



***WV Phase II Watershed Implementation Plan (WIP)
Elected Officials Work Group
Kick-off Meeting***

Wednesday, May 11, 2011 3:00 p.m. – 5:00 p.m.

A G E N D A

- I. Introductions**
- II. Presentation: Overview of the WV Phase I and II WIP**
- III. Expectations of Local Partners for Phase II WIP**
 - A. Understand level of effort expected to meet Bay TMDL allocations
 - B. Describe their plans, measures, and strategies to reduce loads
 - C. Identify assistance, resources, and authorities needed to implement the plans, measures, and strategies to reduce loads
- IV. Discussion of WIP Issues (See attached list)**
 - A. What plans, measures, and strategies have you put into practice to address Bay issues in the past five years?
 - B. What plans, measures, and strategies have you decided to enact or put into practice in the next two years (or what obligations are you addressing in the near-term)?
 - C. What plans, measures, and strategies are being discussed or considered for the future?
 - D. What compliance issues or best management practices do you need information on or have questions about?
 - E. How will your plans, measures, or strategies be implemented?
 - 1. Physical infrastructure installation or upgrades (point sources)
 - 2. Onsite structures for stormwater management
 - 3. Ordinances
 - 4. Public Education/Outreach
 - 5. Collaboration and coordination
 - 6. Other

F. What resources are needed for implementation?

1. Technical Assistance
2. Collaboration
3. Public Education and Outreach
4. Staffing
5. Funding

G. From the findings above:

1. Which compliance issues of significant concern? Prioritize
2. Which strategies are of significant importance? Prioritize
3. What issues are missing from the list?

V. Upcoming Strategy Meetings and Summit

- A. Schedule
- B. Objectives

VI. Wrap-up

Elected Officials Work Group: WIP Issues

- I. NPDES Allocations**
 - A. For Significant Municipal Facilities, load allocations are equal to Tributary Strategy Expectations
 - B. TMDL Compliance by 2017
 - C. Opportunities for load reduction
 - D. Combined Sewer Overflow
 - E. Upgrades and improvements needed?
 - 1. Nature of upgrades and improvements
 - 2. Precipitating factors
 - 3. Costs
 - 4. Funding sources (who pays)

- II. Accounting for Growth**
 - A. Capacity (have excess capacity or full capacity)
 - B. Accepting load from failed septic systems
 - C. Combining/accommodating smaller systems
 - D. Planning process to anticipate new development and growth
 - E. WIP targets 100% offset for growth
 - F. Nutrient Credit Trading Program

- III. Municipal Separate Storm Sewer Systems (MS4)**
 - A. Possible designation for Ranson, Charles Town, and Shepherdstown
 - B. Must submit stormwater management programs (SWMPs)
 - C. Accelerate implementation of capture requirements
 - D. Track land use conversion that result from development
 - E. Implement SWMP by 2015
 - F. Must develop stormwater ordinances

- IV. Construction Stormwater**
 - A. Decreased acreage overtime
 - B. Loading reductions
 - C. Subdivision and Stormwater Ordinances

- V. Non-regulated Developed Lands**
 - A. Stormwater Management
 - 1. Retrofit existing developed areas to provide enhanced stormwater management

2. Revise subdivision and stormwater ordinances to complement WIP.
 - a) Adopt model stormwater ordinance
 - b) Reconcile existing codes and ordinances to remove barriers and make regulations complementary to improving water quality
 - c) Determine how to better control pollution loads from new and existing development
 - d) Remove grandfathering of previously platted, undeveloped subdivisions to require them to meet subdivision and stormwater requirements
 - e) Require stormwater retrofits or enhanced stormwater management at re-development sites
 3. Establish stormwater utilities to facilitate a dedicated funding stream to address stormwater priorities such as maintenance and installation of stormwater management retrofits.
 4. Establish local authority and capacity to regulate post-construction stormwater (through MS4 permit or other options)
 5. Incentivize runoff reduction practices for new and existing developments
 6. Develop performance standards for institutions/public facilities
 7. Build capacity for runoff reduction from public facilities
- B. Septic System Management
1. Build capacity for septic system management through establishment of a management entity
 2. Require regular inspections/maintenance and scheduled pumping
 3. Through education and economic incentives, reduce number of failing septic systems
 4. Increase capacity at wastewater treatment plants for septage reception and treatment
 5. Through education and economic incentives, encourage existing septic system owners to have advanced nitrogen removal technology installed
 6. Mandate conversion to denitrifying septic systems within floodplains and priority watersheds
 7. Require new and replacement septic systems have advanced nitrogen removal technology
 8. Prohibit new septic systems in the 100-year floodplain
 9. Encourage health department to require structures close to streams to have more rigorous pollution prevention controls on septic systems
- C. Nutrient Management
1. Manage fertilizer application on developed lands
 2. Regulate fertilizer application on developed lands

