



CHESAPEAKE BAY COMMISSION

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NOVEMBER 9-10, 2023 QUARTERLY MEETING

The Chesapeake Bay Commission held its fourth quarterly meeting of 2023 on Thursday and Friday, November 9-10, 2023. The meeting was held in Richmond, VA.

Commission members in attendance:

Representative Kerry Benninghoff
Delegate Robert Bloxom
Delegate David Bulova
Senator Sarah Elfreth
Warren Elliott, PA Citizen Member
Senator Guy Guzzone (Day Two only)
Senator Emmett Hanger
Representative Carol Hill-Evans
Delegate Julian Ivey (Day One only)
Senator Lynwood Lewis
Delegate Sara Love
Interim Acting Secretary Jessica Shirley (represented by Deputy Secretary Bevin Buchheister)
Missy Cotter Smasal, VA Citizen Member
Delegate Dana Stein
Representative Mike Sturla (Day Two only)
Delegate Tony Wilt
Director Andrew Wheeler

Not in attendance:

Senator Scott Martin
Senator Gene Yaw
RDML Wes McCall

Staff:

MD – David Goshorn
PA – Jill Whitcomb
VA – Secretary Travis Voyles
Navy – Kevin Du Bois

CBC Staff:

Jen Dieux
Mark Hoffman
Anna Killius
Marel King
Adrienne Kotula

THURSDAY, November 9, 2023

CALL TO ORDER AND WELCOME

Commission Vice-Chair Love called the meeting to order at 1:05 pm and welcomed Commission members to the Virginia Museum of History and Culture where the afternoon's meeting was held.

ROLL CALL

Vice-Chair Love then asked Executive Director Anna Killius to call the roll. A quorum was present.

ADOPTION OF MINUTES

Vice-Chair Love called for approval of the minutes from the September meeting. The motion was adopted, and the minutes were approved unanimously.

ADOPTION/MODIFICATION OF AGENDA

Vice-Chair Love asked for comments or questions on the agenda from the members. Hearing none, the agenda was approved unanimously.

FOLLOW-UP FROM SEPTEMBER MEETING

Vice-Chair Love asked Executive Director Killius to present the group with follow-ups from the September Meeting. Ms. Killius provided updates as follows:

- **Paid Internship Opportunities at the Chesapeake Bay Commission**

During the September Meeting, the Commission asked staff to look into our capacity to host paid interns and fellows. Ms. Killius noted that after internal discussion, staff determined that it made the most sense to focus on opportunities in Maryland, where there are three staff members able to share management and mentoring responsibilities, with potential expansion to the other jurisdictions in the future. The Commission staff are exploring existing internship programs as a pathway to becoming a host and have spoken with the Chesapeake Bay Trust and DNR on their corps programs to learn more about the time, resource, and mentorship commitments. The best approach would be to start as a part-time host or to split hosting responsibilities with another organization. Based on where these programs are in their recruitment and selection processes, the Commission is looking at the possibility of participating in FY24. She will keep the members aware of progress in developing an internship position and applying to become a host.

- **Sustainable and Bay-friendly Businesses in the Chesapeake Watershed**

The members asked staff to inquire about any mechanisms for identifying or recognizing sustainable Chesapeake Bay businesses or corporations. No current model for certifying or listing a business as Bay-conscious was identified. Despite the lack of a central, regional program, multiple Bay partners and organizations continue to engage with businesses throughout the watershed to encourage participation in conversation programs and projects to promote clean water, climate and sustainability. One such example includes the Hershey Company, which recently announced a joint commitment with EPA and Alliance for the

Chesapeake Bay of \$2 million to support on-farm conservation efforts by local dairy farmers that are members of Land O'Lakes. Commission staff are working with the Alliance to feature one or more of these public-private partnerships during the January meeting in Annapolis and explore ways to encourage engagement with the Bay's business community.

