



# Virginia Coastal Zone MANAGEMENT PROGRAM

Coastal Policy Team  
Meeting Notes  
Tuesday, September 20, 2016  
10am-3:00pm

Location: DEQ Central Office, 629 E. Main Street, Richmond VA

## **Enforceable Policy Agency Issues/Initiatives**

CZM member agency representatives responsible for implementing federal consistency and the 10 core policies of the program provided 5 minute presentations on items of importance for the CPT:

### **DEQ/EIR Federal Consistency: Tina Sullivan**

Ft. Belvoir contacted EIR about de minimis events on Federal Department of Defense lands when determining Federal Consistency. Virginia is looking into developing a list of de minimis activities and environmentally beneficial activities in regards to Federal Consistency on Federal Department of Defense lands. The Commonwealth of Virginia would work with the Department of Defense to come up with these activities. Virginia is looking at what Maryland has already developed. MRC and DGIF suggested that Virginia may want to approach certain activities differently than Maryland. **CPT members were asked to look at the two files (see [http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Sullivan.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Sullivan.pdf) and [http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Sullivan2.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Sullivan2.pdf) for copies of files) Tina sent to them regarding Maryland's MOU with the Department of Defense and provide comments to her by the end of October.**

### **DGIF/Wildlife: Becky Gwynn and Ray Fernald**

(see

[http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Gwynnn.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Gwynnn.pdf) for slides)

In April, DGIF acquired about 2650 acres in New Kent County. There are over 700 acres of nationally declining wetlands being protected with this acquisition. \$9.3 million dollars were spent on the land. This land provides excellent conservation and public recreation value. USFWS provided much of the acquisition funds. Others funders were VA Land Conservation Foundation, TNC, NWTF, DU, WFV, and private donors.

The USFWS was petitioned to look at 404 species for possible Threatened and Endangered Species listing in 2010. The USFWS will address 251 existing candidates by 2017. From 2017-2023 USFWS will look at 361 additional species. Nearly half of the species occur on eastern seaboard. Virginia will provide input on the determinations. 60 species occur in Virginia. USFWS will be looking at critical habitat at the same time as proposing the listing. Many species

have no critical habitat designation. DGIF is still open to looking into state-listed Threatened and Endangered Species as an addition to CZM's enforceable policies.

**MRC Marine Fisheries: Alicia Nelson**

(see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Nelson.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Nelson.pdf) for slides)

Climate change effects (sea level rise and shifting and changing species distributions) are affecting fisheries already. VMRC will work with Federal management groups and interstate groups on climate change effects. Some challenges include: timing of migration and range of species; state quota based management using historic reference points; unknown effects of climate change; invasive species and emerging species. There will be a Commission meeting next Tuesday, September 27<sup>th</sup> with climate change impact discussed. The CPT was invited to attend.

**MRC Habitat: Chip Neikirk**

The General Assembly passed legislation on general permits for living shorelines where living shorelines are the preferred use. A year ago one permit was developed on those projects where the fetch was ½ mile or less. So far 13 general permits have been issued that affected 2000 feet of shoreline. Some monitoring is required – photos and a brief report for two growing seasons beyond initiation of project. The second permit is more complex; where erosion is occurring. A criterion is that the project will have to create or protect a marsh at least eight feet wide. The owner must notify adjoining property owners of the project. If the adjoining property owners don't concur, the owner wanting to do the living shoreline project can go through the regular process and still could get a permit through the local Wetland Board. The general living shoreline trend since 2011, was that 24% of shoreline that was treated for erosion had a living shoreline on the shoreline. This year it's 28%. Chip Neikirk said that the legislation also mandated that localities consider shoreline management in their Comprehensive plans.