3. Disincentivize large lawns through turf tax or incentivize tree planting to replace large lawns
 4. Regulations to cease mowing along streams
- D. Best Management Practices
1. Riparian buffers
 2. Streambank restoration
 3. Floodplain restoration
 4. Stormwater infiltration/filtration practices, including rain gardens, swales, and rain barrels
 5. Tree planting and cover
 - a) Protect existing trees in general, particularly along stream
 - b) Increase tree cover, particularly along stream
 - c) Develop Tree Cover Goals/Tree Protection Ordinance
 6. Education on Best Management Practices
 - a) Developers/Builders
 - b) Institutions and Businesses
 - c) Homeowners
 - d) Students
- E. Capacity Building
1. Provide counties and local governments with nutrient load goals and the type and amount of BMPs that could be implemented to achieve these goals, with timely updates on local progress
 2. Increase capacity for more stringent enforcement of ordinances and regulations that protect water quality e.g. riparian buffer protection
 3. Enable state or local authority/capacity to regulate post-construction stormwater
 4. At the county level, incentivize runoff reduction practices for new and existing developments, using methods such as:
 - a) Assessing lower impact fees for subdivisions designed to minimize runoff
 - b) Assessing an impervious cover fee that gives credit for runoff reduction
 5. Provide counties and local governments with WVDEP incentive funds to develop or enhance regulatory and accountability programs
 6. Build capacity in stormwater management among local government staff and practitioners
 7. Create a new, possibly jointly funded, Chesapeake Bay Liaison position in the Eastern Panhandle to actively work with the three counties and several incorporated municipalities to reduce loads from developed lands.

If needed, this position could be expanded into a program modeled after Virginia's Chesapeake Bay Local Assistance Program.

8. The state agencies and Chesapeake NEMO (Network for Education of Municipal Officials) should provide as many tools and resources as possible to increase understanding by municipal and county governments and boards of health that the ordinances, codes and rules that can limit nutrients and sediment from newly developed areas can be enacted and enforced at the local level
9. Require Comprehensive Plans to include environmental and natural resource elements and Chesapeake Bay TMDL implementation language for jurisdictions within the Potomac basin. This would require an amendment to the state land use planning code.
10. Enable counties and municipalities to form stormwater utilities to maintain stormwater practices and to fund stormwater retrofits.
11. Track BMP's
12. Ongoing working group of stakeholders
13. Build local capacity (social infrastructure) for voluntary implementation in the form of watershed associations and Community Environmental Management (CEM).
 - a) Engage homeowners to promote voluntary implementation
 - b) Provide technical assistance to homeowners



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TO: Carol Goolsby, Executive Director
Region 9, Eastern Panhandle Regional Planning & Development Council

FROM: Troy Truax, Vice President

SUBJECT: **Elected Officials Work Group – Meeting Summaries, May 11, 2011 and June 8, 2011**
Region 9 Chesapeake Tributary Strategy Development (P.11036.00)

DATE: June 15, 2011

Elected Officials Work Group – Kick-off Meeting May 11, 2011

The purpose of the Kick-off Meeting of the Elected Officials Work Group, held on May 11, 2011, was to welcome and introduce work group members, define their respective roles and responsibilities, provide an overview of the West Virginia Department of Environmental Protection's (WVDEP) Chesapeake Bay Total Maximum Daily Load (TMDL) and Phase I Watershed Implementation Plan (WIP), and discuss concerns and opportunities associated with the U.S. Environmental Protection Agency (EPA) Chesapeake Bay TMDL mandate. Another goal of the meeting was to set the course for the work group to subsequently conduct strategy sessions to develop specific work plans for inclusion in the Phase II WIP.

The meeting lasted from 3:00 p.m. until 5:00 p.m., and the following were in attendance:

- Robert Hardy, Town of Bolivar
- Jimmy Williams, Harpers Ferry/Bolivar PSD
- Brenda Hutchinson, Morgan County Commission
- Bill Stubblefield, Berkeley County Council
- Lyn Widmyer, Jefferson County Commission
- Mark Baldwin, City of Martinsburg
- Frank Donadio, Town of Bolivar
- Dave Kardok, Town of Bolivar
- Alana Hartman, West Virginia Department of Environmental Protection (WVDEP)
- Carol Goolsby, Region 9
- Christina Mellors, Tetra Tech
- Troy Truax, Delta Development Group (Delta)
- Lisa Byers, Delta Development Group

Summary of Key Issues

The following summarizes the meeting discussion and the key outcomes:

- The meeting began with a presentation by Troy Truax, Delta, and Alana Hartman, WVDEP. Troy overviewed the importance of convening the work groups to ensure their collective interests, concerns, and future efforts are well coordinated to formulate a comprehensive approach to achieve the TMDL standards included in the Phase I WIP's implementation process. Alana summarized past Chesapeake Bay activities, significant findings, and goals of the Phase I WIP.
- A participant asked about the deadlines for the development of the Phase II WIP.
Response: The draft of the Phase II WIP is due to EPA on December 1, 2011 and the final is due on March 30, 2012.
- It was asked if there was good attendance at the other Work Group meetings.
Response: There were 10 participants in the Developed Lands and Industrial Work Group meeting (in addition to Region 9, WVDEP, and consultant staff). There were 8 participants in the Wastewater Work Group meeting (in addition to Region 9, WVDEP, and consultant staff).
- It was asked if Congress may eventually deregulate or defund the Chesapeake Bay objectives and regulations.
Response: This is not likely, since the Chesapeake Bay requirements are tied to the permitting functions of the Clean Water Act.
- It was asked if there is a template of action strategies for communities.
Response: The Phase I WIP provides "Strategies to Fill Gaps" for some of the subsections. A stormwater "menu of strategies" is provided on pages 50-53 of the WIP. Also, WVDEP has visited and discussed stormwater best management practices (BMP) with most of the communities in Region 9 and would be happy to make additional visits to discuss strategies with elected officials and staff.
- The group had questions about municipal separate storm sewer systems (MS4s), including what were the other requirements of this designation that are in addition to stormwater management requirements, and when would the urbanized area designations be determined? They also commented that MS4 communities need spot checkers for BMPs.
Response: WVDEP's MS4 Coordinator, Sherri Wilkins, will be invited to the next meeting to brief the group on MS4s and to answer questions.
- The participants had questions about the Phase I WIP strategy of 100 percent offset for all new loads for permitted facilities of any size. Does this apply to additional facilities being brought online or to additional loading at an existing facility?
Response: The answer to the question of new or additional loading would be "both." Once the cap loads are reached, additional loading must be offset by a reduction in loading somewhere else.
- A participant commented that it might be cheaper to buy nutrient credits than to upgrade wastewater facilities.

