

**Special Joint Agriculture (AgWG)/Watershed Technical Workgroup (WTWG) and Water Quality Goal  
Implementation Team Meeting (WQGIT)**

**November 21, 2014**

**1:00 PM to 3:00 PM**

**Calendar Page: <http://www.chesapeakebay.net/S=0/calendar/event/21229/>**

**Minutes**

Welcome and Introductions – Jenn Volk (U of Delaware, WQGIT Chair)

- Volk: Following the BMP protocol, if we do not reach consensus regarding this report, we will ask for the party with a dissenting opinion to submit an alternative proposal formally and in writing.

Management Board Chair Comments – Nick DiPasquale (Management Board Chair)

- Nick DiPasquale provided opening remarks on the partnership's BMP expert panel review and approval process.

**Discussion:**

- DiPasquale: We agreed that December 1, 2014 would be the reporting deadline for 2014 progress. Speaking on behalf of EPA, we would like to adhere to that date as much as possible, but we can exercise some flexibility so that Tier II nutrient management can be reported for 2014. We are offering for this panel report alone that an extension be granted to January 15, 2015. From the Management Board perspective, there has been substantial concern about the nutrient management panel report from multiple parties. I hope we can narrow the list of issues and figure out a path forward by the January 15<sup>th</sup> deadline. If we cannot resolve the issues prior to January 15<sup>th</sup>, we will target the 2015 progress year.
- John Rhoderick (Agriculture Workgroup Co-Chair): There would be a preliminary run for December 1 using Tier I nutrient management protocol for data submittal? And by January 15<sup>th</sup> we would have Tier II included and run it again?
  - Mark Dubin (UMD, Agriculture Workgroup Coordinator): Correct.
- Bill Keeling (VADEQ): This problem started in 2009 when EPA unilaterally decided that for commercial fertilizer NM had no benefit. In phase 4.3 WSM we had about an 18% reduction for NM. Phase 5.3.2 WSM was developed and the attempted fix made things worse in that we went from no credit to increased loadings in many places using NM. In 2011 there was a Modeling Summit where NM issues in the modeling were a primary discussion point. In October 2011 EPA sent a letter indicating a panel would be put together to provide recommendations for NM. The panel has worked through the BMP protocol and provided recommendations so I am confused at why the report as provided is not acceptable.

Technical Review and Appendix Development – Jeff Sweeney (EPA)

- Jeff Sweeney, CBPO Scenario Builder (SB) Team, provided an overview of the CBPO's SB Team response to scientific and technical elements of the nutrient management panel recommendation report. In addition, Jeff reviewed the development of the technical appendix addressing inclusion of Tier II in SB, tracking and reporting BMP data, and Quality Assurance Project Plans.
- For more information, please see Jeff's [presentation](#).
- Keeling: the issue about on the ground changes is irrelevant. The panel's recommendations are a needed fix to the known modeling problem of this BMP.

**Discussion:**

- Chris Brosch (VT, Nutrient Management Panel Chair): I have a concern with slide 3. The panel agrees that for Phase 6, we will not include manure injection for Tier II.
- Brosch: I would like to address the CEAP report. A nutrient management plan is based on the best estimate of what crop yield will be. In reality, it could be followed and still result in the poor trends we see in the CEAP report. The CEAP report was considered by the panel and not included in our recommendations.
- Kelly Shenk (EPA): A lot of these questions are just asking the panel to connect the dots from the data to their recommendations. We need to maintain a credible process by providing as much documentation as possible to back up the recommendations for Tier II nutrient management.

Tier II Nutrient Management BMP Expert Panel Recommendation Report – Chris Brosch (VT, Nutrient Management Panel Chair)

- Chris Brosch, Nutrient Management Panel Chair, provided a review of the recently revised draft nutrient management panel recommendation report, and addressed comments received from the partnership as part of the draft report review process.
- For more information, please see Chris' [presentation](#).

