can be applied elsewhere, 7) update on the latest point source

technology with possible interaction with STAC and LGAC, 8) possible tours in Richmond, VA at 2nd Baptist Church as a dual-benefit case study, 9) learning about the Green City Commission's Tree Master Plan, 10) new legislation about the city's CSO that will drive earlier adoption of upgrades, 11) focusing on issues surrounding forests – urban tree canopy, open space preservation, and solar siting, and 12) having someone from American Rivers present on dams becoming TMDLs in other parts of the country.

For action items, CAC agreed to write a letter to the governors to support funding and encouraging national funding for abandoned mine landfill to help meet the goals of the Phase III WIP. A personalized version of the letter will go to West Virginia to acknowledging our meeting and compliment them on their great work. CAC agreed on a resolution regarding the Conowingo settlement and 401 Certification. The two letters will be separately written but will have a cover letter that will go to FERC and the Executive Council and PSC members. CAC reached consensus for sending a letter to the Manage Board requesting that they work with states to conduct a new assessment of miles of shoreline accessible to public using GIS mapping that incorporates the quality of access. They also agreed to send a second letter to the management board, or appropriate workgroup, regarding the status of old forest trees and what laws are protecting them. CAC agreed to set aside time for the May meeting to focus on strategic planning and diversity and staff will send an anonymous demographic/interest survey to members in advance of the meeting to help inform the conversation. Jess agreed to get final and accurate numbers for the EPA budget to reconcile a discrepancy between a presentation and handout. She will also be pulling the last three years of letters and recommendations before the May meeting and recommended the formation of an Op-Ed subcommittee to share successes CAC learns about to media outlets after meetings.