Response: This issue can be discussed during the next Wastewater Work Group meeting, because David Montali of WVDEP has been invited to the meeting.

- There was a question about whether the Phase I WIP's cap on the amount of disturbed land would limit construction and development.

Response: Better data collection and land use classification will be instituted in the future. The worse case scenario would be that there is a delay of registrations of new activity until area becomes available via termination of existing registrations.

- There was discussion about what can be incorporated in a stormwater ordinance to ensure or regulate compliance.

Response: The Model Stormwater Ordinance that is being developed as a separate initiative of Region 9 includes a section on ensuring compliance through the construction bond.

- There was a question about why were septic systems included in the Phase I WIP since they are not inspected or regulated?

Response: Homeowner education and possible regulation are both options to address the pollutant load from septic systems. Additionally, it was noted that Berkeley County is collecting data on septic system and addressing inspections.

- The elected officials affirmed the importance of the Agriculture Sector to their economies and the stewardships of most farmers. There was concern, though, expressed about the chicken litter that is being imported into the area as fertilizer. Currently there is no regulation against this practice, but it is adding to the pollution loading of the region. The elected officials were especially concerned about the practice of transporting chicken litter across state lines (importing pollutant loads).
- The elected officials also noted the importance of focusing on educating homeowners and encouraging their responsible use of fertilizers.
- There was a question about whether Charles Town Races is considered a Concentrated Animal Feeding Operation (CAFO) and the response was affirmative.
- The group stated the importance of removing Phase I WIP's Back Stops and Oversights.
- There was discussion about tracking BMPs in the region. Delta will develop a matrix that can be used to assemble a BMP inventory.
 - It was suggested that the matrix include a column of strategies.
 - It should also include any available cost benefit analysis, who implements, and distinguish between what is planned and what is installed.
 - It should capture impervious surfaces transforming to pervious surfaces.
 - It should capture the use of impact fees, though inspection would be needed if impact fees are implemented.

Next Steps

- The WVDEP representatives that administer MS4 and nonpoint source programs will be invited to the First Strategy Session to be held on June 8, 2011.
- The focus of the meeting will be on urbanized area determination, MS4 requirements, and the development of a stormwater BMP inventory.



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WV Phase II Watershed Implementation Plan (WIP)
Elected Officials Work Group
First Strategy Session

Wednesday, June 8, 2011, 1:00 p.m. – 3:00 p.m.

A G E N D A

I. Introductions

II. Municipal Separate Storm Sewer Systems (MS4) – DEP Discussion

- A. Possible MS4 designation for Ranson, Charles Town, and Shepherdstown
- B. MS4 requirements pertinent to the WIP (pp.35 - 36)
 - 1. Must develop and submit a Storm Water Management Plan (SWMP) with minimum control measures in six categories:
 - a) Public education and outreach
 - b) Public involvement and participation
 - c) Illicit discharge detection and elimination
 - d) Controlling runoff from construction sites
 - e) Controlling runoff from new development and redevelopment
 - f) Pollution prevention and good housekeeping for municipal operations
 - 2. All new discharges in MS4 jurisdictions will be subject to the one inch capture and onsite management requirements
 - 3. For the remaining, most difficult sites, possible option to develop a payment-in-lieu program or offset mitigation to address the runoff reductions
 - 4. Possible incentives (reduction of capture amount) for redevelopment of sites e.g., brownfields, high density, mixed use, and transit oriented development
- C. Summary Actions & Contingencies
 - 1. Existing = Martinsburg, Berkeley County, and WVDOH - allocations for existing MS4s = 2010 NA loads - No reduction required (p.29)
 - 2. Rainfall capture requirements for new and redevelopment expected to offset *new urban stormwater loads from development w/in MS4 and elsewhere w/in Potomac watershed* (p.29)
 - 3. MS4 annual reports and Construction Stormwater General Permit (CSGP) program will track area, location, pre-development landuse and BMPs associated w/new/redevelopment. (p.29)

4. Contingency – DEP will require the necessary level of retrofit in MS4s to attain wasteload goals. Retrofits will meet the capture requirement of .80 inches of rainfall on site with no discharge to surface waters. (p.40)

