

BMP Verification Ad-Hoc Action Team

Conference Call Meeting Minutes

Thursday, November 12th, 2020

9:30 AM – 11:30 AM

Summary of Actions & Decisions:

- **ACTION:** If there are any specific or outstanding questions regarding aerial imagery and verification please contact Vanessa Van Note (vannote.vanessa@epa.gov) so that she can inform Peter if there is any specific focus for the presentation by **COB December 4th**.
- **ACTION:** Vanessa Van Note will be reaching out to organizations that do not have a secondary representative. If you do not already have a secondary participant and you are a voting member, please respond to Vanessa's request to update our contact list.
- **ACTION:** Interested members are asked to please reach out to Vanessa Van Note with input on the method for approaching credit durations by **COB December 9th**.
- **ACTION:** Vanessa Van Note will be reaching to those who have requested that practices be reevaluated to gather information and start that discussion.

Welcome, Introductions, Roll Call, Vanessa Van Note (EPA), Coordinator

- Welcome
- Roll Call of participants
- **Announcement** – Task Statement Approval, Vanessa Van Note
- **Announcement** – Aerial Imagery & Verification Presentation by Peter Claggett, Vanessa Van Note
 - Peter Claggett will come to the December meeting.
 - **ACTION:** If there are any specific or outstanding questions regarding aerial imagery and verification please contact Vanessa Van Note (vannote.vanessa@epa.gov) so that she can inform Peter if there is any specific focus for the presentation.
- **Announcement** – NRCS will have representation in the BMP Verification Ad Hoc Action Team as a technical resource to the group.
 - Chad Wentz (Richmond VA NRCS) and Tim Peters (Harrisburg PA NRCS) will be joining the BMP Verification Ad Hoc Action Team and provide technical support.
- **Announcement** –Back-Out and Cut-Off due to Land Use Update from WTWG, Jeff Sweeney
 - Currently, when the WTWG does make recommendations regarding cut off and back out procedures they will be brought to the WQGIT for approval. Jeff and Vanessa will continue discussing if the WTWG should go

through the BMP Verification Ad Hoc Action Team before approval through the WQGIT. They will review the governance protocols and the original charge from the Management Board and determine the chain of approval for decisions on back out and cut off to keep both groups informed and avoid conflicting recommendations.

- BMP Verification Ad Hoc Action Team members are encouraged to attend the WTWG if there is a topic of interest that they would like to weigh in on. The meetings are **10:00 am – 12:00 pm on the first Tuesday of every month** if members are unable to attend these meetings, any relevant major decisions will be brought to the BMP Verification Ad Hoc Action Team in at least an informational capacity.
- **Back Out:** When your crediting land use change BMPs as they are being reported.
- **Cut Off:** The amount of BMPs that are reported exceed the area that you would apply the BMP to.
- **Announcement** – Forestry Workgroup Reevaluation of Credit Durations, Sally Claggett and Rebecca Hanmer
 - Reviewing imagery, literature, and professional judgement
 - Forestry Workgroup & Land Use Workgroup are having a joint meeting on December 2nd to flush out the details of their proposed credit life and practice life recommendations.
 - Unsure of what the process will be to get the decisions approved but the Forestry Workgroup is hoping to turn something around in December.
- **Next Meeting:** December 11th, 9:00 – 11:00 am

Discussion of Process for Decision Making, Vanessa Van Note (EPA), Coordinator

- Vanessa Van Note led a discussion about the process for making recommendations and moving them forward. Her presentation included the representation for voting, steps for building consensus and making decisions, and finally where the recommendations should go following the approval from the BMP Verification Ad Hoc Action Team. Her presentation can be accessed in the link above.

Discussion/Questions:

- **James Martin:** Is this the list (of voting members for the BMP Verification Ad Hoc Action Team) of all of the participants that the Management Board directed for inclusion in this group?
- **Vanessa Van Note:** Yes. I will also be reaching out to every organization that we have a voting member for to confirm that there is representation. I will be reaching out to you after the meeting
 - **ACTION:** Vanessa Van Note will be reaching out to organizations that do not have a secondary representative. If you do not already have a secondary participant and you are a voting member, please respond to Vanessa's request to update our contact list.

