

CHESAPEAKE BAY PROGRAM LAND USE WORKGROUP

Conference Call Meeting Summary
February 7, 2018
10:00AM-12:00PM

Meeting Materials: [link](#)

Actions & Decisions:

ACTION: Peter Claggett will revise the draft Phase III WIP Expectations language for accounting for growth based on the feedback from the workgroup, and will recirculate to the workgroup for additional input.

ACTION: Any additional comments or feedback on the draft verification options should be sent to Peter Claggett (pclagget@chesapeakebay.net).

DECISION: The LUWG agreed to exclude agricultural areas captured under the Chesapeake Conservation Partnership priority areas for use in the Forest Conservation Scenario. These agricultural areas will instead be incorporated into the Agricultural Conservation Scenario.

Welcome and introductions/Review of meeting minutes – K. Berger, MWCOG

The LUWG approved the meeting minutes from the January 3rd meeting.

Documentation Expectations to Claim Land Use Planning and Land Conservation Actions – K. Berger, MWCOG

Karl Berger led a discussion on what sort of documentation will be required for jurisdictions to claim land use planning and land conservation actions toward their watershed restoration goals.

Discussion:

- Bill Keeling: I thought these Conservation Plus scenarios were ‘what-if’ scenarios, not ‘what-is’.
 - Peter Claggett: The WIPs themselves are also kind of a ‘what-if’, right? What if our programs are effective, and certain things happen, etc. The big change that’s been achieved with establishing these 2025 land use scenarios is that numerically, the jurisdictions can claim numerical credit for land use planning and land conservation actions. This will be assessed by the Partnership with the phase 6 suite of models, and users in CAST will be able to build scenarios and their WIPs based on many different actions – for example, where floodplain development is excluded, etc.
 - Bill Keeling: I think it might be premature to worry about how we’re going to verify these actions without even having seen the results from CAST.
- Norm Goulet: The WIP is not the document for verification – each state has their own protocol. It’s a separate document that lays out the requirements for BMPs for

reporting and verification. The reference document should only reference those protocols. There's no need to have a separate verification protocol for this in the WIPs.

- Karl Berger: It sounds like there's still time to tackle all of this.
- Peter Claggett: I guess I'm asking if the language presented here would be adequate for the WIP expectations document.
- Karl Berger: I think you were saying that eventually whether this is in the WIP or separately in the verification protocol, it might point to existing ordinances or other items. But for some of this, I think it might require new policies or new ordinances.
- Matt Keefer: I understand where folks are coming from in terms of the verification procedures being premature, but for us it's helpful to understand what the mechanisms are going to be when going to implement the WIP. I think we'll struggle initially in finding ways to commit in the WIP, but hopefully we'll get there because there is value in this. Being able to talk to our stakeholders about how something will be tracked or counted will help us think through how to get there in the end.
 - Mary Gattis: I completely agree – so much of this is reliant on what's going to happen at the local level. If there isn't a way to clearly communicate the implications of this, and being able to provide reasonable assurance, we'll be in trouble when we get to 2023. In addition, the time it takes to actually implement some of these policies through land use regulations can be considerably long. So having expectations about how we actually achieve those pollutant loads is going to be important.
- John Griffin: Those are going to vary depending on the nature of the planning or zoning implementation at the local level. On the verification side, there's two things – if there's policies or issues in the growth management area, and BMPs in land conservation, then WIPs should try to estimate a timeline to do that recognizing that it will vary. The other issue is having some ability to have a record to examine to gauge enforcement of these actions, just like we have with other BMPs.
 - Mary Gattis: Maybe these are two separate things – maybe the policy and planning is more of the 'what-if', and so there's a different way that we handle that. And if it's land conservation, it seems to me that it's a much more certain action that states have increased control over. So maybe there's a scenario with the land conservation, and then a separate scenario that adds on land use planning items, since those are less assured.
- Karl Berger: So I think that the group is moving towards recommending that any language in this expectations document should be pretty general at this point. Clearly jurisdictions will have to document their actions, but I'm not sure that we're ready to go any farther than that.
 - Peter Claggett: We could leave it as-is. Unless I hear otherwise, we can suggest that for EPA's expectations letter, there's no additional comment from the LUWG other than this general statement.
 - Bill Keeling: WIPs have historically included numeric outlines as well as programmatic plans. This would fall under that programmatic piece, to me, where jurisdictions would describe current laws, regulations, zoning, etc. that helps them get to their goals. The word 'verification' has a very specific use at

the Bay Program. It's also important to consider use of the land – in model world, does forest remain protected even if it's harvested? There are very different permissible uses under an easement...

- Dave Montali: I think the 'when' and 'why' should go into this statement, as appropriate.
 - Karl Berger: So we'll document when and how plausibly land use conservation and policy will be.
- Mary Gattis: I wonder if it would be helpful to include in the programmatic piece an outline of the process for how this will be implemented. Departmental agencies have varying levels of understanding of land use policy and protections is not always fully understood, so just to make it clear what each state will have to do to realize that BMP would be helpful to jurisdictions and partners.
- Karl Berger: I would suggest that this expectations document be reasonably general and flexible.
- Karl Berger: Maybe we could use this language, and include underneath of it the comments from the workgroup on this section.

