Summary of July 11, 2012 Meeting
Between West Virginia State Agencies, WVU Cooperative Extension Service, NRCS, FSA, and EPA Senior Managers

Romney, West Virginia

Past, Upcoming and Future Funding Opportunities

- **Finding**: West Virginia state agencies are finding they have sufficient funds to support needed regulatory and permitting oversight functions, but they need more on the ground implementation support funding.
- **Request**: Provide West Virginia with the ability to move their Chesapeake Bay Regulatory and Accountability Program (CBRAP) Grant funds into their Chesapeake Bay Implementation Grant (CBIG) to support more on the ground implementation.
- **Action**: EPA will explore what flexibilities are available or could be developed to move funding between grants. Also, the West Virginia and EPA Project Officers will discuss what specific projects could be transitioned from the West Virginia CBRAP grant to the West Virginia CBIG.

- **Issue:** Of great concern is that the dollars set aside for the Chesapeake Bay in the Farm Bill will now be competed nationally. There is a need to be well positioned to take advantage of those competitive grants, although it's not just about being competitive but also innovative. Maintenance of existing levels of program dollars (i.e. CREP and EQIP) is also vitally important to the implementation of West Virginia's Watershed Implementation Plan (WIP).
- **Action:** Kelly Shenk will continue to work with and communicate with senior managers in West Virginia Conservation Agency, West Virginia Department of Agriculture, West Virginia State NRCS Office, and West Virginia State FSA Office on additional steps West Virginia agencies could take to strengthen their position in upcoming competitions as well as work collaboratively with other states on regional initiatives.

- **Issue:** West Virginia's Natural Resources Conservation Service (NRCS) resources are fully tapped and they are unable to provide assistance with BMP data collection or otherwise coordinate with the state agriculture agencies on Chesapeake Bay Program (CBP) issues. Can West Virginia's CBRAP funds be used to cost share / jointly fund a person within NRCS to provide coordination in BMP collection and other NRCS CBP needs?
- **Action:** EPA will determine if West Virginia's CBRAP grant funds can be used in this manner.

- **Finding:** There are some funding sources that are available that West Virginia would like to better understand. For instance, USDA's Rural Development financial programs support public facilities and services such as water and sewer systems, and promote economic development by supporting loans to businesses through banks, credit unions and community-managed lending pools. In addition, the Chesapeake Bay Funders Network (CBFN) could

help fund projects that an agency can't easily fund (e.g. mitigation banks, stream bank restoration, etc.).

- **Action:** Kelly Shenk will provide West Virginia with a list of contacts for USDA Rural Development and will facilitate scheduling a meeting between the West Virginia agencies and CBFN to get a better sense of how CBFN can help as a potential source of funding and resource for West Virginia agencies and other project implementers. On a continuing basis, EPA staff and managers will pass on information about and help West Virginia agencies establish contact with these other funding sources.
- **Action**: West Virginia Conservation Agency will work with their West Virginia partners to facilitate the process of developing a West Virginia specific set of recommendations that will describe what they need from EPA in order to take advantage of the various funding sources available.

- **Issue**: Ensuring there are sufficient state matching funds and flexibility for EPA grants is an issue that needs to be addressed, particularly as shrinking state budgets may mandate such a course in the near future. In addition, there is a need for greater flexibility on the use of 319 funds so they can be used throughout West Virginia's drainage area, rather than targeting and limiting the funds to specific watersheds. A regional program could be developed that could offer more of an impact rather than a band aid approach. Greater flexibility also goes to allowing 319 funds to be used throughout the state.
- **Request:** West Virginia asked EPA to explore how they can increase the flexibility with matching fund requirements through the various grant programs so West Virginia can still effectively leverage the dollars.
- **Action**: EPA will look into what opportunities there are for making changes to match funding requirements within the CBRAP, CBIG, 319, and water quality monitoring grants recognizing some of these requirements were established by Congress in authorizing legislation.
- **Action:** EPA's national 319 guidance is being revised based upon GAO findings and an internal study completed by EPA for the Office of Management and Budget. Both studies are stressing the need for more accountability and more EPA oversight. One of the ideas being discussed is that, if a state can show that they are targeting a substantial amount of State funds in areas with Watershed Based Plans, they may be given flexibility to use 319 implementation funds in other locations.

- **Issue:** In looking at the other EPA-funded programs, West Virginia identified that their WIP is currently not considered to be synonymous with the "A-I" watershed based plan criteria that is required for 319 incremental funding. Additional flexibility here would allow West Virginia to more efficiently implement their WIP instead of developing additional watershed based plans for local bacteria TMDLs and capturing the nutrient reductions tangentially, which is what West Virginia is currently required to do.
- **Action:** Kelly Shenk has been working with other jurisdictions, wrestling with this same idea. EPA will provide feedback to West Virginia on progress.

- **Finding:** West Virginia doesn't anticipate developing a trading program within the next two years. However, moving forward, there will be new point sources without a TMDL allocation so there will be a need for offsetting on a case by case basis.

