



## **LAND USE & ENVIRONMENT COMMITTEE**

### **Meeting Minutes – August 15, 2012**

#### **Attendees:**

|                   |  |
|-------------------|--|
| John McCarthy     | Rappahannock County                              |
| Gregg Zody        | Orange County                                    |
| Mary Sherrill     | Fauquier County                                  |
| Ray Pickering     | Fauquier County                                  |
| Chip Rice         | Friends of the Rappahannock                      |
| Terry Lasher      | Virginia Department of Forestry                  |
| Gary Switzer      | Virginia Department of Health                    |
| Michelle Edwards  | Rappahannock-Rapidan Regional Commission         |
| Patrick Mauney    | Rappahannock-Rapidan Regional Commission         |
| Chuck Hoysa       | John Marshall Soil & Water Conservation District |
| Sue Ellen Johnson | Piedmont Environmental Council                   |
| Brian Higgins     | Piedmont Environmental Council                   |
| Gardiner Mulford  | Culpeper Horse Owners Association                |
| Bev Hunter        | RappFLOW   |
| Kenner Love       | Virginia Cooperative Extension                   |
| Russ Baxter       | Virginia Department of Environmental Quality     |
| Mark Mansfield    | U.S. Army Corps of Engineers                     |

#### **Welcome & Introductions**

Attendees were welcomed and introductions were made. Copies of the Agenda and handouts were distributed (see attached).

#### **Virginia Nutrient Credit Exchange Program Update**

*Russ Baxter, VA DEQ*

Mr. Baxter provided an overview of the existing programs relating to Virginia's Nutrient Credit Exchange program, as well as some potential changes to the program. A copy of his presentation is available on the Land Use and Environment Committee's webpage at [www.rrregion.org/envcmte.html](http://www.rrregion.org/envcmte.html).

The Nutrient Credit Exchange was introduced by the General Assembly in 2005 to assist in meeting cap load allocations cost-effectively, in keeping with the 2010 timeline and objectives of the Chesapeake 2000 agreement, while accommodating continued growth and economic

development in the Chesapeake Bay watershed and also providing a foundation for establishing market-based incentives to help achieve the Chesapeake Bay program's nonpoint source reduction goals. The Nutrient Credit Exchange allows facilities to gain additional time to meet their cap allocations. Credits may also be used to meet stormwater requirements.

Key features of the Chesapeake Bay Watershed General Permit:

- Calendar year annual total Nitrogen and Phosphorus caps for facilities and river basin based on a policy of "stringent treatment at design capacity."
- Presumed that point source credits will eventually disappear as facilities reach capacity
- Point source to point source trading for existing facilities to meet cap for each covered facility and basin
- Point source to nonpoint source trading reserved to accommodate new and expanding facilities that must offset entire load
- Approximately 165 registered facilities
- Trading confined to major basins (Potomac, Rappahannock, York, James) and Eastern Shore

At present, the Virginia Nutrient Credit Exchange Association includes 105 of the 165 facilities and facilitates trades and compliance, along with setting prices for credits among its members.

Mr. Baxter reviewed existing agricultural BMP enhancements that can be used to generate nonpoint source credits beyond the baseline requirements for new and expanding facilities. These include using a continuous no-till soil conservation plan, 15% nitrogen reduction on corn, using early planting dates for crops, increasing riparian buffers and conversion of agricultural land.

The Chesapeake Bay TMDL Phase I Watershed Implementation Plan called for study of the Nutrient Credit Exchange to determine whether expansion would be beneficial to WIP implementation. The Secretary of Natural Resources convened a committee to develop a report to submit to the General Assembly in January 2012. Legislation (SB77/HB 176) passed unanimously and was signed into law in April 2012. Key provisions include:

- Clear Regulatory Authority granted to DCR for certifying nonpoint source credits from traditional or nontraditional practices
- DEQ continues to certify point sources and operate existing trading program under the watershed general permit
- Regulations to establish process for submittal, approval of credits
- Enforcement and penalties prescribed
- Certified Credits could be "perpetual" or "term"; code establishes uses
- Credits may be "bundled" for sale
- Virginia Nutrient Credit Registry created

Only certified credits are allowed on the Virginia Nutrient Credit Registry, and only credits on the registry may be used to meet permit requirements. Wastewater credit uses are relatively unchanged under the new regulations.

Baselines will be established by regulation based on statutory guidance. Additional elements include a requirement of financial assurance, the possibility of conversion of wetland and stream banks to nutrient with no ability to sell both types, retirement of 5% of registered credits for water quality improvement and the establishment of reporting requirements.