D. Other Considerations

1. Establishing a stormwater utility
2. Training to implement MS4 requirements
3. Staffing to implement MS4 requirements

III. Construction Stormwater: Summary Actions & Contingencies – DEP Discussion

- A. Reconfigure model landuse to accurately portray existing permitted area (p.29)
- B. Decreased acreage overtime (2 year milestones) (p.29)
- C. Loading reductions from “No Action” commensurate w/BMPs associated with existing permit requirements (p.29)
- D. Low Impact Development encouraged in CSGP review (p.29)
- E. MS4 annual reports and CSGP program will track area, location, pre-development landuse and BMPs associated w/new/redevelopment. (p.29)
- F. Contingency – modify CSGP to require post-construction controls in Bay watershed such as one inch capture requirements (p.41)

IV. Non-regulated Developed Lands: Summary Actions & Contingencies – DEP Discussion

- A. Allocations = 2010 NA - No reduction required (p.29)
- B. *Future growth anticipated to be offset by voluntary BMPs in non-regulated areas*, in addition to the offsets from the required MS4 controls (p.29)
- C. For the time period where stormwater discharges from Jefferson County entities are non-regulated, *WVDEP will track qualified BMPs that are installed through local authority. (other counties?)* (p.39)
- D. *Contingencies* (if “no net increase” not achieved; 2015 assessment)
 1. Use Residual Designation Authority for MS4 in Jefferson County (p.29)
 2. Pursue a statewide SWMP Program with post construction requirements if EPA Nationwide regulations not finalized. *It has been reported that EPA is finalizing regulation to address post construction impacts outside of MS4 areas.* (pp.29,40)
- E. Phase 1 WIP provides “menu” of strategies to be prioritized on the community level, including for (pp.50-53):
 1. Local governments
 2. Homeowners
 3. Septic systems
 4. Institutions
 5. *West Virginia seeks input from the community on these strategies for Phase II WIP development*

See Attachment A: Menu of BMPs

V. Wastewater Work Group: First Strategy Session Reporting

- A. The significant municipal facilities absolutely have to meet TMDL wastewater goals by 12-31-15. They are actively working with DEP to meet these goals through the NPDES permitting process.
- B. Senate Bill 715 required DEP to establish a program of nutrient credit trading and offsets by June 2011. This will not be possible until the new TMDL model is available and a baseline can be formalized.
- C. Additional concerns about Senate Bill 245, in the context of the Public Service Commission rate increases, were discussed with DEP. Also discussed was the need for the significant municipal facilities to submit their ten year projected capital funding plan to the Infrastructure Council sooner, rather than later (do not wait until June 30, 2012).
- D. EPA is drafting language and may soon mandate (possibly before end of 2011) that a statewide SWMP Program, with post construction requirements, applies to areas outside of MS4s.

VI. Future Meetings & Actions

Elected Officials Work Group – First Strategy Session June 8, 2011

The purpose of the First Strategy Session of the Elected Officials Work Group, held on June 8, 2011, was to begin to develop a work plan for inclusion in the Phase II WIP. The work plan will outline the group's goals, objectives, and action strategies for refining the Phase I WIP strategies and will identify solutions for mitigating the Phase I EPA-imposed backstop and oversight measures.

The meeting lasted from 1:00 p.m. until 3:00 p.m., and the following were in attendance:

- Peggy Smith, City of Charles Town
- Lyn Widmyer, Jefferson County Commission
- Mark Baldwin, City of Martinsburg
- Mary Sue Catlett, Town of Hedgesville
- Doug Copenhagen, Berkeley County Council
- Frank Donadio, Town of Bolivar
- Brenda Hutchinson, Morgan County Commission
- Dave Kardok, Town of Bolivar
- Elaine Mauck, Berkeley County Council
- Keith McIntosh, Senator Manchin Staff
- Sherry Wilkins, WVDEP
- Teresa Koon, WVDEP
- Carol Goolsby, Region 9
- Sandy Patton, Region 9
- Christina Mellors, Tetra Tech
- Julie Wandling, Tetra Tech
- Troy Truax, Delta
- Lisa Byers, Delta

Summary of Key Issues

The following summarizes the meeting and the key outcomes:

- Troy Truax, Delta, gave a brief recap of the Kick-off Meeting and some of the issues presented at that meeting, then Sherry Wilkins of WVDEP outlined West Virginia's MS4 program, briefed the group on EPA's proposed Stormwater Rulemaking, and answered questions.
 - Key criteria used by the U.S. Census Bureau to determine an urbanized area include a population of 50,000 and a density of 1,000 persons per square mile. The Census Bureau is not projected to make its determination of urbanized areas until May 2012.
 - The administration of the MS4 program is a permitted function, through a National Pollutant Discharge Elimination System (NPDES) permit.
 - A MS4 community must own a separate stormwater system. Jefferson County does not, so the designation does not apply to the county.
 - It was cautioned that past experience has demonstrated that it is not feasible to add the MS4 duties to those of the wastewater treatment facility operator. MS4 programs usually have dedicated staff administering them, but there is significant overlap with other municipal functions such as planning, zoning, flood control, and water quality.