- **Request**: Need clarification from EPA on the expectations for plans for an offset strategy, trading baseline establishment, sector growth demonstrations, and additionality as described within the Chesapeake Bay Program partnership's Trading and Offset Workgroup's workplan. In addition, a consistent point person to serve as a liaison between the states and EPA would be an asset.
- **Action**: The EPA Region 3 leads for trading and offsets will provide West Virginia Department of Environmental Protection managers and staff with clarifications on EPA's expectations specific to West Virginia.

Expanding Monitoring in West Virginia's Potomac River Watershed

- **Issue:** West Virginia is concerned about possible discrepancies between what information their monitoring stations will produce and what the Partnership's Chesapeake Bay Watershed Model will show, particularly within the context of the 2017 midpoint assessment. Will EPA use monitoring data-based results to trump Bay Watershed Model-based simulations when it comes down to determining whether West Virginia is making progress and has ultimately achieved its assigned allocations under the Bay TMDL.
- **Finding:** Yes, it's ultimately monitoring data which will be used to both confirm that the Delaware, the District of Columbia, Maryland, and Virginia's Chesapeake Bay water quality standards have been achieved and that individual jurisdictions/watersheds have achieved their assigned allocations under the Bay TMDL. In the case of West Virginia, the application of monitoring data in quantifying the loads of nitrogen, phosphorus, and sediment leaving West Virginia's portion of the Potomac River watershed (accounting for loads coming into West Virginia from upstream jurisdictions) will ultimately trump model simulation of load reductions. If West Virginia can clearly demonstrate achievement of their allocation loads, they will have completed their obligations under the Bay watershed wide TMDL.
- **Action:** EPA will continue to work directly with USGS scientists and the jurisdictions through the Chesapeake Bay Program partnership's Nontidal Monitoring Workgroup to develop the data analysis methods necessary to directly compare the monitoring data-based load calculations for each of West Virginia's Chesapeake Bay Watershed Water Quality Monitoring Network stations with West Virginia's assigned Bay TMDL allocations. West Virginia is represented on this partnership workgroup.

- **Issue:** West Virginia is concerned about the possibility that their Bay TMDL allocation will change based upon new information regarding their nutrient contributions identified through water quality monitoring. West Virginia emphasized they are willing to make midcourse corrections in BMP implementation in their 2017 WIP, but that it is imperative allocations remain as they are currently set.
- **Finding:** EPA noted that it will be up to the Chesapeake Bay Program partnership to determine how allocations will be approached in the future. CBP encouraged West Virginia's continued participation in the Water Quality Goal Implementation Team (WQGIT), the Principles Staff Committee (PSC), and the Executive Council (EC) to ensure West Virginia's interests and concerns are considered.

- **Issue:** Data from the four initial West Virginia nontidal monitoring stations indicate existing loads are significantly less than Watershed Model predictions. West Virginia needs more coverage and quantification of loads entering West Virginia in the Opequon and Shenandoah watersheds.
- **Request:** Provide West Virginia with the flexibility to ensure the placement of the existing and new stations funded by EPA as part of West Virginia's Chesapeake Bay Watershed Water Quality Monitoring Network stations are located where they will provide the maximum benefits to local and state water quality concerns.
- **Finding:** Four additional monitoring stations are due to be added, for a total of ten monitoring stations within West Virginia's Potomac River watershed with sampling for base flow and storm events. Changes are also being made to one current station in order to have the most up to date data available from those stations. During the June 21 meeting of West Virginia Department of Agriculture, West Virginia Department of Environmental Protection, West Virginia University, U.S. Geological Survey, University of Maryland, and Interstate Commission on the Potomac River Basin, agreement was reached on additional sets of monitoring stations, not currently funded, but needed to help meet West Virginia's local and state water quality management objectives.
- **Action:** Rich Batiuk will explore what additional EPA resources may available into the future to support these additional monitoring stations as part of a more comprehensive package of monitoring network needs expressed by all seven watershed jurisdictions. The case for the additional monitoring resources will be presented to the Chesapeake Bay Program partnership's Management Board, on which West Virginia is represented.

<u>Chesapeake Bay Model</u>

- **Issue:** Monitoring data from West Virginia's nontidal stations suggests existing loads are at or near WIP 2025 levels, indicating potential overrepresentation of West Virginia sources. If the process used for jurisdictional caps under the Bay TMDL is again used in 2017, correction of source representation will result in tighter caps for West Virginia. West Virginia would like the Watershed Model to be as scientifically accurate as possible, but not at the expense of tighter caps that West Virginia cannot achieve by the actions prescribed in West Virginia's WIP.
- **Action:** In preparation for the 2017 midpoint assessment, EPA will continue to work with West Virginia on this issue of overrepresentation. It will be up to the Chesapeake Bay Program partnership to determine how allocations will be approached in the future.

