

Issues Resolution Committee:

*Recommendations to PSC on Key
Issues Raised during the
Public/Partner Comment Period*



Jim Edward
Chair, IRC
April 13, 2014



Chesapeake Bay Program
Science. Restoration. Partnership.

Public and Partner Comment Summary

- **Over 2,400 Public Comments (from individuals)**
 - 1,400+ on Climate Change
 - 400 + on Toxic Contaminants
- **Over 70 Sets of Comments from Organizations**
 - Environmental Groups – both local and national
 - Watershed Associations / Riverkeepers
 - Industry Sectors
 - Municipal
 - Citizens Bay Agreement
- **Partner Comments**
 - CBC, MD, NY, VA, WV, EPA, DOI, NOAA
 - CAC, LGAC, STAC

Summary Figures: PRIVATE CITIZENS' Comments received on Watershed Agreement

Updated 03.20.2014

Total Comments

	Total No. Comments	Md.	Va.	Pa.	D.C.	De.	W.Va.	N.Y.	Unknown	Outside W-Shed
	2420+	925+	1295+	90+	15	4	10	55+	11	55+

Arranged by:

1. jurisdiction from which they sent their email or letter
2. issues on which they commented

Does include "form letters" submitted by individuals (ig. from Sierra Club members)

Does not include info from official comment letters from organizations

Leading Issues

Issue	Total No. Comments	Md.	Va.	Pa.	D.C.	De.	W.Va.	N.Y.	Unknown	Outside W-Shed
Accountability and Enforcement	70+	2	60+	45+			1			5+
Climate Change	1450+	690+	750+		1		1			5+
Education and Environmental Literacy	70+	3	60+				1			5+
Hydraulic Fracturing	65+	1	60+				1			4
Public Access	75+	6	60+	1			1		1	5
Reporting Accuracy	65+		60+							5+
Stormwater Runoff	70+	3	60+		1		1			6
Toxic Contaminants (incl. road salt)	425+	185+	110+	40+	6	4	4	55+	6	15+
Water Quality/TMDL	65+	1	60+							4

Additional Issues

Issue	Total No. Comments	Md.	Va.	Pa.	D.C.	De.	W.Va.	N.Y.	Unknown	Outside W-Shed
Agriculture	9	6		1	1					1
Conowingo Dam	2	2								
Development	2		1		1					
Environmental Justice	4	1	1		1					1
Fisheries (incl. menhaden)	7	3	3						1	
Fish Passage	2		2							
Forest Buffers	1				1					
Homeowner Incentives	1		1							
Invasive Species	1	1								
Lawn Care	4	1	1						2	
Litter	2	1		1						
Natural Gas (Proposed Terminal)	3	2	1							
Shellfish	10	7	1		1				1	
Submerged Aquatic Vegetation	1	1								
Support for Agreement	10	6	2		1			1		
Wastewater Treatment	1	1								
Wetlands	2			1	1					



Partner Comment Registry

COMMENT PERIOD 2 - Draft Chesapeake Watershed Agreement 11/8/13

Partner Comments (MB, PSC, Jurisdictions, CBC, Fed Agencies/FOD, Advisory Committees, GIT Chairs)

Key	Text Formatting	Italicized = not in current draft
	red: strikethrough	highlight = technical change, new goal/outcome recommendation
	green: addition	blue = partner-stakeholder comment theme overlap

Partners that submitted comments include:

CAC, 9/12/13 MD, 3/17/14
 CAC 2013 EC Report 12/12/13 New York, 3/14/15
 CAC 3/17/14 NOAA, 12/19/13
 CBC 12/14/13 STAC 2013 EC Report 12/12/13
 DOI, 3/17/14 STAC Recommendations 1/17/14
 EPA, 3/17/14 Virginia, 3/17/14
 FWS 3/14/15 West Virginia, 12/14/13
 LGAC 2013 EC Report 12/12/13

