

Meeting Minutes
May 2, 2006

Attendees:

Keith Ashley, PA Builders	John Brosious, PMAA
John Brossman, Lower Allen Twp	Jim Elliott, Gannett Fleming
Patricia Gleason, EPA	Brion Johnson, PENNVEST
Mike Kyle, LASA	Bill Gralski, Camp, Dresser & McKee
Steven Hann, PMAA	Tom Mealy, THA
Peggy Miller, HRG	Andrew Rupprecht, Premier Chemicals
Jodie Reese, CET Engineering	Pete Slack, PMAA
Ralph Watters, Derry Twp	Uwe Weindel, Williamsport Sewer Authority
Scott Wyland, HMSK/PRWA	

DEP:

Dan Alters	Dana Aunkst
Kate Crowley	Bill Cummings
Nicki Kasi	Lee McDonnell
Crystal Newcomer	

Meeting was called to order at 9:30 am.

Allocation Strategy:

Dana Aunkst reported that Lee McDonnell is doing further analysis to show how the cap loads would be reached and maintained starting with 2011, based on the phased approach developed in the strategy. Lee is also working with the Chesapeake Bay modelers to resolve issues related to the delivery ratios now being used by the model to determine the amount of nutrient loading from wastewater treatment plants enters the Chesapeake Bay.

Dana also mentioned that outreach to all the affected municipalities is planned through Pennsylvania Municipal Authorities Association (PMAA). There was some discussion as to how this will be done, including the possibility of conducting one or more public meetings. The issue of conducting these meeting(s) will be brought up at the next Chesapeake Bay Strategy Steering Committee meeting for further direction. If the reaction from the outreach effort is positive, the existing Tributary Strategy would need to be revised and approved by EPA. It was decided that a 45-day public comment period will be held, once the Allocation Strategy and the two appendices related to the calculation of loadings for each system and cost information are finalized and posted on the DEP Website. A news release announcing the availability of the strategy for comment also needs to be developed. PMAA is also planning to e-mail all significant dischargers announcing the strategy and the comment period. It was decided that all written comments should be sent to Dana.

John Brosius and Pete Slack handed out the latest version of the allocation strategy where they had added background information. Some time was spent reviewing and revising this document. Edits are captured in the final document. There was also some attempt to define significant industrial users based on current EPA regulations, or by the conditions placed in a local pre-treatment permit. However, it was decided to leave the current language alone, and see what comment and reaction is received during the public comment period. Members all agreed that they would like a chance to review and comment on future draft versions of the Tributary Strategy before it is finalized or submitted to EPA for approval. Finally, workgroup members came to consensus on how to address the issue of “net zero increases” for new development. If a new wastewater treatment plant is planned, the plant must be constructed to treat to 8 mg/L total nitrogen and 1 mg/L total phosphorus. They would also be required to provide a one-time contribution to the dedicated fund for system construction upgrades and nonpoint source best management practices, based on the additional costs the system would have incurred if they had been required to treat to limit of technology. This issue would then be revisited after five years implementation, to determine the level of impact this policy has on the total cap load.

Act 537 Planning

Dana reported that he is getting a legal read as to the potential issues revolving around conditional approvals of developments by local authorities and consistency with the Act 537 planning process. His concern revolves around a local government’s ability to take back approval, once awarded, if the developer doesn’t comply with conditions established when first approved.

An issue was raised concerning the design flow numbers in the spreadsheets developed for the allocation strategy. Some design flow numbers are based on actual permitted design capacity. However, increases in design capacity are possible if those increases are identified in an Act 537 plan approved by DEP before August 29, 2006. Dana reported it was always DEP’s intention to take the capacity identified in the Act 537 plan as the actual design flow for the purpose of establishing cap loads and developing permit revisions with total nitrogen and phosphorus limits.

