



Trading and Offsets Workgroup

Conference Call

Wednesday, December 17th, 2014

10:00 AM to 12 Noon

Minutes

Welcome, Introduction and Announcements -- *David Foster, Chair*

Verify participants -- *David Wood, CRC*

Crediting Conserved Lands – *Jack Frye, CBC*

- For more information, please see Jack's [presentation](#), "2013 Crediting Conservation: Accounting for the Water Quality Value of Conserved Lands Under the Chesapeake Bay TMDL".

Discussion:

- David Foster (Chair): What has the response been in Virginia to crediting land conservation in lieu of other reductions? People seem most willing to provide credit for permanent land use changes.
 - Jack Frye (CBC): Virginia has a very solid trading program because they have been careful in what they have allowed to occur. Point sources are trading among themselves, but they don't need to reach out and buy credits from non-point sources as of right now. There is a relatively active non-point source credit market that is supporting construction general permits under post-stormwater requirements for phosphorus, but it is all permitting credits at this point. There are credit banks in each basin in the state, primarily from land conversions. There is not yet a market for more ephemeral credits, but the system is in place.
- Foster: You reference land conversions. Would this conversion be creditable under Maryland policy?
 - Susan Payne (MDA): Maryland policy currently does not allow wholesale conversion of a substantial portion of a farm for the sole purpose of generating credit. It is a site-by-site determination.
- Foster: Under the Virginia system, would land conservation credits only be allowed to offset growth, or would it also be acceptable to use those credits for trades with MS4s to reduce the overall cost of reaching compliance?
 - Frye: Virginia state law does allow MS4s to make those kind of trades, but I'm not aware of anything like that actually occurring. MS4s are generally concerned with local water quality issues, and they are often concerned that it wouldn't look good if they made a trade for credits generated several counties away.
 - Marya Levelev (MDE): In Maryland we currently do not allow trading to meet compliance, only to offset new growth. We are looking at cross-sector trading to meet TMDLs as opposed to offsetting new growth, but that is down the road.
- Bob Rose (EPA): Does crediting conservation refer to protecting existing land, or converting to forest or wetland and then issuing a permit easement?
 - Frye: It could be either, but the primary focus is on protecting natural landscapes that have not been impacted.
- Rose: Why would a state or the EPA have a problem with crediting a land conversion to forest?
 - Frye: You are just putting protection on a desirable piece of natural land, but that act by itself doesn't change anything in the Bay Program's modeling tools currently. Having that protection is actually a tremendous benefit though, and EPA is now recognizing that that needs to be incentivized.

- Jamie Bauer (VA DEQ): Our trading regulations are coming out on December 30th for a 60 day public comment period. They will be in the Virginia Register.

Crediting Forested Lands – Greg Evans, VA Dept of Forestry

- For more information, please see Greg's [presentation](#), "Offsets and Growth Tracking System: Forest and Land Retention Study".

Discussion:

- Foster: What is the status of numerical crediting for forest lands?
 - James Davis-Martin (VA DEQ): Forest is a land use that has the lowest loading rate in the current model, but there is no direct credit. The credit only comes from a land-use conversion that is calculated by taking the difference between the forest load and the original land use.
- George Van Houtven (RTI): Have you looked at other trading or banking programs and how they handle strict preservation? What about wetland mitigation banking and how that is handled?
 - Greg Evans (VA Dept of Forestry): The wetland model is what we have to look at as far as examples. There is a water quality technical team in Virginia and we asked them to look at upland forest mitigation at a 2:1 ratio and they thought that was actually conservative. There is no current defined mitigation ratio for upland forest.
 - Frye: We looked at other trading programs across the country a few years ago, but at that time, we seemed to be more aggressive than anyone elsewhere.
- Sally Claggett (USFS): Jack, will the Department of Forestry project be helpful for your permanent protection elements, or are you looking forward to hearing about the retention elements?
 - Frye: Yes, I think the Forestry project is really looking at a version of our option 4. That is why we are interested in participating in their project. I think it is a real life application of option 4.
 - Claggett: It will be great to work on protecting those higher value forests.
- Frye: I think it is a shortcoming of the current system county-level land allocations are not provided. Until local governments have that data, it will be difficult for them to properly value their open space.
 - Olivia Devereux (Devereux Environmental Consulting): Maryland did provide county-level allocations, and that is what Maryland used for developing their phase II WIPs.
- Evans: One of the challenges we are trying to address is that the language is there, but it is not being translating from county comprehensive plans to actual implementation in county planning and zoning.
- Davis-Martin: In Virginia, new permitted development is already required to be nutrient neutral. We are hoping to demonstrate that there are lots of ways to achieve that through this project. It is an alternative to installing a large number of expensive urban BMPs.
- Ridge Hall (CLA): It seems to me that we have always looked at conservation and concluded that it should be incentivized because it can lower loading rates. But when we do that in a TMDL context, we run into the problem that just preserving it doesn't actually lower the loading, so we need to find other ways of incentivizing it than providing additional credit. I like the option 1 from Jack's presentation where conserving land enhanced the BMP by extending credit duration, because it is consistent with the concept of the TMDL. We cannot generate additional credit without actual changes on the land.
 - Frye: That is the quandary, and that is why option 2 hasn't moved forward, because putting an easement on the land alone isn't enough to justify more credit. I agree that option 1 has looked good because it will just extend the duration of the credit, rather than providing more credit.
 - Hall: Sounds like we are on the same page then.
 - Davis-Martin: I agree completely if the TMDL is in a static environment, but it is not. Every