**Discussion:**

- James Davis-Martin (VA DEQ): I do not think there is a way to adequately document the best professional judgment made by the panel as they considered their recommendations. You can't sufficiently capture their knowledge and experience in the report.
- Rich Batiuk (EPA): We are not questioning their best professional judgment or the expertise of the panel. We are asking the panel to document how they arrived at their best professional judgment and what elements were considered when they were making their final recommendations. We want to see how they got from the literature considered to the judgments made to reach those efficiencies.

Nutrient Management Panel Recommendation Report Discussion – Mark Dubin (UMD, Ag Workgroup Coordinator)

- Mark Dubin, AgWG Coordinator, moderated a joint discussion session with the members of the AgWG, the WTWG and the WQGIT on the Tier II nutrient management BMP expert panel recommendation report.

#### **Discussion:**

- Bill Angstadt (DE MD Agribusiness Assoc.): Chris, I believe you told the AgWG that because this was an interim report, the panel didn't try to connect the dots.
  - Brosch: I don't think it is fair to say that we did not try to connect the dots, we have an appendix that shows the literature we considered. I think that is the where we connected the dots.
- Kristen Saacke-Blunk (Headwaters LLC, AgWG Co-Chair): There is a continued call to tie the best professional judgment to the recommended efficiencies. Something done by other panels that could be considered is an expert-by-expert role call on their level of confidence, which could be shown in the report.
  - Brosch: The panel would certainly consider that, but there needs to be reasonable assurance that it would help get this report approved.
  - Doug Goodlander (PA DEP): There was unanimous agreement with the recommendations provided in the report. A table would just reflect unanimous agreement.
- Dubin: We will go state-by-state and ask if AgWG members are comfortable with the report.
  - Steve Taglang: Pennsylvania AgWG members are comfortable with this report and want to move on.
  - Albrecht: New York is in support.
  - Marcia Fox (DE DNREC): No questions or comments from Delaware.
  - Jason Keppler (MDA): There is support from Maryland.
  - Alana Hartman (WV DEP): The technical appendix is incomplete, but the percent reduction recommended is fine. Is it possible for West Virginia to approve the report and deal with the technical appendix later?
    - Dubin: There will be separate decisions from the AgWG and the WTWG to draw that distinction.
  - Andy Yost (WV Dept. of Ag): West Virginia AgWG members are comfortable with the report.
  - Tim Sexton (VA DCR): The panel took a very conservative approach. I recommend moving forward.
- Marel King (CBC): We need to get everything that was considered by the panel stated on the record and in the report formally.
- Beth McGee (CBF): I thought Chris said that the phosphorus number was largely based on the phosphorus index, but when you look at the paper dealing with the P index, there is no benefit. So we need to have those connections and responses more clearly written in the report.
- Ann Swanson (CBC): Please make it clear the differences between manure incorporation and manure injection and what will be considered in what phase of the model.
  - Brosch: Yes, we will clean up and clarify that in the report.
- Kelly Shenk (EPA): EPA echoes Ann's point that we want to see the documentation, particularly the phosphorus piece in writing.

- Keeling: I want to clarify that Tier II is not an increase in nutrient efficiencies because the phase 4.3 WSM had an 18.2% reduction so Tier II is a decrease in reductions of over 2% or from where we use to be with this BMP.

#### AgWG Recommendation – John Rhoderick (AgWG Co-Chair)

- Kristen and John Rhoderick, AgWG Co-Chairs, requested a motion and discussion on a workgroup recommendation on the nutrient management BMP expert panel report from the members of the Agriculture Workgroup.
- Rhoderick: Just a reminder that Nick DiPasquale gave us a larger window for approving the Tier II nutrient management recommendations. That allows us to make this report stronger. The report is solid scientifically, we just need to bolster the clarifying documentation.
- Saacke-Blunk: There has only been one time when we went to a super-majority vote. John, Mark, and I have been very clear that our primary desire is to make our decisions by consensus. While there has been support for what the panel has put before us, we need just a little more clarifying language so this can become a document that we can really hang our hats on. Having a little more time will give us the ability to get a consensus document.