Nutrient Capacity

There was some discussion about local municipalities denying development applications based on the lack of capacity to treat nutrients, even though they have enough organic and hydraulic capacity to treat the extra flow created by the development. Dana suggested the need to look beyond the wording in Chapter 94 to address this issue. The ultimate solution may be to add a definition for nutrient capacity to Chapter 94, but other tools to address this include language in Chapter 71 and consistency with planning proposals and incorporation of limits in the compliance schedule.

Statewide Phosphorus Reduction Effort

Lee McDonnell reported that DEP is in the process of developing statewide instream criteria for phosphorus. Sampling in around thirty different watersheds is currently underway to collect the necessary data. Lee emphasized that these criteria wouldn't be applied unilaterally across the state to define new permit limits for total phosphorus, but only where the stream is impaired or susceptible to impairment. He recommended that if a wastewater treatment system is looking at designing an upgrade and are already discharging into an impaired stream due to nutrients, it might be a good idea to consider adding capability to further filter the wastewater down to around .1 mg/L total phosphorus. There was some discussion as to how this effort would impact current efforts in the Chesapeake Bay drainage area. If a wastewater treatment plant is given effluent limits that are more stringent than those defined under the Chesapeake Bay Tributary Strategy as a result of the new standards, the plant will be required to meet the more stringent requirements. Lee did remind everyone that any changes to the water quality standards as a result of this study would require a regulatory change.

Cost Analysis

Nicki Kasi handed out the preliminary analysis done by using a least square regression analysis. Data used for this analysis included data from the PENNVEST applications received under their recent solicitation for grant applications under their Act 218 initiative and data collected from PMAA's survey of systems. Further work is needed to determine whether costs are based on an achievement of limit of technology or something less and to adjust all estimates to the year 2005 construction cost index. In addition, it was recommended that the costs for Harrisburg and Williamsport be eliminated from the statistical analysis, since there are physical conditions at these two sites that are resulting in the costs for nutrient removal at these two systems to be significantly higher than anywhere else in the basin. Costs for each phase of the Allocation Strategy can then also be estimated. The final results of this analysis also need to be summarized and attached as an appendix to the Allocation Strategy.

Workgroup Summaries

Pete Slack shared excerpts from the Trading Workgroup guidelines related to point sources. Some of the wording doesn't reflect the current work of the workgroup, but Dana explained that much of the draft language was written internally before the workgroup had finalized any recommendations.

Keith Ashley reported that the Ag Workgroup has made some progress. A few candidates have applied to DEP to become approved "aggregators".

The Legacy Sediment Workgroup has made some progress, identifying this as a potential source for large reductions in nutrients. The workgroup is currently working with the EPA Chesapeake Bay Program staff to build reductions from the elimination of legacy sediments into the model and to establish estimates for trading credits.

Peggy Miller reported another committee has been created to look at best management practices for new development for use as trading credits. The lead for the committee is Eugene DePasquale.

Watershed Permit

Dana reported that the most current program counsel read on this issue is that the legal authority to create a watershed permit already exists, without revisions to Chapter 92. This has resulted in a change in direction, where DEP is now looking at a General Permit rather than additional revisions to the regulations. The general concept for the general permit would include provisions so that the permit would not have to be amended for every trade. The permit is needed just to establish the cap load. Compliance would be determined through reporting on the Discharge Monitoring Reports (DMRs). The DMRs would report the net load discharged, with a copy of all trading contracts attached. The workgroup members recommended determining compliance on a fixed annual average, NOT on the rolling annual average, using October through September as the calendar year for the calculation of the annual average.

Action Items:

1. DEP will e-mail members with draft articles drafted by the Press Office that could be used as news articles or mailers for systems to use to explain to customers about the Chesapeake Bay Tributary Strategy and current activities.
2. Finalize Allocation Strategy, phasing spreadsheets and cost estimates for posting on the web. Begin outreach program to municipalities.

Next meeting – June 19, Pennsylvania Builders Assn Office.