



CHESAPEAKE BAY & WATER RESOURCES POLICY COMMITTEE

MEETING SUMMARY- Draft

January 19, 2018

1. INTRODUCTORY REMARKS

Chair Garvey called the meeting to order at 10:10 a.m. She welcomed everyone and said she looked forward to a productive year ahead as the new Chair of this committee. She also thanked Elissa Silverman and J. Davis for serving as Vice Chairs. She noted several new members, and asked everyone to introduce themselves and note their jurisdiction.

2. CBPC APPROVAL OF DRAFT SUMMARY FROM JULY 28TH MEETING

The draft summary of the November 17, 2017 meeting was approved as written.

3. 2018 REGULATORY & LEGISLATIVE OVERVIEW

Claudio Ternieden, Water Environment Federation (WEF) Senior Director of Government Affairs & Strategic Partnerships, provided an overview of federal water issues and advocacy focus areas for WEF and the National Association of Clean Water Agencies (NACWA). WEF and NACWA are:

- Examining the Tax Reform and Jobs Act of 2017 implications. In particular, arguing against the elimination or capping of the State and Local Tax (SALT) deduction – because doing so would eliminate an important tax incentive that is used to help fund state and local infrastructure projects. Fortunately, the tax-exempt status of Private Activity Bonds (PABs) has been maintained.
- Advocating for \$45 million for the Water Infrastructure Finance and Innovation Act (WIFIA). They also are calling for reauthorization of the State Revolving Fund (SRF), which has not been authorized in thirty years, and \$4.6 B in funding for the SRF programs.
- Reviewing the Administration’s infrastructure package – which currently proposes \$200 B over 10 years for infrastructure improvements, by leveraging \$1 T in private investments, and state and local funds.
- Tracking these major water bills (bill details are in the WEF & NACWA presentations):
 - S. 1137 – Clean, Safe, Reliable Water Infrastructure Act of 2017
 - H.R. 2510 – Water Quality Protection & Job Creation Act of 2017
 - Drinking Water System Improvement Act of 2017
 - H.R. 4492 – WIFIA Reauthorization Act of 2017

Adam Krantz, NACWA CEO, opened by saying that the metropolitan Washington has great utility leadership, citing Karen Pallansch’ s leadership and Alexandria Renew and DC Water as examples of “utilities of the future.” In addition, he noted:

- While water issues are generally bipartisan, there is a need to educate the new members of Congress about them.
- The importance Integrated Planning across water permits, which allows utilities to prioritize their work to meet permits, and noted that if EPA could see state and local jurisdictions as “co-regulators” there could be a paradigm shift away from enforcement toward compliance.
- Given that the water sector has a high percentage of workforce near retirement age, WEF is also working on workforce development via national education/certification program. An example is the the green jobs certification partnership at DC Water.

For more details, the presentation from WEF and NACWA is [here](#).

Member discussion:

- Ms. Davis asked about states that may be happy to have diminished EPA enforcement. Mr. Kranz said the goal should be to leverage funding to bring utilities into compliance and to use enforcement action as a last resort. Mr. Ternieden said there is a need for more scientific data and tracking for NPDES permit compliance.
- Mr. Karimi asked whether SRF funding has been appropriated, and whether it will compete with WIFIA? Mr. Krantz answered that Congress has authorized full funding for CWSRF, but the 2018 budget bill has not passed yet, and that funding for WIFIA should be complimentary to SRF.
- Ms. Spano said COG will be tracking water infrastructure as part of a larger COG-wide effort to advocate for infrastructure. However, it's helpful to have CBPC in support of local research and data to build the case for water infrastructure funding.

Lisa Ochsenhirt (AquaLaw Attorney), provided an overview of proposed water and environmental legislation in the Virginia General Assembly, noting:

- In the current budget there is not funding allocated to the Stormwater Local Assistance Fund (SLAF), which has funded 193 stormwater projects to-date, several in our region.
- There are multiple amendment proposals in the General Assembly to allocate \$25 or \$50 million to fund SLAF.
- There is also a stormwater bill that would provide airports with a stormwater fee exemption, because they are serving a public good. AquaLaw is tracking and will oppose this bill on behalf of their membership because this exemption would undermine the need for all impacting parties to pay a share of these stormwater program costs, and would shift the cost to others.