- It is possible that the MS4 communities of Charles Town, Ranson, and Shepherdstown, if applicable, could share a staff person to run their MS4 programs. There are no federal or state programs available to fund this staff person.
- Concerning whether the MS4 permitting applies to incorporated boundaries of a town/city or its urban growth boundary, WVDEP clarified that the permitting can apply to areas up to 20 miles from the incorporated area if they are in a watershed flowing into the incorporated area.
- It was noted that EPA is drafting language that will mandate (anticipated by the end of 2012) Stormwater Management Plans with post construction requirements that will apply to areas not covered by MS4 permits. This is being known as the EPA Stormwater Rulemaking. If for some reason EPA does not move forward with this stormwater regulation, then WVDEP will establish stormwater management requirements that would also include areas not currently covered by MS4 requirements. The requirements are likely to be the same as those found in the MS4 NPDES permits. The performance standard in these permits is the capture of the 90 percentile rainfall, which averages to a 1 inch capture rate. A recommended way of achieving this goal is by implementing Low Impact Development and green infrastructure principles.
- Discussion points surrounding the EPA Stormwater Rulemaking included:
 - Will maintenance be in the rulemaking? Who maintains the stormwater infrastructure or who repairs failing stormwater infrastructure?
Response: It is likely that a local government will need to set up a utility that can charge fees to maintain stormwater infrastructure. MS4 regulations address the establishment of such utilities. Also retrofits could remediate some of these problems.
 - A participant advised that it better to set up a stormwater utility now before the Public Service Commission (PSC) decides to regulate the fees of such utilities.
 - The question was posed as to recourse for people who do not pay stormwater fees? A response from the group was that you need to file a civil suit for non-payment.
- For the modeling for the Phase I WIP, the question was posed whether undeveloped land was classified as agricultural land use.
- The elected officials asked for an update on the meetings of the Agriculture and Forestry Work Groups. TetraTech noted some of the group's points of discussion.
 - At times, the Agriculture Sector believes that they are shouldering an unfair burden of holding-the-line or reducing the TMDL.
 - There was discussion about keeping livestock out of the stream.
 - There was discussion about the development of nutrient management plans.
 - The Agriculture Sector has already implemented a considerable amount of BMPs, but this has not been documented.
- There was concern expressed among the elected officials that the implementation of the Agriculture Sector backstops should be avoided.
- It was noted that there is some federal funding to help the Agriculture Sector implement BMPs.

- There was a request to know what is the comparable pollutant load attributed to an acre of farmland compared to an acre of lawn. Concern was expressed about the unregulated use of fertilizer on lawns.
- There was concern expressed about the amount of trash that finds its way into the waterways.
- There was also a fundamental concern expressed about whether the consumer can afford the mandates associated with the Chesapeake Bay.
- A draft BMP Inventory matrix was handed out for discussion purposes. Data collected from an inventory may be inputted into the Scenario Builder, a computer simulation tool for watershed modeling.
 - It is important to inventory BMPs because they are needed to offset new development.
 - A participant asked if there is a standard for the type and quantity of soil needed for a bioretention area.

Response: WVDEP is developing a statewide stormwater management guidance manual that will be completed by the summer of 2012. In the interim, WVDEP recommends consulting the Northern Kentucky Stormwater Management Handbook and The Prince George's County Bioretention Manual.
- Finally, the elected officials expressed sentiments such as:
 - We have to find a way to get people to buy into the importance of the water quality of the Chesapeake Bay.
 - We have to work together to address this.
 - Be careful what you put in a document, because you will be judged by it later.

Next Steps

- The BMP Inventory matrix will be revised based on the meeting discussion and will be distributed to the Developed Lands Work Group participants electronically. The participants will be asked to fill-in the inventory matrix and return it in advance of the next meeting.
- The results of the BMP inventory compilation will be discussed at the next Strategy Session to be held on July 13, 2011.

cc: Alana Hartman



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WV Phase II Watershed Implementation Plan (WIP)
Elected Officials Work Group
Second Strategy Session

Wednesday, July 13, 2011, 1:00 p.m. – 3:00 p.m.

A G E N D A

I. Introductions

II. MS4 Follow-up Discussion

III. Importance of Implementing and Tracking BMPs

A. WIP Inclusions/Requirements

1. Rainfall capture requirements for new and redevelopment expected to offset *new urban stormwater loads from development w/in MS4 and elsewhere w/in Potomac watershed (p.29)*
2. Future growth anticipated to be offset by voluntary BMPs in non-regulated areas, in addition to the offsets from the required MS4 controls (p.29)
3. For the time period where stormwater discharges from Jefferson County entities are non-regulated, *WVDEP will track qualified BMPs that are installed through local authority. (p.39)*
4. Phase 1 WIP provides “menu” of strategies to be prioritized on the community level (pp.50-53). *WVDEP seeks input from the community on these strategies for Phase II WIP development.*

- B. Chesapeake Bay – Appendix S, (p.S-1): “Therefore, the Chesapeake Bay TMDL assumes and EPA expects that the jurisdictions will accommodate any new or increased loadings of nitrogen, phosphorus, or sediment that lack a specific allocation in the TMDL with appropriate offsets supported by credible and transparent offset programs subject to EPA and independent oversight.