year, the Bay Program forecasts land uses and what they believe has changed based on historic trends. Through the processes described today, if you can demonstrate that the development they forecasted did not occur because of land conservation, then theoretically, the load reductions you have to achieve are actually lower because there is less development.

- Hall: You can't get a credit for doing less development than was forecasted. It seems to me that if the result of conservation is less development, then you have less of an offset burden.
- Davis-Martin: That is what I'm getting at, you have less than an offset burden. When I am talking about credit, I am talking about compared to model simulation of loads. That may not be representative of a reduction in in-stream modeling, but it is part of the accounting process in the model.

Open Discussion on Presentations – TOWG call participants

- Foster: It is important that we get word out to the general public of the kinds of clear, enforceable credits that can be achieved. That message is not always getting out. For example, I spoke to a panel on nutrient trading at the Maryland School of Public Health, and everyone was very suspicious of the concept of nutrient trading.
- Hall: I have heard that same skepticism. A lot of it is based on the uncertainty of the actual reductions being achieved by certain non-point source BMPs and whether or not the proper oversight is in place to make sure those practices are functioning properly.
- Glynn Rountree: Coming from the homebuilder's perspective, the potential for conservation credit actually fits in well with the new challenges for development. This gives an opportunity that they have not had before. As we get near 2025, the need for trading will come clear. Now, no one is demanding credits, but that demand will come.

Jurisdiction Roundtable updates -- Pat Gleason

- Bauer: Again, Virginia is having a 60 day comment period on the nutrient credit certification regulations. They will be published in the Virginia Register on December 30th. There will be two public meetings in addition to a comment period on Virginia's trading ratio of 2:1. Additionally, we will be reissuing the watershed general permit next month.
- There were no other jurisdictional updates.

Future Planning

Adjourn

Next Teleconference

Wednesday, January 21st, 10 AM to 12 PM

List of Call Participants

Member Name		Affiliation
Pat	Gleason	EPA (Coordinator)
David	Foster	Phoenix Initiatives (Chair)
David	Wood	CRC, CBPO (Staff)
Jack	Frye	CBC
Beth	McGee	CBF
Ridge	Hall	Chesapeake Legal Alliance
Kim	Snell-Zarcone	Conservation PA
Chris	French	ConTech
Olivia	Devereux	Devereux Consulting
Bob	Rose	EPA
Lindsay	Dodd	MD Association of Soil Conservation Districts
Susan	Payne	MDA
Marya	Levelev	MDE
Lucia	Woo	NASA
Steve	Gladding	NYSDEC
George	Van Heutven	RTI
Alex	Foraste	Stantec
Teresa	Rafi	TetraTech
Sally	Claggett	USFS
Greg	Evans	VA Dept of Forestry
James	Davis-Martin	VA DEQ
Derick	Winn	VA DEQ
Jamie	Bauer	VA DEQ
Patrick	Fanning	Virginia Nutrient Credit Exchange
Teresa	Koon	WV DEP
Glynn	Rountree	