

## York River and Small Coastal Basins Roundtable

July 2005 panel discussion synopsis

Twenty-one participants, including representatives from the Counties of Essex King William and Middlesex; staff from the Hampton Roads and Middle Peninsula Planning District Commissions; Virginia DCR; Virginia DEQ; Hanover Public Utilities, Rapidan Service Authority; Tidewater RC&D, NRCS; the Hanover Caroline, Tri-County/City, Colonial, Thomas Jefferson, and Virginia Association of Soil and Water Conservation Districts, private industry representatives including Virginia Farm Bureau and a representative from the Rappahannock River Basin Commission attended the quarterly meeting/panel discussion at the Aylett Fire House on July 8, 2005. Members of the panel included **Allan Brockenbrough** from DEQ, **Dick Sedgley** from VAMWA, **Bill Keeling** from DCR, **Wilmer Stoneman** from the Virginia Farm Bureau, Mike Templeton and Rich Gannon from the North Carolina Department of the Environment and Natural Resources, and the Virginia League of Conservation Voters (not present due to car troubles).

A. Sharon Conner, Roundtable Chair called the meeting to order. Sara Stamp and Matt Criblez presented the following opening announcements:

a. WQIF guidelines public comment period is now open

b. Statewide Roundtable

After the first gathering of the various watershed roundtables at the Environmental Strategies Conference in April, the groups decided that continued communication would be a mutually beneficial decision. Since then, Neal Kilgore's office hosted a conference call to establish future opportunities for the representatives to communicate, whether through video conference, Statewide Roundtable meetings or meetings coordinated with other conferences typically attended by the representatives. There will be one representative from each Roundtable. Jay Gilliam has agreed to chair the next conference call, which will be held on August 2<sup>nd</sup> from 2:30-4:00.

c. Rappahannock River Basin Commission – NonPoint Work Group  
The Rappahannock River Basin Commission has officially created a NonPoint Work Group. The mission of the Work Group is "To provide a forum to discuss the practical complexities, obstacles and difficulties associated with the implementation of nonpoint source pollution strategies of the Rappahannock Tributary Strategies (RTS) and to share experiences, both good and bad, to enhance efficient and effective investment of public and private resources. These discussions will produce recommendations to the RRBC and state, regional and local agencies responsible for the implementation of the RTS." (Eldon James discussed identified issues)

d. Potomac Forum IV

Potomac Forum IV will be held August 12<sup>th</sup>, 9am to 3pm in Manassas, Virginia. This forum will discuss tributary strategy implementation both from point and nonpoint aspects. Additionally, the forum will discuss integration of local and state government perspectives.

e. Chesapeake Bay Commission

The Chesapeake Bay Commission has submitted a proposal to implement Chesapeake Bay tributary strategies by enhancing farm programs to accelerate agricultural nutrient and sediment reductions. They aim to establish an ad-hoc workgroup comprised of representatives from each of the signatory states, as well as the Chesapeake Bay Commission, to identify opportunities to improve the capability of agricultural programs to reduce nutrient and sediment loads to the Chesapeake Bay and its tributaries.

Sharon then asked the panel and the Workgroup members in attendance to introduce themselves.

- B. The panel members provided the group with a brief presentation about themselves, the organizations they represent and their involvement with nutrient trading.

C. Panel Discussion

- a. The first half of the meeting focused on general questions to the whole panel. Each panel member was given an opportunity to answer the question. Questions addressed nutrient trading in general, point to point source trading and point to non point source trading:

i. General Questions

1. How is the cost of implementation going to be shared between the stakeholders (local government, wastewater and industrial facilities, the agricultural community, etc)? **The answer to this question was essentially that the various stakeholder communities were all going to share the cost of implementation through their own route. VAMWA-costs for dischargers massive; amount for urban BMPS very high; Agriculture-payment through sweat equity in ensuring that BMP in place.**
2. What are the economic development implications for rural communities? **Allan Brockenbrough from DEQ noted that the regs are designed to enable point source dischargers to meet their goals as quickly and cheaply as possible and to be able to accommodate**

growth. Rural areas should be able to upgrade the capacities of their facilities with addition of nutrient reduction technologies. However, rural areas will still face the same offset challenging if opening a new facility. Wilmer Stoneman of Virginia Farm Bureau noted that the economic development for the agriculture community boils down to the agricultural land owner being able to keep his property; Wilmer noted that Henrico County has a land use tax system that gives a break on real estate tax, enabling the farm to stay in business. The implications are that without this tax, the land will likely be rezoned for a different use that likely will not have BMPs. Retaining the farms regulates growth in the community.