IV. Methodology for Determining Offsets – WVDEP

- A. Process
- B. Tracking

V. Tracking Stormwater BMPs

- A. WVDEP Urban and Suburban BMP Reporting Form Attachment A
- B. Region 9 Phase II WIP BMP Inventory Matrix Attachment B
 - 1. Page 1 Tentative Results Attachment C
 - a) Ordinances/Regulations to **mandate** BMP implementation
 - b) Education/Public Involvement/Capacity/Tools/Incentives to **encourage** BMP implementation
 - 2. Page 2 Tentative Results Attachment D
 - a) Ordinances and Tools (of Page 1) enable collection of measurable results (of Page 2)
 - b) Efficiency of BMP per Scenario Builder
 - c) Other factors to be considered in use of BMP, including cost
 - 3. Missing from the BMP Inventory
 - a) Regulation of impervious surface coverage
 - b) Others?
 - 4. Additional thoughts, considerations, concerns?

VI. Future Meetings & Actions

- A. Third Strategy Session – Wednesday, August 3, 2011, 1:00 pm – 3:00 pm
- B. Chesapeake Bay Summit
 - 1. Wednesday, August 31, 2011
 - 2. Determining and Addressing Gaps in each Sector
 - a) Speakers
 - b) Panel Discussion



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TO: Carol Goolsby, Executive Director
Region 9, Eastern Panhandle Regional Planning & Development Council

FROM: Troy Truax, Vice President

SUBJECT: **Elected Officials Work Group – Meeting Summaries, July 13, 2011 and August 3, 2011**
Region 9 Chesapeake Tributary Strategy Development (P.11036.00)

DATE: September 30, 2011

Elected Officials Work Group – Second Strategic Session July 13, 2011

The purpose of the Second Strategic Session of the Elected Officials Work Group, held on July 13, 2011, was to discuss the upcoming Region 9 Chesapeake Bay Summit and the compiled results of the Best Management Practices (BMP) Inventory matrix that was distributed electronically to Developed Lands and Industrial Work Group participants.

The meeting lasted from 1:00 p.m. until 3:00 p.m., and the following were in attendance:

- Mark Baldwin, City of Martinsburg
- Doug Copenhaver, Berkeley County Council
- Dave Kardok, Town of Bolivar
- Elaine Mauck, Berkeley County Council
- Keith McIntosh, Senator Manchin Staff
- Peggy Smith, City of Charles Town
- Chris Strovel, Congresswoman Capito Staff
- Bill Stubblefield, Berkeley County Council
- Lyn Widmyer, Jefferson County Commission
- Alana Hartman, West Virginia Department of Environmental Protection (WVDEP)
- Carol Goolsby, Region 9
- Troy Truax, Delta
- Lisa Byers, Delta

Summary of Key Issues

The following summarizes the meeting discussion and the key outcomes:

- The meeting began with follow-up questions on the MS4 Stormwater Program discussed at the previous Strategic Session of June 8, 2011.
- The City of Martinsburg offered insights on their implementation of the MS4 stormwater program. The group was reminded that the Program's stormwater management plan deliverable must contain goals and commitments for implementing BMPs, which will be audited in the future.
- Regarding the concern about developers choosing areas not governed by MS4 requirements, the question was asked if the adoption of a stormwater ordinance with one-inch capture performance standard would "level the playing field" across the region?
Response: While the MS4 stormwater program has other requirements, adopting stormwater ordinances that have similar performance standards across the region could result in a more consistent expectation of the cost of stormwater management.
- Troy mentioned the question posed during the morning's Developed Lands and Industrial Work Group session as to whether adopting the Region 9 Model Stormwater Ordinance, with its performance standards, would negate the need to inventory and track stormwater BMPs. The response was that this question addresses a process of institutionalizing stormwater management performance standards and determining the reduction efficiency of implementing the standards. This must be considered by WVDEP and EPA. Of note, the Region 9 Model Stormwater Ordinance does not address retrofits, and there is still a need to track the acreage/land area that is meeting the standards.
- One elected official voiced concern over MS4 requirements being unfunded mandates.
- The group was reminded that the MS4 stormwater program does permit the establishment of a stormwater utility and the charging of fees to maintain stormwater management structures.
- It was noted that the NPDES permit requirements for wastewater treatment and MS4 stormwater management can provide "reasonable assurance" of meeting WIP goals. Policies and comprehensive plans cannot necessarily provide this reasonable assurance.
- The findings of the Region 9 BMP Inventory matrix were discussed. The color-coding on the matrix was explained. Also discussed was the second page of the matrix, which quantifies the land area managed by the installed BMPs.
 - It was expressed that the Region 9 Chesapeake Bay Coordinator needs to collect BMPs for the whole region.
 - The Coordinator needs to have the skill to collect the BMP information and needs to standardize the process of collecting BMP information.
 - Some of the officials concluded that the BMPs that matter the most are those that affect the outcome of the Scenario Builder.

- The question was asked about how pollutant loading from golf courses is addressed.
- *Response:* Golf courses are not regulated by NPDES permits. Their owners may develop nutrient management plans and implement BMPs voluntarily or this could be a requirement of a local ordinance.
- It was asked and clarified that EPA did accept the goals and processes of WVDEP's Phase 1 WIP.
- Suggestions were made on topics and speakers for the Region 9 Summit. They include asking EPA to outline its expectations for West Virginia and its view of achieving Chesapeake Bay goals. It was also suggested that work groups should report on their activities and findings.
- The elected officials expressed a desire to hear a report on the activities and the findings of the Agriculture Sector at the next strategic session. A question to be answered during this reporting is "what percentage of farms in the region has developed nutrient management plans?"
- Finally, a question was asked about implementing lawn care BMPs.
Response: Similar to the response for golf courses, lawn care is not regulated by NPDES permits. Homeowners will either implement BMPs voluntarily or as dictated by applicable local ordinances. Elected Officials can facilitate this process by providing education on the importance of implementing BMPs for golf courses and residential lawn care.