Row #	Agreement Section Tag	Theme	Comment	Source	Date	Team Assignment	Status (change, no change, pending)	Resolution (explanation of status)
1	Preamble	Address Emerging Threats	Third, there are several emerging threats to sustained Bay restoration progress that we believe must be addressed in the preamble, operational commitments or in the management strategies to accompany the Agreement. We recommend language in the Agreement be modified to include new stresses facing the Bay restoration from such concerns as changing climate and sea level conditions, sediment build up behind dams in the watershed, and The signatories to this voluntary Agreement commit to achieving the goal of restoring and protecting the Chesapeake Bay ecosystem and its living resources consistent with Section 117 of the Clean Water Act.	CAC	9/12/13	ERB		
1	Preamble	Statutory clarification	Much progress has been made, but there is more to do—especially in the face of continued challenges such as changes in population, loss of farm and forest lands and (changing environmental conditions) climate change .	EPA	3/17/14	ERB		
1	Preamble	Climate Change	Clarification: The original agreement laid the foundation for a cooperative and voluntary program	EPA	3/17/14	IRC-MD		
2	Vision			EPA	3/17/14	ERB		
3	Principles	Climate Change	Climate change - The current draft only refers to “changing environmental conditions” and does not refer to the many aspects of climate change the Chesapeake region faces. Addressing climate change was a significant part of the Executive Order 13508 Strategy with clear commitments from federal agencies. The current draft Agreement inadequately recognizes climate change and its implications for communities and achieving protection and euphemism “changing environmental conditions” or “changing system”. Regardless of your belief of the causes of climate change, science is showing that it is occurring. We understand that climate change is a sensitive political issue and this caused it to be downplayed in the Agreement. However, we believe that an Agreement that seeks to guide restoration for more than the next decade should openly recognize the need to adapt to climate change. Integrating climate change into all the Management Strategies will hopefully yield implementation practices that look to the future of changing conditions . As your citizen advisors we believe climate change will be a determining	NOAA	12/19/13	IRC-MD		
3	Principles	Climate Change	Explicit recognition of the need for sustained physical, chemical, and biological monitoring to track progress toward identified critical water quality and living resource goals and to improve our understanding of the Chesapeake Bay watershed and estuarine system to allow refinement of model predictions . Careful analysis of this monitoring data is the only way to provide the information necessary for you and the public to	CAC 2013 EC Report	12/12/13	IRC-MD		
3	Principles	Monitoring	I would also like to reiterate the importance of implementing a multiple model strategy , which STAC believes can provide the most efficient strategy to characterize uncertainty in the model predictions , and ultimately, to refine our scientific understanding. STAC believes this strategy, coupled with monitoring data to inform the modeling efforts, will help build understanding and confidence in our	STAC 2013 EC Report	12/12/13			

Public Stakeholder Registry

Draft 3/28/14

COMMENT PERIOD 2 - Draft Chesapeake Watershed Agreement 11/8/13

Stakeholder Comments (Public Individuals, Organizations with Standing)

Key	Text Formatting:	italized = not in current draft
	red: strikethrough	highlight = technical change, new goal/outcome recommendation
	green: addition	blue = partner-stakeholder comment theme overlap