ACTION: Peter Claggett will revise the draft Phase III WIP Expectations language for accounting for growth based on the feedback from the workgroup, and will recirculate to the workgroup for additional input.

Verification of Land Use Planning and Land Conservation Actions – P. Claggett, USGS

Peter Claggett lead a discussion on what the process could be for verifying land conservation and planning actions so that they may be credited towards jurisdictions' watershed restoration goals.

Discussion:

- Lee Epstein: One thing that the time lag presents is a potentially significant problem – you're talking about doing a hotspot analysis, where the data may be 2-3 years old. Something may have happened in 2016 that you're reporting in 2019 or 2020, and this makes it an unwieldy process.
 - Bill Keeling: The way you do ag land is not devised remotely – you're just saying that leftover open area is ag. I have grave concerns about this methodology being used, plus the lag. I always thought verification was in the realm of the state, and not the CBP.
 - Karl Berger: Bill, would you have an alternative idea for how to deal with this?
 - Bill Keeling: If the state selects from the menu of options and use that in their WIP, then we need to start thinking about how that might be verified – whether that's CBP doing a GIS analysis, the state, or whomever. I'm just leery of this based off of the methodology.
 - John Griffin: I agree with what you just said, and it seems the 2-year milestones should have some basis to do periodic verification. What Peter reviewed seems to be a final accounting – an ultimate true-up – not unlike periodic assessment using Bay monitoring and modeling to see where we are. So I think the two need to be thought through, and then to use a combination.

- Peter Claggett: There are other aspects of the Program that would like to use this data, unrelated to the WIPs and the TMDL. Outcomes such as land use metrics and monitoring, asking how this affects habitats and fisheries – so if we’re already doing this, then we’re leveraging that effort to reduce, maybe not eliminate, the workload on the states. Rather than saying that they need to do collect all the data, we could at least narrow the scope.
- Jeremy Hanson: To put this back in the framework of overall verification would also be helpful. That was developed to allow states to explain their approach to verification based on their own priorities and where they expect to get reductions. So this all boils down to how a state chooses to rely on these practices. If they rely more heavily on them, they might have to put more effort into demonstrating how they are fulfilling those expectations.
- Matt Keefer: When I think of verification, I think of the need to verify specific practices that we choose to implement, but it also sounds like through the remote sensing monitoring, you might be picking up changes on the landscape that we didn’t really plan for or account for, or even attempt to commit to. So maybe it’s trying to figure out how to handle those changes versus the ones we actually commit to by implementing a certain BMP.
 - Peter Claggett: I understand your point – there’s a lot that could be happening that’s outside a jurisdiction’s control. But in terms of the Bay, what matters isn’t necessarily what we control, but what happens on the landscape. In the past, states would report that their tree buffers are increasing, but there could be losses along the streams that we weren’t accounting for that negates the effects of those plantings. So it’s about net change too, and having this full accounting will help everyone focus on how to better manage the landscape for water quality and other purposes.
 - Bill Keeling: The remote sensing could also detect natural events – mass wastings, etc. - that may look like disturbance but isn’t a permanent change.
- Karl Berger: I would go back to what Jeremy said – if you’re claiming that all of your potential load increase due to growth is going to be offset by policy, then that will probably take more verification and scrutiny than perhaps other BMPs. And also, there is always a lag built in here. So whether there’s one or two cycles between now and 2025, there will be some high-res imagery taken that will be the 2025 land use, and then regardless of whatever your policies were, that will produce 2025 loads that will then be used to account for loads. So I sort of agree with the idea that states will individually come up with their verification, and this is a tool to help them that they could choose to use.
 - Bill Keeling: Or are they saying this is what will be, and states will have to deal with the results?
 - Karl Berger: I’m hearing from the states that this will be an offer for states.
- Peter Claggett: I’m not EPA, so I’m just looking at this from a technical perspective to try and make it easier on the jurisdictions. We’ve introduced these land use planning and conservation BMPs as an added thing. Because it’s obviously cumbersome to evaluate changes on the landscape, we’re offering up this as well. I think it would be up to the

partners to agree whether this is a mandates approach or not – that hasn't even been discussed yet.

ACTION: Any additional comments or feedback on the draft verification options should be sent to Peter Claggett (pclagget@chesapeakebay.net).

Future Scenario Production & Results – P. Claggett, USGS

Peter Claggett updated the workgroup on the status of developing the 2025 future land use scenarios, and will present initial results.

Discussion:

- Peter Claggett proposed excluding agricultural areas captured under the Chesapeake Conservation Partnership priority areas for use in the Forest Conservation Scenario.
 - John Griffin: What would you do with the other parts of the priority map?
 - Peter Claggett: The ag piece would be moved to the Agricultural Conservation Scenario.

DECISION: The LUWG agreed to exclude agricultural areas captured under the Chesapeake Conservation Partnership priority areas for use in the Forest Conservation Scenario. These agricultural areas will instead be incorporated into the Agricultural Conservation Scenario.