Next Steps

- The BMP Inventory matrix will be updated with newly reported information from the local governments and will be discussed at the next Strategic Session.
- Based on the reporting and findings of the BMP Inventory Matrix, a gap analysis will be developed and shared with the work group.
- The work group will also be briefed on the activities of the Agriculture Sector.
- The group made suggestions on the topics and speakers for the Region 9 Summit. These will be considered. A tentative agenda for the Summit will be developed and discussed at the next Strategic Session.



DELTA | DEVELOPMENT | GROUP
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***WV Phase II Watershed Implementation Plan (WIP)
Developed Lands & Industrial and Elected Officials Work Group
Third Strategy Session***

Wednesday, August 3, 2011, 9:30 a.m. – 11:30 a.m.

A G E N D A

- I. Introductions**
- II. Agriculture/Forest Work Group Update** – WV Department of Agriculture and Tetra Tech
- III. Scenario Builder and MAST Demonstrations**
 - A. Impact of one priority versus another
 - B. The role of efficiencies in BMPs
- IV. Opportunities for Input into the Phase II WIP**
- V. BMP Matrix Update**
 - A. Updated BMP Matrix **Attachment A**
 - B. What the current BMP tracking effort tells us **Attachment B**
 - 1. Need to standardize data collection
 - 2. What are the gaps?
 - 3. What are the opportunities?
 - C. BMP Matrix Future Use
- VI. Region 9 Chesapeake Bay Summit**
 - A. Logistics
 - 1. Date & Time: Wednesday, August 31, 2011, 8:30 AM to 4:30 PM
 - 2. Location: Byrd Health Science Center, Martinsburg
 - B. Invitees
 - C. Draft Agenda
 - D. Post-Summit Activities

**Developed Lands and Industrial and Elected Officials Work Groups
Joint Third Strategy Session
August 3, 2011**

The purpose of the Joint Strategy Session of the Developed Lands and Industrial Work Group and the Elected Officials Work Group, held on August 3, 2011, was to review the BMP Inventory Matrix and Summit Agenda and to be briefed on the work of the Agriculture Sector and on scenario tools and Chesapeake Bay reporting.

The meeting lasted from 9:30 a.m. until 11:30 a.m., and the following were in attendance:

- Mark Baldwin, City of Martinsburg
- Jennie Brockman, Jefferson County Planning & Zoning
- Mike Covell, City of Martinsburg Engineering & Planning
- Rick Curry, B&R Design
- Jason Gerhart, EPHBA and William Gordon Associates
- Roger Goodwin, Jefferson County Engineering Department
- Alma Gorse, Morgan County Planning Commission
- Joe Hankins, The Conservation Fund and Jefferson County PSD
- Brenda Hutchinson, Morgan County Commission
- Elaine Mauck, Berkeley County Council
- Keith McIntosh, Senator Manchin Staff
- Matthew Pennington, Berkeley County Planning
- Michael Schwartz, Freshwater Institute
- Katie See, City of Charles Town
- Peggy Smith, City of Charles Town
- Bill Stubblefield, Berkeley County Council
- Laura Taylor, Eastern Panhandle Organization of HOAs
- Lyn Widmyer, Jefferson County Commission
- Matt Monroe, West Virginia Department of Agriculture (WVDA)
- Alana Hartman, West Virginia Department of Environmental Protection (WVDEP)
- Carol Goolsby, Region 9
- Christina Mellors, Tetra Tech
- Troy Truax, Delta
- Lisa Byers, Delta

Summary of Key Issues

The following summarizes the meeting and the key outcomes:

- Troy Truax gave a brief overview of the agenda for the session. Next, Matt Monroe, WVDA, outlined the Phase I WIP list of goals for the Agriculture Sector and described the efforts and activities occurring in Region 9. He also answered questions from the participants.
 - It is important to note that all goal activities are voluntary.
 - A central focus of the effort is nutrient management planning. One of the goals is to have nutrient management plans for 95% of the Berkeley and Jefferson County agricultural operations.

- Goal: Move a portion of the poultry litter out of the Chesapeake Bay watershed.
- Goal: Fence 40% of the pastureland to prohibit livestock gaining access to waterways.
- Goal: Establish 12,000 acres, of 35-foot wide buffers, along waterways running through agricultural lands.
- Goal: Establish 813 acres of wetland restoration on agricultural lands.
- Goal: Facilitate widespread education among the agricultural community on the importance of cover crops and no-till operations.
- The reporting of agricultural BMPs is changing. Formerly, credit for BMPs lasted forever, now their duration is five years.
- It has been relatively easy to track agricultural BMPs that were funded by West Virginia's Cost-Share Program. There is now a greater effort to track agricultural BMPs that have not been funded by the Cost-Share Program. A key partner for this effort has been the county conservation districts.
- Determination is being made on how to credit agricultural BMPs, especially those that may not meet the Natural Resources Conservation Services' standards but are functionally-equivalent or almost functionally-equivalent to those standards.
- Agricultural BMPs must be documented by visiting the site, verifying the BMP, and collecting GPS readings. The tracking of agricultural BMPs is just beginning and is labor intensive and time consuming. The question was posed as to whether there is a more efficient/effective way to encourage implementation of agricultural BMPs and to track them. No suggestions or improvements were offered.
- The question was asked about the receptiveness of farmers/agricultural producers to BMP tracking. WVDA noted that there has been a variety of responses.
- This was followed by a question on what are the consequences if the Agriculture Sector does not meet the pre-established goals of the WIP.