**DEQ Air: Tom Ballou**

(see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Ballou.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Ballou.pdf) for slides)

The Clean Power Plan aims to reduce air emissions from the utility sector. Each state has its own target and goals. The plan aims to increase energy efficiency and to shift from coal to natural gas, and renewable energy. This is a staged program starting in 2022. By 2030, the state should meet its goal. The final plan is to be submitted by 2018. The Clean Power Plan could change depending on Supreme Court decisions. Virginia emitted 47.5 million metric tons of CO<sub>2</sub> in 2000. This amount decreased to 32.7 in 2017. 27.4 million metric tons of CO<sub>2</sub> in 2030 is the goal for Virginia. There are 24 affected sources (power plants) in Virginia. Some have already been retired. DEQ has carried out some listening sessions, formed a stakeholder group in order to seek common ground and discuss the types of programs the group would like to consider. At this point, the state budget dictates that Virginia (DEQ) cannot "prepare or submit" a plan.

### **Chesapeake Bay Preservation Act: Joan Salvati**

(see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Salvati.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Salvati.pdf) for slides)

Localities created resource protection areas and resource management areas and mapped them starting in the late 1980's; subsequently they have converted these maps into digital GIS. There are also 10 performance criteria to be achieved through local ordinances and comprehensive plans. When the Bay Act started, some localities didn't have zoning – now they have to have zoning ordinances. Plan review processes were weak; now they are required. In 2004, CBLAD was merged into DCR, then reorganized into the stormwater program at DCR. The General Assembly later moved Bay Act responsibility to DEQ. The Water Division is made up of Water Permitting and Water Planning. Bay Act implementation now rests with the Water Planning program. Compliance review stopped for about 3 years. As reviews of localities' local programs were reinstated, much back sliding in program implementation was discovered. Between 2012 and 2015, 14 reviews were completed. For the current review process, 35 of 84 Bay Act localities' compliance reviews have been completed. DEQ is looking at all Performance Criteria now, and some funding for implementation is currently available. The Water Planning Program's Bay Act team will be involved with the TMDL – Phase III WIP.

### **VDH Division of Onsite Sewage and Water Services: David Tiller**

Treatment requirements for onsite sewage systems have increased over the years. When an onsite sewage system fails and the Board of Health's regulations impose a requirement for treatment beyond the level of treatment provided by the existing sewage system, Code of Virginia § 32.1-164.1:1 allows an owner to request a waiver to the additional treatment. The waiver becomes null and void at the time of property transfer with a few exceptions. The Virginia Department of Health (VDH) received a 50-50 cost-share grant in 2012 from the National Fish and Wildlife Foundation (NFWF) in the amount of \$750,000 to retire treatment waivers (bring the systems into full compliance) in the Three Rivers Health District. The grant was set up to limit the amount to \$15,000 (\$7,500 from the grant and \$7,500 match from the owner) per project. There were approximately 90+ owners in the Three Rivers Health District that had received treatment waivers. After one year from the beginning of the grant period, no owners had elected to participate in the program. VDH with concurrence of the NFWF changed the scope of the grant to reduce the amount of treatment waivers being requested by allowing owners who were eligible for a waiver to receive grant funds to repair their failing sewage systems to full compliance without using the waiver. The grant amount was reduced to \$400,000. At the end of the performance period, 48 failing onsite sewage systems had been brought into full compliance (4 sewer connections and 44 onsite sewage system repairs) which should reduce total nitrogen by approximately 500 pounds per year along with fecal coliform reductions. There were owners that could not be helped as the grant funds became exhausted.

### **VDH Shellfish Sanitation: Keith Skiles**

2100 sites are sampled every four to six weeks. The sites are based on random sampling. VDH takes 125,000 samples a year. They are now looking for hot spots in rivers where there are problems. Over 80,000 acres are now closed. The national program provides opportunity to do assessments and write a management plan, but there is not enough staff. VDH converted 120 acres in the Northern Neck to being closed conditionally. They hope to be able to do this in additional areas.