Committee members raised several questions (Russ's responses are noted in italics):

- Is this a pay to pollute program? *No, it is a market-based system which allows facilities to pay for someone else to make improvements at present.*
- What will be the effect on agriculture? *The market will decide how much effect there will be on agriculture. There was no speculative look at how the regulations may affect the underlying agricultural change.*
- Do existing easements affect value of nutrient trading? *No, easements would not affect row crop to tree conversion, etc.*
- Why is Virginia not using a 25-year plan to get to zero discharge? *At present, that is not the law. The EPA sets water quality standards that must be met and that is what this program is designed to assist with.*

### **Rappahannock River Basin Water Resources Plan & Stream, Rainfall and Water Quality Gauge Analysis**

*Mark Mansfield, U.S. Army Corps of Engineers*

Mr. Mansfield provided a brief update on two projects in the Rappahannock River Basin that the Corps is heading in cooperation with the Rappahannock River Basin Commission.

The Stream, Rainfall and Water Quality Gauge Analysis project will determine the number and type of gauges needed in the upper and middle-basin of the Rappahannock River. Gauges are to be networked and can be used in real-time. The Virginia General Assembly provided a 50% cost share on the \$90,000 project, with 25% provided by in-kind services and 25% through the Department of Conservation and Recreation's budget, and the other 50% provided through Federal funds. The project kickoff meeting was held on August 2<sup>nd</sup> in Stafford County.

Mr. Mansfield also provided background information on the Rappahannock River Basin Comprehensive Watershed Evaluation. The study is authorized by Section 22 of the Water Resources Development Act of 1974, as amended. It is intended to provide a tool for decision makers to implement comprehensive, integrated water resource initiatives which would be facilitated by planning, design and construction cost-sharing agreements with the Army Corps of Engineers.

He used the example of Watershed Implementation Plans (WIPs) to illustrate the idea of optimization that is center to the project. In response to the Chesapeake Bay TMDL, localities develop WIPs to reduce Total Nitrogen, Total Phosphorus and Total Suspended Solids to levels prescribed in the TMDL. The WIP is intended to identify best management practices (BMPs) that can help localities reach the goals prescribed in the TMDL, with a preference toward using a least cost to most cost progression. The general steps to develop a WIP are:

- Assure that the data and reduction target levels are correct
- Estimate which type of BMPs will work and are affordable
- Determine the extent of implementation for each BMP
- Account for actual costs, site implementation feasibility and contingencies

Mr. Mansfield provided a review of an existing WIP in Newport News, with information and data showing the amount of TN, TP, and TSS removed charted with cost of each BMP. All three pollutants must be reduced to prescribed levels in order for the WIP to be compliant.

Mr. Mansfield also discussed an ongoing case study on the Jackson River in Alleghany and Bath counties, near the U.S. Army Corps of Engineers-owned Gathright Dam. The Jackson River is impaired 25 miles downstream due to aquatic life designation not being met, with the greatest stress from elevated nutrient levels that lead to excessive benthic periphyton, mainly caused by excessive phosphorus in the river. The Corps of Engineers evaluated flow pulses that mimic the natural flow variability to improve conditions downstream.

The Watershed Evaluation Plan is scheduled to be completed in November 2012. The next steps would include a feasibility study, requiring additional cost share funds, and would be completed by the Corps of Engineers or another agency.

Committee members reviewed a list of inputs received by the Corps of Engineers, as of July 2012. Prior to the meeting, Bob Slusser from the VA Department of Conservation and Recreation had asked to include identification and mapping of septic system data in the Watershed Evaluation Plan. Committee members agreed that the septic system data would fit within the water quality section in the Watershed Evaluation Plan.

### **Regional Food System Assessment Discussion**

*Michelle Edwards, RRRC*

Following the May meeting, Ms. Edwards contacted Ken Meter of Crossroads Resource Center and received a generic scope of work and examples of past food system assessments, which were provided to committee members for review. Piedmont Environmental Council had previously indicated its interest in expanding the study to include Albemarle, Clarke, Greene and Loudoun counties and Mr. Meter has agreed to include those counties in any work that he completes for the region. Additional counties, such as Prince William or Spotsylvania, would require extra funds.

Committee members held discussions on the food system assessment, with comments including:

- Expanding the study to include documentation of regional goals, gaps in processing and marketing, etc., in addition to the base data collection.
- Identifying ways of measuring the impact of small gardens/farms not included in the Ag Census
- Postponing the assessment until data from the 2012 Agricultural Census is available, which would be in late 2013 at the earliest
- Speaking with the Weldon-Cooper Center regarding their recent Agricultural Impact study in Virginia Beach

Committee members agreed that a technical committee was needed to further refine the questions and topics raised at the meeting. Representatives from RRRC, PEC, Farm Bureau and Virginia Cooperative Extension, along with other interested stakeholders were identified as the best candidates for the technical committee. Ms. Edwards will make contact with interested participants and provide meeting information for the technical committee.

**Next Land Use & Environment Committee Meeting:**

The next Land Use & Environment Committee meeting will be held on November 15, 2012 at 10am at the Regional Commission.

Please email Michelle at [medwards@rrregion.org](mailto:medwards@rrregion.org) with suggestions for future meeting topics.