- **Invasive Blue Catfish**

The Commission is continuing to advance its federal strategy on invasive blue catfish in the Chesapeake Bay. Our Congressional leaders on this issue, including Congressman Harris and Senators Cardin and Van Hollen, continue to support a waiver from USDA inspection in favor of the FDA program used for all other seafood. Last month, Commission staff and Crossroads Strategies worked with Congressman Andy Harris to organize a USDA briefing on existing and available resources to assist in management. It was broadly attended by stakeholders from both Virginia and Maryland, including state agency representatives and the processing industry. Staff also held a follow-up call with the regional wildlife director for USDA's Animal and Plant Health Inspection Service to better understand their programs and resources when it comes to aquatic invasives.

To maintain a coordinated strategy with federal and state-level asks that can meaningfully impact the blue catfish population and their effects on other Bay fisheries, the Commission needs to identify the common needs for processors and species managers in Virginia and Maryland. To that end, staff pulled together a small group of representatives from both states to start brainstorming the path forward, but additional conversations and coordination will be necessary. Some initial ideas, in addition to waivers from USDA inspection, include financial support for processing infrastructure, product marketing, and stock assessments or sustainable harvest research.

- **Chesapeake Bay Commission Legislative Matrix by Agreement Goal and Outcome**

In September, the members asked for staff to analyze the Commission's legislative actions by the goals and outcomes of the 2014 Chesapeake Bay Watershed Agreement to aid the delegations in looking for potential gaps or areas where lessons might be learned from the other jurisdictions. The November meeting material included a draft legislative matrix with an initial approach to the breakdown. Each state director searched through the Commission's records to find and categorize successful legislation initiated by Commission members. However, this draft comes with a few caveats: (1) with the Commission's 40 year history, there may be missing some bills; (2) the matrix only includes successful legislation; and (3) any actions that members have taken to encourage solutions at the regulatory level would not be listed, nor would their critical work within state budgets if not accompanied by authorizing legislation. Ms. Killius asked the members to look at this initial draft and share any feedback on how we can make this a more useful tool.

CHESAPEAKE WILD: Investing in our ecological biodiversity

Vice-Chair Love then introduced a panel to update the membership on the US Fish and Wildlife Service's Chesapeake WILD program. The panelists were Genevieve LaRouche, Chesapeake Bay Field Office Supervisor, US Fish and Wildlife Service; Becky Gwynn, Deputy Director,

Virginia Department of Wildlife Resources; and Jamie Brunkow, Director of River Ecology, James River Association.

Ms. LaRouche, whose agency administers the program, started by giving the rationale for its creation by Congress – species extinction, significant population declines, and habitat loss. The goal of Chesapeake WILD is to help address these issues in the Chesapeake Bay watershed through targeted grants to support projects that address multiple objectives. She highlighted work with wetlands, aquatic species, habitat restoration and connecting people with nature.

Ms. Gwynn provided the perspective of the Virginia Division of Wildlife Resources on the program – in particular the funding received to support freshwater mussel restoration in the Commonwealth, wetland and marsh restoration and enhancement, and the Coastal Forest Wildlife Management Area. She noted how the objectives of Chesapeake WILD broadly support the mission of the Division of Wildlife Resources.

Mr. Brunkow focused on mussel restoration in the James River Basin, and how Chesapeake WILD funding was supporting these efforts. The James River Association is currently conducting a thorough assessment of mussel populations and habitat in the James to determine restoration goals and targeted outcomes. Given the critical link between water quality and mussel populations, they are a great group of species to help show the importance (and results) of improving water conditions.

After a number of questions from the members, Vice-chair Love thanked the panelists for their presentations, and called for a break.

THE SUM OF ITS PARTS: Measuring Local Stream Health

Vice-Chair Love then introduced the second panel of the day, Claire Buchanan, Ph.D., Emerita Director, Program Operations, Aquatic Life Section, Interstate Commission on the Potomac River Basin, and Rikke Jepsen, Aquatic Ecologist II, Aquatic Life Section, Interstate Commission on the Potomac River Basin, to present to the members on the Bay Program's new Stream Health Indicator, which has been developed to standardize the evaluation of local water quality and measure improvement.