**Comments expressing simple support for what already exists in the agreement have been exported to the 3rd tab.

Row #	Agreement Section Tag	Theme	Comment	Source	Date	Team Assignment	us (change, no change, penc	Resolution (explanation of status)
1	Preamble	Accountability	While the draft Agreement recognizes that "measurable results coupled with firm accountability yield the most significant results," this agreement fails to provide the accountability mechanisms necessary for success.	Conservation Pennsylvania, Choose Clean Water Coalition, Virginia League of Conservation Voters, Potomac Conservancy, Potomac Riverkeeper	3/17/2014, 3/13/2014, 3/13/2014, 3/17/2014	IRC		
1	Preamble	Adaptive Management	the Final Draft still lacks a strong statement supporting adaptive management. Plans pursuant to the Agreement must be revised over time as we gain a better understanding of the underlying scientific connection between management practices and water quality response. The only reference to adaptive management relates to internal governance: "Adaptively manage all levels of the Partnership to foster continuous improvement." YAMWA recommends that the Preamble section of the Final Draft be revised to include a statement in support of adaptive management during the implementation phase of the Bay Agreement. "Measurable results coupled with firm accountability" suggests we will not have the flexibility to manage differently ten years into implementation if we find an approach that reduces nutrients and/or sediment at a lower-cost or in a more socially acceptable way.	YAMWA	3/17/2014	GIT6		
1	Preamble	Conflict of Voluntary vs Regulatory	Preamble states that "watershed restoration and protection efforts have shown that measurable results coupled with firm accountability yield the most significant results." YAMWA questions the inclusion of this sentence for several reasons, ... YAMWA believes the partners must break from the traditional paradigm of calling for point source consequences when other sources contribute more in terms of total load and, along those lines, avoid any language in the new agreement that implies consequences for point sources that meet their 2010 TMDL allocations.	YAMWA	3/17/2014	IRC-EPA/GIT3		
1	Preamble	Citizen stewardship	It is also important to recognize in the preamble and in language describing this [Local Stewardship] goal, that the partnership's methods and plan of action will likely change when more diverse participants are included. It should be clear that our intent is to not simply inform but to seek common ground between the needs of the Bay restoration effort and the needs of the watershed's diverse residents. The new Bay agreement currently speaks more to those already involved in and informed about Bay restoration. As the Bay restoration effort seeks to involve more diverse watershed residents it should be understood that our current methods may change due to the new ideas and perspectives of those joining the environmental conversation. Given the specific and direct role that local governments and utilities have in implementation, beyond just being a stakeholder, we recommend the following addition to the current Preamble text: "Local governments are key partners as are individual citizens, businesses.	Alliance for the Chesapeake Bay	3/17/2014	IRC-DC		

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

BIN #1: IRC Recommendations to the PSC for possible inclusion in the Final Agreement (require issue papers)

Bin #2: Issues raised that need further consideration/analysis by IRC, GITs, Editorial Board and/or Management Board prior to making recommendations to PSC.

BIN #3: Issues raised in comments that the IRC recommends do not necessitate changes or additions to the Final Agreement.

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

BIN #1: IRC Recommendations to the PSC for possible inclusion in the Final Agreement (require issue papers)

1. Toxic Contaminants

Champion: Adhoc Toxics Team: Greg Allen, EPA; Scott Phillips, USGS; Russ Baxter, VA & Ann Swanson

2. Climate Change - resiliency, adaptation, preparedness

Champion: MD

3. Participatory Language - must sign up as part of agreement or develop management strategies in advance of signing the agreement. Report annually.

Champion: WV, NY, MD, EPA

4. TMDL/WIPs – address agriculture, stormwater, and atmospheric deposition in agreement.

Champion: EPA & GIT 3

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

BIN #1: continued

5. Impervious surface related to land use goals and outcomes
Champion: CBC & GIT 3
6. Stewardship goal/outcomes
Champion: D.C., GIT 5
7. a. Environmental Justice
b. Diversity goals for committee structure
Champion: MD
8. Conowingo Dam
Champion: MD
9. Governance – the EC should make all changes to outcomes, not the PSC.
Can't change goals and outcomes without public comment period
Champion: CBC

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

Bin #2: Issues raised that need further consideration/analysis by IRC, GITs, Editorial Board and/or Management Board prior to making recommendations to PSC.