- **Elliot Kellner:** Are there any objections or comments on this process and timeline?
- **James Martin:** No objection but the approval process assumes that consensus is reached but I think that clarifying what happens if consensus is not reached is also important here. I believe the WQGIT process puts the burden on the dissenter to make an alternate recommendation towards consensus and try to drive the group back towards consensus, I think that would be a good process to improve.
- **Vanessa Van Note:** Thank you James, that is a really good point. I only led up to the call for consensus, but step four is that identification and addressing of concerns. If consensus is not reached each dissenter will present their concerns regarding the recommendations, alternatives may be posed, and this may start another round of discussion. If that is the case, then the decision may be sought at the meeting of the next group. We will continue to try and address the concerns and continue forward with the formal approval process at the next meeting after modifying concerns.
- **Elliott Kellner:** I completely agree, I would also throw out to the group that given the charge for this action team to generate recommendations on any necessary changes to for an example, credit duration. If we cannot reach consensus as a group to that credit duration it seems that the obvious answer would be no change. I am not saying that would be the case for every decision item that we approached as a group but since we are only generating recommendations that would go to the source-sector workgroup then if we can't reach consensus on something than the decision might be the status-quo.
- **James Martin:** I think that makes sense that the default would be the status-quo, I am unable to see how that fits with the failure of consensus elevating to the next decision-making body.
- **Elliott Kellner:** Right, I envision that as being the ultimate resolution to no consensus. If we have the failure of consensus and we move to point four like Vanessa described and we can continue working on it like Vanessa described. But, I think its important to recognize that recommendations do not have to be reached if there is no consensus which differs from other groups. Any other questions?
- **James Martin:** At the WQGIT we use a consensus continuum and we use that as well when it can be a challenge to make a decision and there are a range of decisions. This gives people room to allow for consensus while stating that they have some concerns but are willing to stand-aside.
- **Vanessa Van Note:** Do you use the continuum after there have been substantial negotiations?
- **James Martin:** Generally, it follows the discussion and there are some decisions where through discussion its clear there is broad support and consensus but when there is a range that continuum might be helpful.
- **Vanessa Van Note:** Are there any objections to following the documented chain of approval?
- **James Martin:** Each of the source sector workgroups that could approve the recommendations, the management boards specifically designated a representative from each of the workgroups onto this group. I wonder if their

intent wasn't to expedite the approval process by including the representation already on the group.

- **Vanessa Van Note:** The intention is not outlined there because it could also be to have that input before even going to the groups to ensure that the recommendation is on the right path for approval. It can be a tricky subject with us being an action team formed because there were these processes in place.
- **James Martin:** My concern is that if this group makes a recommendation with consensus that the source workgroup doesn't approve it, do we think that is okay? I don't think it is. I think that the decisions made by this group should only go to the WQGIT alone. We can present to workgroups in an informational way but think that it should really only go to the WQGIT for voting.
- **Norm Goulet:** As one of the chairs of the source sector workgroups, I am somewhat concerned by this and we have danced around the subject to some degree and we fixed it in the WQGIT. The source sector workgroups are the experts on whatever particular subject matter we are talking about. This group is not the experts in that one particular thing and that is sometimes where we run into problems. While you as a group may have an opinion, it may very well differ from the opinion of who we classify as experts. The way that we have gotten around that in the past is that we will bring something to the WQGIT that may be more of a policy-based decision and may not agree with what the expert panel thinks. We always document that in the reports that the WQGIT overrode the recommendation by the panel. I think that we would need to have something like that at the very least.
- **James Martin:** I don't have a problem with that. If the BMP Verification Ad Hoc Action Team's recommendations are presented to the workgroups for their endorsement or not, my only point is that our recommendations should advance to the WQGIT with or without those endorsements and we should document whether the workgroup endorsed it or not.
- **Dana York:** I think both Norm and James make really good points. But, when I had the group the last time and we were dealing strictly with verification of how we would verify specific things. I agree with Norm, we are not all experts on the current science of this, but I do think the recommendations should go forward pending what we are going to suggest happening. I didn't think we would be doing that many changes to BMPs as much as we are talking about verification.
- **Vanessa Van Note:** This is strictly for the process that we are going to follow for credit duration and we are looking at the process that was used before and trying to decide if it was something we want to do now. A compromise could be the involvement of the source-sector workgroups. I will table this for now, I don't want any decision made at the current moment. Are there any other workgroups or individuals that want to chime in?
- **Loretta Collins:** Speaking for Gary Felton, head of the AgWG, we echo the concerns that Norm stated.
- **Elliott Kellner:** My follow-up suggestion is that we seek some clarification from Bay Program about James' questions with the intent the Management Board had with

including representation from each of the workgroups. We will seek clarification and take this issue up at a later time.