Dr. Buchanan reviewed the history of this effort, starting with the 2009 Chesapeake Bay Executive Order, and including the stream health goal in the 2014 Watershed Agreement. Central questions were: 1) how to measure stream health, 2) developing a watershed-wide indicator, 3) tracking progress against the 2014 goal; and 4) how stream health responds to management actions. The index developed accounts for natural differences in stream macroinvertebrate communities caused by differences in geology, elevation, climate, rainfall and soils. She noted current data shows almost 70% of the watershed's streams are in fair, good or excellent condition. In some areas, however, that data shows stream health is deteriorating. She also presented a unifying framework to evaluate the stressors impacting streams, and potential actions to address each.

After questions from Commission members, Vice-Chair Love thanked the panel for their informative presentation.

ADJOURNMENT

The Commission adjourned for the day at 4:03 pm.

FRIDAY, NOVEMBER 10, 2023

WELCOME & ROLL CALL

Vice-Chair Love called the meeting to order at 9:15 am and asked Executive Director Killius to call the roll. A quorum was present.

EXECUTIVE DIRECTOR'S LIGHTNING ROUND UPDATES

Vice-Chair Love asked Executive Director Killius to update the Commission on important and timely issues impacting the Chesapeake Bay watershed.

- **CBC Annual Audit**

The Commission's by-laws require a qualified accountant to conduct an annual audit of our finances. Last month, the Executive Committee was provided with copies of the Fiscal Year 2022-2023 audit reports completed by Alta CPA Group. No material misstatements or management issues were identified, and the Commission remains in good standing. The Commission expressed its gratitude to Jen Dieux for taking excellent care of our budget and payroll.

- **Executive Council Meeting**

The 2023 Executive Council meeting was held on October 19th at the National Arboretum in Washington, D.C. It was chaired by EPA Deputy Administrator Janet McCabe on behalf of Administrator Michael Regan, and it was attended by Senator Scott Martin on behalf of the Commission and Governor Wes Moore of Maryland, as well as Secretaries Voyles and Negrin for Virginia and Pennsylvania, respectively, along with representatives for the other Bay jurisdictions. Governor Moore was elected to serve as the next Chair of the Executive Committee.

The meeting marked the 40th Anniversary of the Chesapeake Bay Program and highlighted some of the high-level recommendations in the Reaching 2025 draft report. Chesapeake Bay Program Office Acting Director Dave Campbell shared these recommendations with the Commission during our September Meeting in Harrisburg. The three key recommendations to guide the partnership through 2025 include accelerating investments, integrating emerging science and monitoring, and fast-tracking existing action plans, including the jurisdictions' watershed implementation plans.

Senator Martin's remarks centered on the need to stick with our partnership for the long-haul, acknowledging that consensus is not easy, but we must stay focused on common ground. He gave examples of how the Commission is already hard at work on some of recommendations included in the Reaching 2025 report, such as working together as a partnership to secure investments in clean water programs and moving our states forward in ways that complement and learn from each other.

Next year, the Executive Committee is expecting to receive recommendations on a critical path for the Bay Program partnership beyond 2025. The Steering Committee tasked with forming those recommendations has formed small groups to guide discussion on five high-level topics and any new learnings that fall within those topics: Climate, Clean Water, Healthy Watersheds, Shallow Water Habitats, and People. For the next three months, these small groups will be engaging experts across the watershed and planning targeted conversations around potential recommendations on how the Partnership should move forward in that topical area. A deeper update on this Steering Committee, with time for discussion, will be included in the January meeting agenda in Annapolis.

- **Federal Crediting Task Force**

In February, USDA and EPA launched a Federal Crediting Task Force to develop an action plan to more fully credit farmers' conservation efforts in a cost-effective manner that continues to maintain producer privacy. The task force is entering the final stretch of its work. USDA and EPA are meeting with the jurisdictions and other task force participants to get their feedback on a list of the top options for improvement. Based on that feedback and USDA's assessment of its authority and resources, the taskforce will finalize its action plan.

The options for consideration include a range of protocols, from USDA taking on more responsibility for verification, to new data-sharing agreements between USDA and other agencies, to new surveys that provide an alternative means to gather practice data. Pennsylvania Director Marel King continues to participate on the Task Force on behalf of the Commission.

PAY FOR PERFORMANCE: A Better Bang for the Buck?