1. Urban Tree Canopy Outcome – increase (or decrease) the outcome
Assignment: GIT 2
2. Land Conservation Goal – increase to 2.5 million acres (or decrease)
Assignment: GIT 5
3. Public Access Goal & Outcome
 - a. Increase the number of sites
 - b. Recognize private partners**Assignment:** GIT 5
4. Environmental Literacy Outcomes – strengthen & broaden **Assignment:** GIT 5
5. Fish Passage Outcome – highlight dam removals and focus on hydro electric dams
Assignment: GIT 2
6. Freshwater Fisheries Outcome – add new outcome **Assignment:** GIT 1

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

Bin #2: continued

7. Forage Fish Outcome – management should follow study results
Assignment: GIT 1
8. Oyster Outcome – protect existing oyster reefs **Assignment:** GIT 1
9. Wetlands Outcome – needs a no net loss commitment **Assignment:** GIT 2
10. Trash – refer to citizen stewardship group & water quality sections **Champion:**
D.C. & MD
11. Water Quality Standards Attainment Outcome – add new outcome, tabled issue
from Fall PSC meeting **Assignment:** EPA
12. Funding/Financing
 - a. Emphasize technical/funding assistance to local governments
Assignment: MB, IRC, EB
 - b. Integrated affordability concepts into management strategies
Assignment: Goal Implementation Teams
 - c. Create a Financial Advisory Committee
Assignment: Management Board. **Discussion at IRC:** Post PSC retreat.

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

Bin #2: continued

13. Accountability/Verification/Independent Evaluation

Assignment: GIT 6, IRC

14. Explanation needed for how numeric goals, outcomes and baselines were developed (including net increase issue). **Assignment:** Editorial Board/GITs

15. STAC comments

Note: GITs should consider potential revisions to their outcomes based on STAC recommendations if possible at this stage, and consider in developing Management Strategies. **Assignment:** Goal Implementation Teams

16. Numerous comments on Principles to be considered by IRC and Editorial Board

Assignment (text): Editorial Board; **Assignment** (policy): IRC.

“Bins” for IRC Review of Public and Partner Comments on Draft Agreement

BIN #3: Issues raised in comments that the IRC recommends do not necessitate changes or additions to the Final Agreement.

- Some issues in Bin #1 or #2 will be moved down into Bin #3.
- Additional issues will be included in Bin #3 from both public and partner comments.
- This Bin would include issues raised that Partnership believes could be considered in developing Management Strategies and/or revising CBP Governance Document.

1. Hydrologic Fracking – IRC recommendation for PSC (March 26, 2014 meeting)

Issues Paper Format

- Current Language
- Options (IRC recommendations highlighted in yellow)
- Partner Comments
- Stakeholder / Public Comments
- Background

*** Issue Papers Developed for all Bin #1 Issues ***

IRC Recommendations to PSC: Summary Chart

Recommendations to PSC on IRC Issues

April 7, 2014

Issue and IRC Leads	Resolution/Recommendation	Date Resolved (or of current status)	PSC Decision (or direction)
BIN #1 / IRC Issues			
1. Participatory Language <u>Lead:</u> WV, NY, MD, EPA	<p>The IRC is recommending the following 3 options for PSC consideration:</p> <p>1: Deletes discretionary language from Goals and Outcomes section and adds that strategies will identify participating jurisdictions. Adds new language to Affirmation and Signatures section recognizing voluntary nature of Agreement and that it is not a contract or assistance agreement. (See exact language below under EPA comments).</p> <p>2: Include the participatory language for headwater states only. The paragraph would read, "each signatory headwater state may exercise its discretion..."</p> <p>3: Delete discretionary language from Goals and Outcomes section, and signatories should identify management strategies they will participate in at the time the Agreement is signed. The Agreement should recognize that participation in management strategies, which will be for two-year periods, will vary. The Agreement should also require stakeholder engagement and public comment and review prior to adoption and subsequent reporting to the EC. (See exact language below under Maryland comments).</p>	4/9/14	
2. Toxic Contaminants <u>Lead:</u> <u>Adhoc</u> <u>Toxics</u> Team: Greg Allen, EPA; Scott Phillips, USGS; & Russ Baxter, <u>Va</u> & others	<p>The IRC is recommending 2 options for PSC consideration:</p> <ol style="list-style-type: none"> 1. Reinsert (or develop new) the toxics research and reduction outcomes under the water quality goal 2. A new separate toxic contaminants goal with research and reduction/prevention outcomes. 	4/9/14	
3. Climate Change	The IRC agreed to craft language for these options:	4/9/14	