Response: One consequence is the implementation of a backstop to classify Animal Feeding Operations of a certain size, as Concentrated Animal Feeding Operations (CAFOs), which would be regulated by a NPDES permit. Another consequence or backstop is to reduce the wasteload allocation of significant municipal wastewater facilities. This will likely result in the need for additional treatment and updates and in rate increases.

- The question was posed as to whether ownership is considered in tracking agricultural BMPs. It is likely that there is better stewardship practiced on owner-occupied farms than on land leased for agricultural use.
- Also, it was asked whether there is a penalty for agricultural producers that do not implement BMPs.

Response: The agricultural BMP program is strictly voluntary, so there would not be a penalty.

- There was a suggestion from a participant to tie the implementation of agricultural BMPs to a tax abatement program, such as Clean and Green, or create an incentive program by abating property taxes for those implementing designated agricultural BMPs.

- The developed lands and elected officials work group participants realize the challenge of implementing agricultural BMPs and commend the Agriculture Sector for their efforts.
- One area of commendation is with chicken litter technology, such as the use of char heat and anaerobic digesters.
- The question was asked as to what are the political boundaries for backstops?
Response: A backstop would apply to the entire area (Chesapeake Bay watershed of West Virginia), but there could be targeted focus as needed.
- One of the participants asked if homeowners are being educated on the importance of testing their soil, so that they do not over-fertilize their lawns.
Response: As part of their requirements, the MS4 communities are providing this type of educational information. Also, local governments can choose to voluntarily supply educational information to their residents. Watershed groups may have materials ready for distribution or they could help to craft a message that would be distributed via other media.
- A question was raised about WV's progress in considering and enacting legislation, similar to Maryland, that only permits the selling and use of Bay-friendly lawn fertilizer.
- Mini-demonstrations were made by Christina Mellors and Alana Hartman on the Scenario Builder modeling tool, MAST scenario tool, and the ChesapeakeStat reporting website.
 - Scenario Builder is a computer tool that can generate simulations of the past, present, or future state of the watershed to run through the Chesapeake Bay Watershed Model (CBWM). The tool allows for the exploration of potential impacts based on management actions and use of various BMPs. The simulations are based on factors from a wide range of land uses and activities.
 - A new scenario was run doing the summer.
 - The CBWM, which was introduced in the Phase I WIP, is calibrated periodically.
 - MAST, Maryland Assessment and Scenario Tool, is a planning tool that allows the user to experiment with and test the impact of the use of various BMPs. By inputting the use of one or several BMPs, MAST can determine if the inputted combination of BMPs for a defined area will meet loading goals and which BMP or combination of BMPs gives the greatest load reduction. (The MAST tool has been adapted to be used by all the Bay jurisdictions and is now known as CAST.)
 - CAST can be especially useful in West Virginia when a local government considers which BMPs to incorporate into a new or updated ordinance.
 - The ChesapeakeStat website is a program management tool that shows the current status for a selected Bay jurisdiction. It also identifies responsible parties and provides specific, time-bound objectives and transparent reporting of progress.
 - CAST and ChesapeakeStat are tools that can empower decision-makers to experiment with the relative effectiveness of various BMPs and ordinance requirements.
- The agenda, speakers, and logistics for the Region 9 Summit were reviewed and discussed.

- Some summary points were made regarding the local partner involvement process and development of the Phase II WIP:
 - The fundamental strategy for West Virginia is to “hold the line” on pollutant loading.
 - The “big picture” strategy has been developed for the West Virginia bay jurisdiction, but now there needs to be consideration of whether this is individualized at a county or local government level.
 - In response to a question, upstream loading has been quantified so reasonable load allocations at a county level could be quantified.
 - It is fundamentally important to have a baseline of land uses and BMPs.
 - MS4 requirements will need to be integrated with Chesapeake Bay goals.
 - For West Virginia, “reasonable assurance” can only be obtained for permitted entities and practices. Reasonable assurance will be very difficult to obtain for non-regulated entities and practices.
 - Local government resource needs identified during the strategic sessions will be incorporated into the Phase II WIP.
 - Continued public education by local watershed groups is very important.

Next Steps

- A major next step is the Region 9 Summit. Speakers are being confirmed and presentations are being developed.
- The final major next step is the development of the Phase II WIP, which will be a refinement of the Phase I WIP. WIP components addressed during these strategic sessions will update the Phase II WIP. A snapshot of BMP usage for the Developed Lands and Industrial Sector will be provided, as well as a gap analysis and need for local government resource needs. The local partner involvement process will be documented.

cc: Alana Hartman