Les Knapp, MACo Legal and Policy Counsel, outlined bills in the Maryland General Assembly, and Maryland Association of Counties' (MACo) priorities, noting that:

- This is an election year so he expected to see fewer large-scale or controversial bills. In the FY '19 budget
- Environment open space funding appears basically untouched, and noted future caps on mandated funding.
- MACo is going to focus on the Local Infrastructure Fast Track for Maryland (Lift4MD), and aligning public access laws.
- Other areas of potential interest include tax reform to combat affects of SALT on Maryland taxpayers; the Forest Conservation Act Reform Bill; and possibly Phase I MS4 permit negotiations.

More details are in the handouts from Ms. Ochsenhirt and Mr. Knapp, posted [here](#).

Member discussion:

- Ms. Davis noted that the MACo priorities that Mr. Knapp discussed align closely with the Maryland Municipal League's (MML) priorities.

Elissa Sliverman, District of Columbia Councilmember, provided highlights of the DC Council's environmental agenda, noting that:

- Unlike Maryland and Virginia, the District of Columbia's legislative process is a year-round process, and a two-year cycle. This is the second year of the cycle and a big

- election year, so there are not expected to be many surprises.
- This is the Year of the Anacostia, which is a big focus for the Council, highlights the importance of the Anacostia River and marks the 100-year anniversary of Anacostia waterfront park as a national park.
 - Legislation has passed to designate Kingman and Heritage Islands as state conservation areas and put \$4.5 million toward protecting the islands while making it more accessible for visitors.
 - Mr. Karimi, DOEE, added there are also plans to expand the conservation area on Heritage Island, and the Kingman Island wildlife refuge.
 - The Council is putting into action the “Green Bank” Act of 2017, Mayor Bowser’s initiative to fund large-scale green energy projects.
 - Councilmember Cheh has formed a work group to work with DC Water regarding affordability of their impervious surface charge.
 - Other pieces of legislation that are in discussion include: Revisiting the Coal Tar Sealant Ban; two solar rooftop bills, including one that would encourage solar roof top installations for new development and major redevelopment; and a carbon fee bill.

Ms. Bonnaffon shared the 2018 COG Legislative Priorities, as approved by the COG Board. She invited committee members to join the Legislative and Advocacy Work Group, which will prescreen and track legislation, via weekly tracking sheets and calls, and identify those that could be actionable for the CBPC.

4. CHESAPEAKE BAY PROGRAM – UPDATES ON KEY ISSUES & ACTION TIMELINE FOR LOCAL GOVERNMENTS & WATER UTILITIES

Ms. Spano provided an overview of the Chesapeake Bay Program’s (CBP) Midpoint Assessment process for the benefit of new CBPC members, followed by updates on Midpoint Assessment decisions. Here are the highlights:

- The end goal is 100% implementation of practices to meet the Bay TMDL, “pollution diet,” by 2025; only 7 years remain.
- The Midpoint Assessment looks at how effective the progress towards reductions have been thus far, plus accounts for new loads due to changes in science or effectiveness, or loads not previously accounted for, such as the effects of climate change, and the Conowingo Dam coming into equilibrium.
- That the TMDL goal minus Progress to-date, minus new loads, is what equals the TMDL load gap that must be addressed by 2025.
- COG’s Policy Principles (sound science, etc.) continue to be a good barometer for gauging whether CBP decisions are consistent with the CBPC’s policies. Thus far, most decisions are reasonably in line with COG’s principles.
- There has been a four-month delay in the Midpoint Assessment timeline to allow additional time for reviewing/vetting various modeling tools.
- The watershed and water quality Phase 6 models have been approved.
 - The CBP is learning more about the assimilative capacity of the Bay (ability of the Bay to absorb nutrient and sediment loads and still meet water quality standards).
 - Responses in the Bay are not always linear, as the Bay and its tributaries are dynamic ecosystems that are changing even as we all work to make improvements.
 - There have also been load reductions due to improved air quality; while there are local benefits, how these loads are currently being addressed are being used