Vice-Chair Love then introduced the first panel of the day to explain and discuss "pay for performance" approaches to achieve environmental goals at a better price-point, all four experts in their field: Tim Male, Executive Director, Environmental Policy Innovation Center (moderator), Nick Dilks, Managing Partner, Ecosystem Investment Partners; Gabe Cohee, Director, Office of Restoration and Resilience, Chesapeake and Coastal Services, Maryland DNR; and Kristin Fisher, Ph.D., Applied Agricultural Scientist, The Nature Conservancy.

Dr. Male started the session and served as moderator of the panel. He walked the members through the definition of certain key terms in this space and the conceptual model behind pay for success contracting. He also highlighted several states where this approach is being used.

Next, Mr. Dilks presented the perspective of a private-sector investment firm on this approach. He contrasted in detail the differences between traditional project delivery and pay for success approaches. He noted five key learnings from his work in this sector: 1) need for verifiable units of measure to be transacted; 2) need for rigorous accountability; 3) a desire for outcomes not just planning or effort; 4) lowest cost is not always the main driver; and 5) pay for success is different from a public-private partnership model.

Mr. Cohee provided background on Maryland's Chesapeake and Atlantic Coastal Bays Trust Fund, and how it has used a pay for performance model to achieve environmental incomes. He noted the impacts of the recently passed Conservation Finance Act (sponsored by Commission

members) in providing additional structure for this approach, and he noted a number of other important considerations.

Dr. Fisher presented to the members on pay for success opportunities in Chesapeake agriculture. She noted the importance of focusing on nitrogen use efficiency, as that was a main driver of both crop yield and nutrient runoff to the Bay. She contrasted the approaches of paying for an assumed outcome versus paying for a measured outcome, and how they affect programs to improve both farm productivity and reduce pollution.

The Commission members then asked a series of questions in response to the presentations and Vice-Chair Love thanked each of the panel members for their very informative presentations.

RVA H20: Representing All Aspects of Clean Water in Richmond

In 2014, the City of Richmond's Department of Public Utilities launched RVAH20 with an ambitious goal of developing Virginia's first integrated wastewater, stormwater, and combined sewer system permit. The city achieved their goal in 2017, but along the way they discovered that RVAH20 is not just a permit: it is a united effort to craft a water plan for a future all Richmonders can stand behind.

Vice-Chair Love introduced April Bingham, Senior Director, Department of Public Utilities, City of Richmond and Grace LeRose, Program Manager, Department of Public Utilities, City of Richmond, to brief the Commission members on this effort.

They reviewed the City of Richmond's water system, including its service area and combined stormwater-sewer systems, the timeline of their effort with key milestones, and the extent to which they have engaged the public. Their current work focuses on addressing the issues associated with the complex system while also addressing community concerns, and the development of a final approach to address the challenges this type of system presents.

Vice-Chair Love thanked the presenters for all their work on this project and sharing their results with the Commission.

COMMISSION DISCUSSION

Vice-Chair Love opened the floor for discussion or comments by the members. Director Wheeler asked about the status of creating an Agricultural Advisory Committee, as recommended by the Secretaries of Agriculture in the watershed. Ms. Killius said the Bay Program had created an Action Team to review the request and report back to the Bay Program's leadership. Director Wheeler noted he would continue to advocate for its creations. Senator Elfreth asked about the status of the Federal Farm Bill. Ms. Killius responded that Congress was expected to temporarily extend the 2018 legislation and continue work on a new bill in the coming year.

INTERIM ACTIONS

Vice-Chair Love asked Executive Director Killius to share any interim actions identified by Commission members during the meeting. She noted two interim items: 1) to continue to work

with our jurisdictions and other stakeholders on the blue catfish management issue; and 2) a Virginia delegation meeting in December to focus on the final report of the Resilience Working Group and proposed legislation. Additionally, a Maryland delegation briefing on the Comprehensive Evaluation of System Response report by the Chesapeake Bay Science and Technical Advisory Committee is in planning for January, after the Commission's next quarterly meeting.

NEW BUSINESS

Vice-Chair Love asked if there was any new business to come before the Commission, and none was brought to the members.

PUBLIC COMMENT

Vice-Chair Love asked if there was anyone signed up for public comment. There were no speakers signed up for public comment.

ADJOURNMENT

The Commission adjourned at 11:35 am.