- **James Martin:** We have so far in our work reached out to sector workgroups for their support, direction, and guidance. We should certainly do that just so that we are bringing the expertise to bear where it is appropriate.

10:15 AM

“Alternatives to a one-size fits all approach”: MD Verification Program, *Jason Keppler (MDA)*

- Presentation on what has worked well for MD in the development and implementation of their verification program and associated procedures.
- This presentation was suggested at the direction of the MB.

Questions/Discussion:

- **Loretta Collins:** How does this work as far as privacy and willingness of farmers to have you all come on to do these audits. How does this work with NRCS practices?
- **Jason Keppler:** We developed our conservation tracking system and we asked all of our conservation district folks to enter BMP implementation as its being done so it is really independent of NRCS systems but it is a mechanism that we use to report all practices in MD. We do not have any issues with 1619 because we are not using NRCS data. In terms of privacy, we have statute on the books in MD that prohibit the dept. from releasing any farm specific data but we are able to produce reports in aggregate which protects us from public information request, we are just not able to do that. We can aggregate up to a county level and that is what we do when we report our practices up to NEIEN as well.
- **Loretta Collins:** That provides reassurance to farmers.
- **Jason Keppler:** The perception in the ag community, there have only been less than 10 circumstances where we were not able to verify a practice. There were issues with biosecurity, some changes in ownership issues where new landowners owned the property and just didn't want anything to do government and we respect that and move on. We are not forcing anyone to do this but overwhelmingly we have had great support as one of our primary tenants is ensuring we have counted all conservation in MD before we ask them to do more.
- **Vanessa Van Note:** I appreciate your offer for us to use your data in terms of what BMPs are still present after their expiration date. I think that would be really useful as we move into discussions about how to re-evaluate credit durations.
- **Dana York:** Have you thought of any other alternatives other than boots on the ground?
- **Jason Keppler:** One of the challenges for us is how we account for tillage practices and there are a couple folks that NEIEN has been working with to perhaps use NDVI and make a determination on whether fields are meeting certain thresholds. I think there is some promise there and we may head down that road in a year or so. But that is tougher to crack because crop residue doesn't have the same NDVI as cover crop. I think one of the challenges in using remote sensing, especially for

structural ones, its hard to make a decision about if there are animals on the farm or maintenance issues just by looking at aerial imagery.

- **Dana York:** What is the cost for using the technology?
- **Jason Keppler:** For our structural BMP Verification, we use the state of MD ArcGIS Enterprise license. The cost there is buying iPads to do the analysis and those sorts of things. In terms of cover crop analysis, all of the imagery is freely available. We have had a few grants from NFWF and NRCS to refine the tool we are using. We have also been very fortunate to work with NASA through the develop program. It has really been a collaborative effort. To date, other than having some grant money to get this going, it is relatively inexpensive to implement. We are certainly willing to share this technology with others in the watershed as well.
- **Suzanne Trevena:** Did you find any false positives?
- **Jason Keppler:** There can be some challenges with that. Especially with chickweed, where there is still some green and it might come across as a cover crop. We do the best we can but sometimes the reflectance may do something different than we are expecting. But, we are still going out to ground-truth the cover crop. We are just hoping in the future we minimize the amount of field time that our staff need to do.

Credit Duration and Partial Credit, *Vanessa Van Note (EPA), Coordinator*

- Brief presentation on specific BMPs brought to light for reevaluation of credit duration and partial credit.
- Presentation will address verification concerns not associated with credit duration or partial credit/not associated with the MB direction for the group.
- Open discussion to obtain clarity in the direction of the group and the “products” the group intends to recommend.