#### **Discussion:**

- Brosch: There seems to be a clear path forward for some of the comments. As far as connecting the dots, I don't know if there is a clear path forward to reach consensus with the level of rigor that some of the commenters are expecting.
  - Rhoderick: There was a small conference call yesterday to review these questions, and some of the answers you provided are enough to close the gaps if we put them in writing.
- Brosch: I would like to see tracked changes comments in the actual report so that I can see the language that would satisfy the commenters.
- King: Given the level of expertise on the other side of the equation, maybe we can have future calls with you to work through that language.
  - Brosch: I would be happy to do that.
- Volk: The Word version of the document is currently posted online. We need to figure out timing to move forward. The report will not be approved at any of the Workgroup levels at this point.
- Brosch: We should start working the BMP into the model in the interim, while we work on the language of the report.
  - Davis-Martin: I agree. I have not heard anyone suggest that the recommended efficiencies change, just that the report needs to be clarified. So I think there is no reason we can't move forward.
- Swanson: Chris, can you tell me if you will be backing out the manure incorporation and injection?
  - Brosch: Any backing out of those components in the Tier II recommendations would happen in Phase 6, it wouldn't be at all part of this report. They would be two distinct recommendations. The recommendations for Phase 5.3.2 include manure incorporation and injection, but the recommendations for Phase 6 do not. As soon as Phase 6 is

approved and there is a BMP to put into Phase 6 without those practices, this particular report, which only deals with Phase 5.3.2, would expire.

- Swanson: It appears that those six practices that are a part of this Tier II efficiency are not being implemented on a lot of acres, but because of the averaging approach, many acres will receive credit anyways in Phase 5.3.2 of the model. So in Phase 6, the definition of Tier II would change and the amount of credit farmers were getting could potentially change? For instance, farmers not practicing manure injection or incorporation now, but who are still receiving credit for it, would no longer receive that credit in the future?
- Rhoderick: Rich Batiuk, Chris Brosch, and I will take another look at this report in an expedited fashion and get it back to you with all of the comments we have heard. We will also work with the WTWG to have a more fleshed out technical appendix.
- Taglang: Does that mean that some of the verbiage will be tweaked but the efficiencies as recommended by the panel will remain the same?
  - Rhoderick: Yes.
- Roy Hoagland (HOPE Impacts LLC): I didn't hear a response to Ann's question about whether the efficiencies will change due to the earlier discussion about not including manure incorporation.
  - Rhoderick: That is one of the questions we are looking to clarify in the report.
  - Brosch: The efficiencies will not change in Phase 5.3.2., the relevant model for this report. We will clarify exactly how manure incorporation was included in this report and how it will be excluded in the next report, but the efficiencies will not change.
- McGee: Whether or not the phosphorus efficiencies stay the same should depend on the connections being made. All the efficiencies are not necessarily going to stay the same because it should depend on more clearly articulating those connections made by the panel.
  - Rhoderick: If there are objections to the efficiencies in the report, according to the protocol, you must submit a formal, written, counter-recommendation.
  - McGee: I suggest a zero efficiency for non-manured acres.
  - Rhoderick: Please write that down and submit it in writing formally.
- Hoagland: My concern is that you are presupposing the outcome of Beth's comments which is that the efficiencies will not change.
  - Rhoderick: We are saying the report stands the way it is as far as the efficiencies.
  - Hoagland: Then why submit an alternative?
- Volk: We will rework the wording based on comments we have. If Beth has comments, she can submit them in writing and they will be considered at another stage of the process.
- Rhoderick: Are there any objections from the AgWG to Rich and I working with Chris to polish the report and work on the technical appendix?
- Davis-Martin: I think we had a complete and sufficient appendix at the November 6<sup>th</sup> meeting. The one presented today tried to address questions with the report, which is not an appropriate use of the appendix.
  - Rhoderick: We note that there were several parties in agreement with James' suggestion.
- Sexton: There will need to be a sunset to what the panel can and can't do.
- Volk: Are we still using tracked changes in the Word document?
  - Rhoderick: Yes.