- **Request:** West Virginia's continued participation in the Erosion and Sediment Control (ESC) BMP Panel currently underway is critical in determining whether the efficiency rate for the interim ESC BMP West Virginia is using in their WIP will change or remain the same.
- **Request:** If West Virginia is concerned that the extractive loading rates are too high in the Watershed Model after comparing the benefits of pre- and post-BMP implementation, the Chesapeake Bay Program Office needs formal documentation to show how the benefits are not being accurately captured in the Watershed Model.

- **Request:** West Virginia Department of Environmental Protection needs the GIS shapefiles from sewage collection systems to determine the number of septics that should be included in the Watershed Model.
- **Action:** West Virginia should contact Peter Claggett, PClagget@chesapeakebay.net, directly for access to these GIS shapefiles.
- **Action**: EPA will work with West Virginia Department of Agriculture in factoring in the more recent trends of West Virginia's livestock and poultry populations using the latest agricultural census.

Conservation Practice and BMP Verification

- **Issue:** West Virginia is trying to find a balance between dedicating funds for implementation and verification. There is a need to work with the broader Partnership on the issue of providing credit for those actions that are happening on the ground in the absence of cost share funds. Focus is on meeting the needs of the producer communities and implementing the programs.
- **Issue:** Emphasis should be placed on the sharing of data between federal agencies. The West Virginia Conservation Agency encourages the rapid development of the streamlined data portal that was discussed during the meeting. The portal needs to allow the maximum efficiency credit by adjusting to the data that is available from the USDA federal reporting system. Requiring states to continuously go back and seek additional information for full credit is ineffective and onerous, whereas resources are better well spent on implementation.
- **Issue:** Inconsistencies of BMP definitions between federal agencies and modeling mechanisms lead to confusion at all levels and need to be constant.
- **Action**: EPA will provide the West Virginia Watershed Implementation Team with the contact information for Dean Hively, USGS, the lead for the Chesapeake Bay Program partnership on working with NRCS, FSA, and the six states to resolve data access and double counting issues. EPA will communicate with Dean directly and ask him to follow up directly with the appropriate West Virginia Department of Agriculture, Conservation Agency, and Department of Environmental Protection staff.
- **Action**: EPA and West Virginia will continue to work together in determining what resources should be expended in verifying BMPs.
- **Action**: West Virginia will continue to take full advantage of their CBRAP grant funds in supporting their BMP verification efforts.

Effective Communications and Messaging

- **Issue:** How can the Partnership help West Virginia engage their regional and media? Given all the state and local successes with implementation (e.g. stormwater efforts, wastewater treatment plant upgrades, strong WIP and commitment to downstream sources), we're presented with an opportunity to showcase these efforts not only to West Virginia communities, but to the other Bay jurisdictions, watershed-wide. In addition, it's not necessary to mention EPA or the Chesapeake Bay when highlighting the successes of the various programs.

- **Request:** West Virginia is interested in learning more about the videographer services the Chesapeake Bay Program's Communications Office can provide. (The videographer, an Alliance for Chesapeake Bay employee, works for the larger partnership, not for EPA or the Chesapeake Bay Program Office.)
- **Request:** Nominate a West Virginia representative to serve on the Chesapeake Bay Program partnership's Communications Workgroup.
- **Action:** EPA will share a series of links with West Virginia that demonstrate what the Chesapeake Bay Program Communications Office's videographer has put together in the past, and some ideas for highlighting local implementation successes in West Virginia.
- **Action:** Tom Wenz and Margaret Enloe will develop a comprehensive list of communication and media relations resources that are available to West Virginia for their potential use as a partner within the Chesapeake Bay Program.

Summary of Key Points

The following is a summary of key points each West Virginia senior manager made at the conclusion of the meeting:

- Continuing concern about the 2017 mid-point assessment and possible changes to West Virginia's nutrient allocations counter to their Phase II Watershed Implementation Plan commitments.

- Concern that EPA wants to review each and every CAFO permits—clear sign that EPA does not trust West Virginia state agencies to effectively carry out their CAFO program.

- Concern about the matching fund requirements for the EPA grants.

- Concerns about exactly where the BMP verification process will end up.

- Too much reliance on the Bay model to drive the work and priorities of CBPO, and doing whatever pleases the Bay model.

- Need to get the water quality monitoring network up and running and use the resultant monitoring data to support decision making, not model simulated outputs.

- Producers don't know what's expected of them—producers are coming in and asking what the CAFO requirements for my production area? What does EPA/West Virginia Department of Agriculture/West Virginia Department of Environmental Protection expect me to do on my farm? There is a need for improved education and outreach to producers about the Bay and CAFO issues, as well as crediting and verification.

- There are FSA resources available to help capture better data on farms themselves as well as the implemented agricultural conservation practices.

- FSA has a long history of conservation practice data and related information that is still untapped.

- NRCS staff are fully booked writing contracts and providing technical assistance to producers and other land owners.

Meeting Participants

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