- Greg Evans: Do you have the ability to change any of these variables a little bit?
 - Peter Claggett: Yes, and that will be covered when we meet individually with jurisdictions to discuss those specifications.
- Bill Keeling: There are certain things we were going to ask not to be included in our scenario, so I guess we'll have to wait for the jurisdiction-specific scenarios.
- Peter Claggett: In some ways, I'd prefer not to even run the ag scenario, because we're learning that it's unlikely that a state or county will be very aggressive with forest conservation and completely hands off with ag – those two activities would both serve to protect good agricultural lands and good habitat/wood lots. So it makes much more sense to have these balanced scenarios, which I imagine are the ones that jurisdictions will develop.
 - John Griffin: I would recommend that you do include agriculture in CAST, in part because I think that many jurisdictions that have farmland have some various programs to conserve it, and I think they're interested in what the CAST model would suggest if they were to conserve high-quality ag land in terms of its load implications.
 - Greg Evans: I agree – having that additional information is useful at a local level.

Use of Historic Trends Scenario as “worst-case” baseline – K. Berger, MWCOG

Karl Berger lead a discussion on potentially restructuring the baseline 2025 land use scenario, based on the data Peter has presented on the Historic Trends and Current Zoning scenarios.

Discussion:

- Dave Montali: With respect to Berkeley County, the actions you took to buffer sewer areas better reflect reality. The Historic Trends growth on septic is an extreme contrast to what the state has reported and the county says is going to happen. So I don't think

it's fair to characterize that as a utopian kind of view. Are you going to put a fix in the Historic Trends for us, or not?

- Peter Claggett: I'm proposing we don't. From a WIP standpoint, the first thing you would select from CAST would be zoning, which for you would include expansion of sewer.
- Dave Montali: But we wouldn't be going out to develop new policies just to fix a model problem.
- Peter Claggett: In CAST, you're reflecting either actions you're going to take, have been taken, are intended to take, or just to better reflect reality. That's one of the advantages of having these scenarios – even if we use Current Zoning as the base, it's possible that for a county, that's not right. They could then select a scenario from the get-go that corrects the model to align with their reality. And in the WIPs, the documentation wouldn't necessarily be all of the additional things that are going to happen, but that there are records that don't align with Historic Trends so you change the way it's handled by selecting this scenario.
- Bill Keeling: My concern is that we're calling it Current Zoning when it's not necessarily current zoning – it's an enhanced concept of it, barring some places.
- Peter Claggett: I'd like to have Historic Trends mean the same thing everywhere, which I think is what Bill was getting to. So for infill, that could be separated out – to be combined with zoning or not. Right now, the Current Zoning scenario has those things combined in MD, as well as WVa's sewer. Given everything, I think we should keep it that way, and rename it to be more accurate. I would like to push the case with EPA that one of the valid uses of these scenarios is to make corrections to what jurisdictions feel is incorrect.
 - Dave Montali: That's a good compromise, if there's agreement on that. But one other question – when we were looking at Current Zoning when it came out, we identified a problem with poultry projections that Matt Johnston fixed. Can I assume that the animal fix is going to be in Historic Trends too?
 - Peter Claggett: Any fixes that Matt did to the agricultural projections would be consistent across all scenarios.
- Karl Berger: One thing missing here is new growth on septic versus new growth on sewer. Are sewer growth areas adequately identified in the model? And exactly what did will the CBP use for growth in WWTP flow between now and 2025?
- Bill Keeling recommended that states be allowed to use either Historic Trends or Current Zoning as a baseline scenario.
- Shannon McKenrick: MD feels that Current Zoning is reflective of the data we got from the counties, and we would prefer to build off that, as opposed to the Historic Trends.

Next meeting:

Wednesday, March 7, 2017 Conference Call 10:00 AM – 12:00 PM

Participants:

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| Karl Berger | MWCOG |
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| Peter Claggett | USGS |
| Lindsey Gordon | CRC |
| Cassandra Davis | NYSDEC |
| Matt Keefer | PA DEP |
| Ken Choi | MDP |
| Christine Conn | MDNR |
| Shannon McKenrick | MDE |
| Rick Fisher | Anne Arundel County MD |
| Lori Brown | DE DNREC |
| Bill Keeling | VA DEQ |
| Greg Evans | VA Dept. of Forestry |
| Alana Hartman | WV DEP |
| Chad Thompson | WV DEP |
| Sebastian Donner | WV DEP |
| Megan Grose | WV DEP |
| Dave Montali | WV DEP |
| Fred Irani | USGS |
| Renee Thompson | USGS |
| Jennifer Miller Herzog | Land Trust Alliance |
| KC Filippino | HRPDC |
| Lee Epstein | CBF |
| Mark Symborski | Montgomery County MD |
| Mary Gattis | Alliance for the Bay/LGAC |
| Michelle Williams | CRC |
| Jeremy Hanson | VT |
| Norm Goulet | NVRC |
| Ruth Izraeli | EPA |
| Jeff Sweeney | EPA |
| John Griffin | Chesapeake Conservation Partnership |