IRC Recommendations to PSC: Summary Chart

Lead: MD	<p>1.Add a new "Climate Resiliency" goal with one or more corresponding outcomes</p> <p>2.Add new climate outcomes under current goals where appropriate (e.g. under fisheries, vital habitats, water quality goals)</p> <p>The EB will work on integrating "climate change" into the agreement.</p>		
4. Conowingo Dam Lead: Md	<p>Recommended options for PSC consideration::</p> <p>1. Status quo (not addressed)</p> <p>2. Add a new Conowingo Dam outcome under the Water Quality Goal</p>	4/9/14	
5. Stewardship Lead: D.C., GIT 5	<p>IRC recommends adding a new separate Stewardship Goal with two outcomes(Citizen Stewardship, Stewardship Metrics), and the possible addition of diversity and local leadership outcomes.</p>	4/9/14	
6. Impervious Surfaces Lead: CBC & GIT 3	<p>IRC recommends amending the existing land use outcomes:</p> <p>1. Amend the Methods/Metrics Outcome to include a commitment to "quantify the potential impacts [of land use conversion] to water quality and costs to communities." By 2015 develop bay-wide metrics for measuring ... insert something related to local there</p> <p>2. Amend the Evaluation Outcome to "identify policy options to strategically manage and reduce the rate of conversion, including possible development of reduction outcome related to land use conversion."</p> <p>Note: For both outcomes add "wetlands" to farm and forest conversion language.</p>	4/9/14	
7.a. TMDL/WIPs – regulations within voluntary agreement Lead: IRC	<p>The IRC reached consensus on the issue of whether to maintain the current 2017 and 2025 WIP Outcomes in the final Agreement; the IRC recommended no change to the current outcomes.</p>	3/26/14	
7.b. TMDL/WIP Source Sector acknowledgement Lead: EPA & GIT 3	<p>The IRC agreed that either a new sentence should be inserted to explain the source sectors that are being addressed by the states and EPA in the WIPs. The IRC also agreed to add 2 sentences on the role of federal facilities in working with the jurisdictions on WIP implementation.</p>	4/9/14	
8. Environmental Justice	The IRC recommends:	4/9/14	

and Diversity <u>Lead: Md</u>	<ol style="list-style-type: none"> 1. Add an Environmental Justice or Environmental Diversity outcome to a Stewardship Goal [pending approval]. 2. Address Diversity and Environmental Justice issues more explicitly in the Principles, or other appropriate sections, <u>eg.</u> Goal/Outcomes introduction. 		
9. Governance <u>Lead: CBC</u>	<p>Decision #1: Goal and Outcome authority</p> <ol style="list-style-type: none"> a. Add language to the Agreement stating any changes or additions to goals and outcomes are finalized by the EC. b. Add language to the Agreement stating any changes or additions to goals are finalized by the EC. Changes or additions to outcomes are finalized by the PSC. <p>Decision #2: Transparency</p> <ol style="list-style-type: none"> a. Add language stating that proposed changes to goals and outcomes or the addition of new goals or outcomes are open for public comment before being finalized. Final changes or additions are publicly posted to the Bay Program website. 	4/9/14	