- to help WV and NY to address their ‘special cases’ (as far upstream states with no Bay benefits).
- Nitrogen loads are having a greater impact than previously thought, and there are also many new loads to be accounted for and reduced:
 - Growth could increase nitrogen loads by 4 M pounds;
 - Conowingo Dam could add 6-7 M pounds of nitrogen, and
 - ‘Climate could add 9 M pounds of nitrogen
- On the issue of the Conowingo Dam:
 - The CBP has decided the Conowingo Dam loadings are a separate issue, to be addressed via a separate WIP.
 - The Patuxent River is considered an “effective basin,” an area where best management practices would be most effective in addressing these loads; while currently it appears that the Potomac River is not.
- While the Midpoint Assessment schedule has been delayed by four months, the timeframe for drafting the Watershed Implementation Plans (WIPs) has not been compressed. This is a positive point, as it still allows adequate time for a state-local collaborative process. The WIPs address the “how” to close the nutrient gap – practices which currently need to be put into place by 2025
 - Final state Planning Targets are to be issued by May 2018.
 - Watershed Implementation Plans (WIPs) are to be finalized by May 2019.
- There continues to be a need to protect wastewater treatment plant investments to address future growth/build-out capacity. There continues to be a lingering issue of ‘who has the right to that capacity (i.e., currently not used, but available capacity to accommodate planned population growth).

For more detail, Ms. Spano’s Midpoint Assessment presentation is [here](#).

Member discussion:

- Ms. Moore asked for the nitrogen loads to be put into context. What is the total nitrogen load reduction needed? Ms. Antos answered that previously the needed reduction in nitrogen load was 50 M lbs. and these new sources would add an additional 19-20 M. lbs.
- Mr. Williams, Local Government Advisory Council (LGAC) Chair, emphasized that the three-month timeline for developing planning targets should not be a situation where the states develop the targets and then reveal them to the locals; therefore, LGAC is advocating for getting local input early and often in this process.
- Mr. Ortiz asked what is being done to ensure Pennsylvania’s accountability in the Bay TMDL Midpoint Assessment progress measurement. Ms. Spano addressed this question after the meeting adjourned, due to time constraints.

5. MEMBER UPDATES

Ms. Antos, DOEE, provided background on the District of Columbia’s Coal Tar Sealant ban and enforcement issues.

- In 2008 the District of Columbia banned coal tar sealants, because they contain polycyclic aromatic hydrocarbons (PAHs), a compound that is carcinogenic and harmful to aquatic life.
- In doing enforcement inspections, DOEE has discovered another petroleum-based sealant, ethylene cracker residue (not coal tar) at six properties, that also contain high levels of PAHs.

- The District of Columbia is considering a rewrite of their legislation to ban concentrations of PAHs greater than 0.1%. This is what Michigan has done.
- In addition, DOEE is considering a 3rd party certification process for products that meet this formulation.
- The District of Columbia is interested in hearing from Montgomery County and Prince George's County, who also have coal tar sealant bans in place, and to hear whether others in the region would be interested in developing a PAH threshold.

A more thorough briefing and discussion is scheduled for the March CBPC meeting.

Member discussion:

- Mr. Rice said he sponsored the Montgomery County coal tar sealants ban, and questioned whether the 0.1% PAH certification would pose a challenge for minority and small businesses.
- Ms. Gross said the product certification route reminded her of when the CBPC worked with Scotts MiracleGro to reformulate their fertilizer to reduce phosphorus concentrations. She suggested perhaps the CBPC could work with the Businesses for the Bay, or the like, to address PAHs regionally.

6. ADJOURNMENT

The meeting adjourned at 12:00 P.M.

The next CBPC meeting will be on Friday, March 16 from 10:00 a.m. to 12:00 p.m. at COG.

ATTENDANCE

Members and Alternates:

Adam Ortiz, Prince George's County
Amy Stevens, Montgomery County DEP
(phone)
Cindy Dyballa, Takoma Park
Craig Rice, Montgomery County
Elissa Silverman, DC Council
Hamid Karimi, DOEE
J. Davis, City of Greenbelt
Jon Stehle, City of Fairfax (phone)
Joel Caudill, WSSC
Karen Pallansch, Alexandria Renew
Enterprises (phone)
Katherine Antos, DOEE
Libby Garvey, Chair, Arlington County
Maureen Holman, DC Water
Michael Ambinder, DC Council

Pamela Kenel, Loudoun Water
Penny Gross, Fairfax County
Shannon Moore, Frederick County

Guests:

Amy Tarte, VA Dept. of Emergency
Management
Bruce Williams, Chair, LGAC
Callie Fishburn, Frederick County
Mark Hoffman, Chesapeake Bay Commission
(phone)

COG Staff:

Heidi Bonnaffon, COG DEP
Steve Walz, COG DEP Director
Tanya Spano, COG DEP

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