Questions/Discussion:

- Due to a time limit this topic will be revisited in the December meeting.
- **Loretta Collins:** This is a lot of information for a little bit of time, potentially we can review and provide comment via email.
- **Vanessa Van Note:** Yes, that works.
- **Alana Hartman:** I am frantically trying to remember which ones our states proposed and how much work I am committed to here.
- **Vanessa Van Note:** I remember specifically, stream exclusion fencing systems. I am available for assistance, it does not necessarily need to be a large presentation I just need help on identifying that justification, science, and professional judgement. That is really what I am requesting here.
- **Alana Hartman:** In some cases it may just be a vague notion that we have that this needs to be looked at again with us not being the experts but I will try to help.
- **Vanessa Van Note:** As Loretta mentioned, there is not going to be any decisions today due to time constraints. Please continue to spend time with this and recommend that something be added or taken away.

- **Dana York:** I am looking at your third point (on the Proposed Method for Reevaluating Credit Durations presentation) where they are going to request this be reevaluated and presenting the reasoning behind it. Are we providing them what kind of things we would like to know like a list of things they should bring?
- **Vanessa Van Note:** That is what I was trying to get at with the fourth point; science, professional judgement, contract duration, NRCS practice standards, etc. For example, the CREP study provided by Sally that showed the number forest buffers are remaining after their credit duration. Anything that provides clarification on why something should be reevaluated. It is information like that. Dana, if you had specific questions you would like answered, all of that information would be useful to ensure we are not skipping over anything important?
 - **ACTION:** Vanessa Van Note will be reaching out after this meeting to those who have requested that practices be reevaluated to gather that information and start that discussion.
- **Rebecca Hanmer:** If a technical workgroup is preparing a document on the given BMPs why wouldn't the workgroup reach out to the jurisdictions and NRCS reps.
- **Vanessa Van Note:** At this time only the Forestry workgroup is preparing a document. Please reach out to jurisdictions and NRCS as well. The FWG had such a great case already which is why it has a little bit more of an unconventional process. Please get that information you need and I am happy to help with that where I can as well.
- **Elliott Kellner:** One of the factors that influenced the way this is drawn up is because we want this group to be as collaborative as possible. I would much rather see all of our membership have the opportunity to bring their concerns to the group and voice those concerns, decide which issues and practices we should discuss and deliberate on and make this group as collaborative as possible. Please know that was the primary impetus as to how we determined this approach.
- **Vanessa Van Note:** A comment period is open and I will be sending out the question that Dana recommended.
- **Vanessa Van Note:** A question that I want to revisit is if members have evidence to support the reevaluation of the Urban Stream Restoration BMP's credit duration or the Ag Stream Restoration BMP?
- **Loretta Collins:** The Non-Urban Stream Restoration Expert Panel Establishment Group (EPEG) has the focus of understanding the difference between the non-urban and urban credit durations. If you want that issue to bounce back to the non-urban stream restoration group to provide recommendations that is fine.
- **Vanessa Van Note:** I will plan to continue to be involved with that group. I think it would be good for the Non-Urban Stream Restoration EPEG bring informational updates to this group as progress in that develops.

Meeting adjourns

- Meeting Recap – Vanessa Van Note (EPA); Next Meeting/Future Meeting Topics

Participants

Whitney Ashead, CRC
Elliott Kellner, WVU STAC
Vanessa Van Note, EPA
Jason Keppler, MDA
James Martin, VA
Lucinda Power, EPA CBPO
Greg Sandi, MDE
Gary Felton, UMD AgWG
Loretta Collins, UMD AgWG
Matt Ehrhart, CAC Stroud Center
Matt English, DC
Brittany Sturgis, DNREC
Rebecca Hanmer, Forestry Workgroup
Dana York, Green Earth Connection
Jennifer Starr, Alliance for the Bay
Bill Tharpe, MDA
Gregorio Sandi, MDE
Emily Dekar, Upper Susquehanna Coalition
Cassandra Davis, NYSDEC
Kate Bresaw, PA DEP
Jeremy Hanson, VT
Lisa Beatty, PA DEP
Jen Walls, DNREC
Ted Tessler, PA DEP
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Norm Goulet, USWG, VA
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