



## Water and Ecosystems Committee

March 29, 2011  
Alexandria, Virginia  
Meeting Notes

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### **Welcome**

Commissioner Tom Easterly (IN), Chair, introduced Teresa Marks, Director of the Arkansas DEQ, as the next Chair of the Water Committee.

### **State Presentation**

#### **Dave Paylor, Director, Virginia DEQ**

*Chesapeake Bay TMDL – Virginia State Experience*

[http://www.ecos.org/files/4401\\_file\\_Paylor\\_ECOS\\_final.pptx](http://www.ecos.org/files/4401_file_Paylor_ECOS_final.pptx)

### **State Questions and Comments**

- SC – What should other states watch out for?  
*Director Paylor:* Make certain that the standards you have in place are the right ones.
- DE – EPA gave states a lot of autonomy and helped Delaware integrate some of the programs. States need to align funding sources from USDA and U.S. EPA programs.  
*Director Paylor:* Yes, that's right.
- NH – USDA programs – Secy. Vilsack has identified clean and abundant water sources as a goal. Are Chesapeake Bay states finding that the USDA has, in fact, implemented this?  
*Director Paylor:* Yes, there is more activity with USDA since the Presidential Order. However, the financial need is \$7 - \$10 billion to accomplish this and the federal government is still talking about funding in the millions.
- DE – Yes, current funding for the Chesapeake Bay cleanup program is eight-to-one EPA to USDA

### **Speaker**

#### **Nancy Stoner, Acting Assistant Administrator for the Office of Water**

- Pleased with “our ability to work through issues in the Bay”
- Current funding challenge will make it more difficult to achieve goals
- New Gallup poll on environmental issues showed that Americans care about water, scoring higher than global warming. Not much change from previous polls
- Asked states to include in their messaging the economic value of water to anglers, boaters, farmers, property values, etc.
- EPA released final clean water strategy yesterday “Coming Together for Clean Water.” EPA considers it a framing document of themes and challenges, representing the current thinking at EPA.
- Nutrient pollution is a major area of focus at EPA because the agency “hasn't turned the corner yet” on addressing the issue. The number of water bodies showing nutrient pollution is rising. Nitrate pollution of wells =drinking water contamination, which needs to be addressed by the agency now.
- On March 16, Acting AA Stoner sent a memo to regions with a framework for addressing nutrient pollution entitled, *Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions*. EPA's focus for nonpoint runoff of nitrogen and phosphorus pollution is on promoting proven land stewardship practices that improve water quality. “Much work is being done of the ground and we need to expand from pilot projects to full implementation of statewide strategies. “

- The Corps and EPA jointly released for comment draft guidance on Clean Water Act (CWA) jurisdiction. It “does not pick up any additional waters not already protected.” EPA is working closely with the Corps, Interior, USDA and other federal agencies on the guidance.

#### State Questions and Comments

- MA – numeric criteria...not the most effective way to deal with phosphorous  
AA Stoner – you need numerics to establish TMDLs; not the only option though
- OR – water quality standards...having the right standard is all-important. It takes a very long time to get approval of standards to it slows down everything. The process needs to be streamlined. Would like EPA to share a list of flexible implementation tools, as states need to know what’s available.
- MT – have developed numeric nutrient criteria for nitrogen and phosphorus but haven’t passed them yet. Have a state bill to grant variances but getting resistance on it from their EPA Region. How can the state get the flexibility it needs? Especially when the approach they have will reduce nutrient pollution.
- SC – the agency has been working on both the Clean Water Act Action Plan and Coming Together for Clean Water. How do they work together? Also, how are you preparing to address the coming water shortages in this country?  
AA Stoner – the CWA action plan focuses on electronic reporting and getting information out to the public; also ‘efficiencies’ in carrying out the CWA.  
The water shortage issue has not been talked about within the agency nearly enough; statutes don’t help much.
- NC – A lot of time is spent on rules. In many instances, chlorophyll-a is a better indicator than nitrogen/phosphorus...is EPA thinking like that at all?
- RI – Even if state and local government do everything EPA asks, water quality goals still won’t be reached according to municipalities whose resources are strained. Also, how do we fund stormwater management?  
AA Stoner – On water quality standards, still quite a few things that can be done relatively easily in nutrients. The stormwater rule is all about getting money to local jurisdictions.
- IN – Pesticide spraying – will EPA issue a general permit?  
AA Stoner – Yes.  
Clarification of remarks made by Administrator Jackson at lunch yesterday: although EPA doesn’t want to develop numeric limits, EPA wants states to develop numeric limits.
- DE – What’s in the 316 (b) rule signed yesterday?  
AA Stoner – the proposed rule does not require closed loops for existing facility, only new ones.

#### **Resolutions**

##### *Revised Draft Resolution # 04-3: Small Community Challenges*

- NH proposed amendment – in last paragraph change ‘delegated’ to “designated”
- Approved

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- WI proposed amendment –in last paragraph, after the word *including* add: “resuming state-led operational compliance assistance”
- Approved
- The committee unanimously approved the revised, amended resolution.

*Revised Draft Resolution #08-1: ECOS Urges Congress to Reauthorize and Fully Fund the CWSRF*

- The committee unanimously approved the revised resolution

*Reaffirm Resolution #08-3: State Delegation of Clean Water Act Section 404 Permit Program*

- CT proposed amendment – at the end of the first *therefore* add: “that demonstrate a robust commitment and capacity to protect wetlands”
- Approved – yeas win (only about three nay votes)
- DE – need something that speaks to the avoidance of duplication with the U.S. Army Corps of Engineers
- IN – an EPA-state workgroup is working on these issues right now
- TX – assumption is a resource issue. In order for Texas to apply for the program, they first would have to see the funding for it.
- ECOS – that is true; no categorical grant for the 404 program
- The committee approved the amended resolution.

Resolutions are posted at: <http://www.ecos.org/section/policy/resolution/?committee=2>

### **Presentation**

Robert Zimmerman, Director of External Affairs, Delaware Department of Natural Resources and Environmental Control; Chair, State-EPA State Water Quality Management Resource Analysis  
[http://www.ecos.org/files/4414\\_file\\_Resource\\_Analysis\\_Project\\_overview\\_March\\_29\\_2011.pdf](http://www.ecos.org/files/4414_file_Resource_Analysis_Project_overview_March_29_2011.pdf)

### **Retrospective Review of EPA Rules**

Please review pages 18 – 47 of the rules review document, as well as the multi-media section. The Water Committee will conduct a call next week (April 7) to determine which proposed rules should be included in ECOS’ list to go forward to EPA.

### **Closing Remarks**

Teresa Marks – states should think about goals and priorities for the coming years where we can come to consensus for discussion in an upcoming call.

### **EPA Call with States**

April 28, 3-4:30 EDT

### **Upcoming Conference Call Schedule**

Thursday, **May 12**, 2 – 3 EDT  
Thursday, **July 14**, 2 – 3 EDT  
Thursday, **August 4**, 2 – 3 pm EDT  
Thursday, **September 1**, 2 – 3 EDT

### **Next Committee Meeting**

September 25, 2011 - September 27, 2011  
[2011 ECOS Annual Meeting](#)  
Indianapolis, IN