3. How will a landowners property rights (e.g. will they be prohibited from developing their land) be affected if they agree to participate in a PS to NPS trade? Like any contract, the specifics are listed in the trade contract obligation. Depends on nature of trade, could impact rights to develop their land. Voluntary mutual agreement in trade, not required program, requiring farmers to participate in-Stu Wilson at DCR supported this comment.
4. Is there a possibility of the private farmland being taken under eminent domain laws to provide for PS to NPS trades? Property condemnation for private uses another can of worms that does not look likely. Eminent domain or taking isn't likely to be in the cards.
5. How does a locality pursue controls for NPS pollution under the Dillon Rule when the state itself has little regulatory ability to control these sources of pollution? Farmers are restricted/regulated in other means- Chesapeake Bay Preservation Act; DEQ regulations for hog farmers, other regulatory avenues; As TMDLs are developed, Agriculture Stewardship Programs become alternate means of regulation. Not measured by end of pipe, but being measured in some form; if nothing else, when participating with farm programs at the Federal level, there are incentives to make farmers operate at least at the soil conservation level, wetlands conservation, etc.
6. An audience member asked how do you reduce nutrients reacting to indicators out in the field. Wilmer noted that non point runoff is variable and difficult to measure. Therefore, they must rely on the

Chesapeake Bay model and similar projections rather than actual field samples to indicate water quality affects. Audience member noted that many field sample measurements were used to derive the numbers in the model.

ii. Point to Point Source Trading

1. How will the process work? Please provide a quick walk-through. Are there differences between industrial and wastewater facility statuses? No differences between industrial and wastewater facilities; Process works by point dischargers getting together and setting up a system whether that be a free market, highest bidder, etc; it is up to the trading association. Must be generating credits before able to sell them. Facilities can not buy compliance. Point source must submit compliance plans.
2. How does trading between coastal basins and the main stem compare with trading inside the main watershed? The comment should read between the facilities within the basin, rather than tributary. It was clarified that the Eastern Shore coastal basins are not included with the western coastal basins.
3. How will the system protect local water quality and prevent pollution "hotspots?" Will be addressed outside General Permit program as separate issue; Chesapeake Bay and existing narrative water quality standards; there are and will be hotspots, but the stringency of limits should limit hotspots;
4. How will the General Permit be enforced at individual facilities? It will be enforced like and individual permit; the association is not a permittee; there is no basin wide limit; individual dischargers responsible for meeting allocation
5. What are the timeframes for the following:
  - a. The beginning of the system The General Permit is expected in 2006
  - b. The beginning of trading Will start slowly-several years
  - c. Compliance plans
  - d. Compliance with C2K and Tributary Strategy goals 2010 goal; full placement limited by capacity of engineering base; with 1.3 billion in capital costs, the design, bidding process, engineering expertise and construction will probably push to about 2015; York Trib Strategy will be released around September

- iii. Point to Non Point Source Trading Noted that while the Strategies get down to discharger levels, they do not get down to farm level; non-regulatory, but tributary strategy goals. Questions: Do we have to address the Tributary Strategies before we trade? Needs to be worked through with DCR and technical advisory committee;
1. Will the system only be able to access the remaining 4% of agricultural lands not required to be putting BMPs in place?
  2. What BMPs will be chosen and why? How will the efficiency and practices be selected? Will the Chesapeake Bay Model's future or existing model be used or will DEQ or the Association be free to use whatever numbers they decide? The most current data will be used
  3. What is the potential for developing urban area BMPs as an alternative to agricultural land BMPs? This is an option open to discussion- BMPS will depend on farm type; should have enough tools in the toolbag to accommodate;
  4. Will local governments and SWCD be consulted regarding the identification of offset locations? Building permit and use permit process where they apply. SWCD or some other entity may end up as broker between point and nonpoint for the trading process;
  5. How will BMP efficiency be quantified? Efficiencies change over time. Some take a while to reach the maximum benefit, some decrease in efficiency.
  6. Will there be a cap on the cost of credit? You can get three ways-buy from discharger or association (with no cap); line up BMPs at market value BMPs not permanent; ps is not buying compliance, but rather time for compliance; pay into WQIF, which will be capped at the out-of-pocket cost of water quality improvement (least preferred); compliance credits do not currently have a duration-one year, five years, thirty years? Technology not a dime a dozen, but still moving that direction
  7. How will NPS loadings from various land uses be determined?
  8. How will compliance be insured and who will be the responsible party for long term maintenance of these offset locations? Because the point source discharger can line up its own nonpoint BMPS offsets, this can be written into a permit and the discharger will be

responsible if the farmer doesn't hold up his end of the deal. Brokers will probably be necessary. Since; the discharger is ultimately responsible. It is planned for there to be an entity-DEQ, DCR, SWCD under contract, etc to monitor and require documentation; current cost share program similar-documentation and inspection. SWCD and DCR have the qualifications to monitor and inspect

9. How does a NPS offset of an increased PS loading result in net reduction? Must be higher trading ration than 1:1 to see benefitted.
  10. The Exchange Association-formed of municipal and industrial permittees in state; will be governed by Board of Directors; model used to credit permit system-NC and CT nutrient trading systems guided, although VA created from scratch
- b. The second half of the panel discussion consisted of two parts. The first part opened the floor up for Workgroup members to ask questions to specific panel members. The second part launched a discussion with Mike Templeton and Rich Gannon at the North Carolina Department of the Environment and Natural Resources. They discussed the successes and obstacles they faced in the Tar Palmico and the Neuse River Basin with regard to nutrient trading. Underlying difference between the two state rule structures were discussed.