BIN #2 / Goal Team Recommendations

Fisheries Goal Team			
Introduction	Add " non-native and invasive species, toxics,... " to the list of factors threatening Bay fisheries	4/9/14	
Blue Crab Abundance Outcome	GIT 1 is considering adding a statement to the end of the existing outcome to explain how the abundance target is refined. " Evaluation and refinement of the population target will align with Baywide stock assessments conducted approximately every five years subject to available resources. " (draft)	4/9/14	
Blue Crab Management Outcome	GIT 1 recommends removing " population " because this outcome is focused on the fishery. GIT 1 is considering adding a deadline of " By 2018 " to complete the allocation framework evaluation.	4/9/14	
Oyster Outcome	<p>GIT 1 recommends adding "and ensure their protection" to protect restored reefs.</p> <p>GIT 1 is considering adding a statement to the end of the existing outcome to explain how restoration is measured. "Restoration efforts are currently guided by the Oyster Metrics that define success and by</p>	4/9/14	

	a tributary-based restoration strategy originally adopted in the Chesapeake Bay Executive Order.” (draft)		
Fish Habitat Outcome	GIT 1 recommends including language that would be inclusive of freshwater fisheries and adding a deadline of 2018. “By 2018, identify and characterize critical spawning, nursery and forage areas within the Bay watershed important for fish and shellfish so that management strategies can be enhanced to improve fish health and recreational opportunities.”	4/9/14	
Habitat Goal Team			
Introduction	after "conserving healthy habitats and restoring the" insert: "connectivity and"	4/9/14	
Goal	GIT 2 recommends adding “support fish and wildlife ” to the goal statement in place of “high priority species.”	4/9/14	
Black Duck	GIT 2 recommends adding “enhance, and protect”	4/9/14	
Brook Trout	GIT recommends adding “and sustain”	4/9/14	
Tree Canopy Outcome	GIT 2 is considering increases to the outcome based on additional discussion & negotiation with the IRC and Forestry Workgroup input. Flagged for PSC – discuss first with jurisdictions.	4/9/14	
Stream Health Outcome	GIT 2 is considering the following compromise on percentage of healthy streams: “improve health and function of 10% of stream miles above the 2008 baseline for the Chesapeake watershed. Note: a 2008 baseline will be re-assessed by 2015.”	4/9/14	
Stream Health Outcome – Note	GIT 2 recommends the following change to the baseline note: “Note: a 2008 baseline will be established by 2015”	4/9/14	
Water Quality Goal Team			
Introduction	GIT 3 recommends inserting a brief description of the TMDL and WIPs.	4/9/14	
Healthy Watersheds Goal Team			
Healthy Watersheds Goal	GIT 4 recommends replacing “exceptional quality” with “high quality.”	4/9/14	
Healthy Watersheds Outcome	GIT 4 recommends correcting “water” to “waters,” and deleting “By 2025.”	4/9/14	
Stewardship Goal Team			
Protected Lands Outcome	The Stewardship Goal Team put forward the two million acre protected land outcome in the draft agreement. The GIT believes this is an achievable goal. Public comments were submitted	4/9/14	

	recommending this outcome be increased to 2.5 million acres. Flagged for PSC – discuss first with jurisdictions.		
Environmental Literacy Goal (modified)	GIT 5 recommends the modification: Every student in the region graduates with the knowledge and skills to act responsibly to protect and restore their local watershed.	4/9/14	
Student Outcome (a modified MWEE)	Every student participates in at least one teacher-supported meaningful watershed educational experience in elementary, middle, and high school.	4/9/14	
Sustainable Schools Outcome (new)	All schools in the region work towards maintaining their buildings, grounds, and operations using best practices to support environmental and human health.	4/9/14	
Environmental Literacy Plan Outcome (new)	By 2016, all states complete an environmental literacy plan that details system wide approaches for environmental education to meet the provisions of this agreement.	4/9/14	
Metrics Outcome	By 2014, develop baseline metrics to establish and measure outcomes related to student participation in teacher supported meaningful watershed educational experiences and related activities.	4/9/14	
Note:	This GIT proposal increases the number of outcomes from 3 in the draft agreement to 4 in the final agreement.	4/9/14	
BIN #3 / Management Strategy Issues / Unnecessary in Agreement			
<u>Fracking</u>	Fracking should not be included in the final Agreement because each affected state is already addressing it. The Land Use Workgroup is also exploring the issue for possible consideration as part of the Midpoint Assessment.	3/26/14	