- Shenk: The phosphorus issue is complicated. If the clarification provided leads us to feel that the basis for the recommendation is not sufficient, there should be a process by which we can readdress the efficiencies. What is the process?
  - Rhoderick: We will provide further detail on how the panel reached a particular recommendation but best professional judgment is inherently incorporated in these decisions.
- Jenn Volk volunteered to help with clarifying the draft.
- Shenk: Where are we heading with the appendix? Do we have everything the modelers need?
  - Rhoderick: We are trying to facilitate between the two workgroups.
- Rhoderick: We have a path forward.
- Jenn Volk thanked everyone for their contribution and participation.

Adjourned

### Meeting Materials:

All materials from today's meeting will be posted on the event page:

<http://www.chesapeakebay.net/S=0/calendar/event/21229/>

### List of Call Participants

Member Name	Workgroup	Affiliation
Jenn Volk	WQGIT (Chair)	U of Delaware
James Davis-Martin	WQGIT (Vice-Chair)	VA DEQ
Lucinda Power	WQGIT (Coordinator)	EPA
John Rhoderick	AgWG (Co-Chair)	
Kristen Saacke-Blunk	AgWG (Co-Chair)	
Mark Dubin	AgWG (Coordinator)	UMD
Ted Tesler	WTWG (Chair)	PA DEP
Matt Johnston	WTWG (Coordinator)	UMD
David Wood	WQGIT/WTWG (Staff)	CRC
Marcia Fox	WTWG	DE DNREC
Tyler Monteith	WTWG	DE DNREC
Lindsay Dodd	AgWG	MD Assoc. of Soil Conservation
Tim Sexton	AgWG	VA DCR
Chris Brosch	AgWG, WTWG	VT, VA DCR
Russ Baxter	WQGIT	VA DEQ
Bill Keeling	WTWG, Modeling WG	VA DEQ
Roy Hoagland	AgWG	HOPE Impacts LLC
Lara Kling	AgWG	VA DEQ
Brad Copenhaver	AgWG	VA Agribusiness Council
Jack Frye		CBC
Andy Yost	AgWG	WVDA

Alana Hartman	WQGIT	WV DEP
Steve Taglang	AgWG	PA DEP
Doug Goodlander		PA DEP
Andy Zemba	WQGIT	PA DEP
Bill Angstadt	AgWG	DE MD Agribusiness Assoc.
Marel King	AgWG	CBC
Greg Albrecht	AgWG	NYS DEC
Ben Sears	WQGIT	NYSDEC
Glenn Carpenter	AgWG	NRCS
Marty Hurd	WTWG	DDOE
Jeff Sweeney	WTWG	EPA
Jim Edward		EPA
Rich Batiuk		EPA
Nick DiPasquale	Management Board	EPA
Jeremy Hanson		VT
Dianne McNally	WQGIT	EPA
Lew Linker	WQGIT	EPA
Kelly Shenk	AgWG	EPA
Olivia Devereux	WQGIT	Devereux Environmental Consulting
Ann Swanson	WQGIT	CBC
Larry Towle	AgWG	DE Dept of Ag
Greg Sandi	WTWG	MDA
Sarah Lane	WTWG	MD DNR
Jack Meisinger		USDA
Lauren Torres	AgWG	DE Dept of Ag
Suzanne Trevena	WQGIT	EPA
Dinorah Dalmassey	WQGIT	MDE
Gary Flory		VA DEQ
Jason Keppler	WQGIT	MDA
Robin Pellicano		MDE
Kim Snell-Zarcone	WQGIT	Conservation PA
Beth McGee	WQGIT	CBF