### **Program Changes Update: Elizabeth Andrews and Ian Day**

(see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Andrews.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Andrews.pdf)

for slides)

The Coastal Policy Center (CPC) is a collaboration of VIMS, Virginia Sea Grant and the William & Mary Law School. They currently have a Virginia CZM Program grant to help develop narrative policies for the current CZM enforceable policies of the Department of Game and Inland Fisheries. An advisory committee is currently being formed with representatives from VDGIF, DEQ -EIR, the Office of the Attorney General, NOAA, and other stakeholders and interested parties. The kick-off meeting will be in early November with regular calls and meetings to continue through March. The CPC has analyzed relevant statutes and drafted narrative policies for consideration at the initial meeting. DGIF's endangered species laws will be considered along with its fisheries laws. Related endangered plant and insect laws administered by the Department of Agriculture and Consumer services will be considered later. Additional CZM funds are available to continue the narrative policies work for other enforceable policies, but a scope of work won't be developed for that grant until there is a better understanding of the level of effort required to develop these policies.

### **Mapping Coastal Ecological Value: Nick Meade**

VA CZM and VCU are updating the Coastal Virginia Ecological Value Assessment (VEVA) dataset with DCR-NH and VDGIF's input. VEVA is a synthesis of state conservation priorities. The 1<sup>st</sup> version was in 2011. A table of all open and planned grants regarding the VEVA update was presented and discussed. (see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2016\\_CZM\\_grant\\_table.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2016_CZM_grant_table.pdf) for slide).

VCU is working on a survey to gauge the use of coastal VEVA. DCR and VDGIF are doing fieldwork in the lower Chickahominy River. In FY 17, VEVA will be updated again using this new Chickahominy field data. 1/3 of the currently available data will reach historic status (25 years old or 40 years old for caves) this coming year. That means it would no longer be used for management decisions, thus it is critical to update these field records now. RRPDC will promote sustainable development that will rely on the data - especially ecotourism. NOAA mentioned the need for geospatial data to identify critical fish habitat and related water quality data. The Bay program's Fisheries Goal Implementation Team is interested in water quality/fish habitat interactions. VCU offered that VEVA could be deconstructed to come up with relevant fisheries data. VCU/VA CZM could look at existing datasets and possibly create a model from the existing data. Local cultural and traditional knowledge of important

fish habitat (e.g. from fishermen) should also be identified. *VA CZM should set up a meeting with VCU and relevant agencies to discuss how to proceed.*

### **Working Waterfronts: Lewie Lawrence**

A State-wide plan is being developed under a CZM Section 309 strategy. This is the 5<sup>th</sup> year of funding for this work. This project focuses on what the Commonwealth of Virginia, private non-profits, localities, etc. need to be doing to ensure the long-term survival of working waterfronts. At the workshop planned for 2017, participants will discuss potential new tools. Stakeholders need clarity in understanding which entities manages which issues in the water and on the land. The CZM program Manager suggested that the plan include an appendix that lists, details and provides contact info for the various authorities. Lewie Lawrence suggested that conflicts characterized as water user to water user are handled by VMRC but if they are between land users and water users, they should be handled by local governments. HRPDC asked whether VMRC looks at the big picture of where shellfish aquaculture should occur and then works with local governments to determine this. MRC noted that the General Assembly may be looking at a legislative response and MRC will be awaiting that outcome. There is already a general permit for cages. Because the oyster industry has rebounded and techniques work, aquaculture is spreading and conflicts are occurring. HRPDC asked if looking at aquaculture across the state could be a good 309 project. Unfortunately it cannot because CZM just began a new 5 year round of 309 strategies and won't be starting new ones until fall of 2021. However this topic could be part of the next Focal area. Also VA CZM funded VIMS in the past to map shellfish suitability or vulnerability and those maps are available on Coastal GEMS. Coastal GEMS may soon be able to host real-time shellfish ground closure maps.

### **Last Year of the FY14-16 Focal Area Grants**

(see

[http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_McKamy\\_focal\\_area\\_history.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_McKamy_focal_area_history.pdf) for slide of history)

Virginia CZM sets aside about \$300 to 350k per year for 3 years at a time to focus on a particular management issue or area. The next focal area will need to be decided in winter 2017 for inclusion in the spring 2017 application to NOAA for grants that will begin in October 2017. Current focal area projects were discussed:

### **Seaside Restoration Grants (FY 2011 - FY 2016: Bob Orth and Mark Luckenbach**

(see

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Luckenbach.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Luckenbach.pdf) and

[www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_Orth.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_Orth.pdf) for slides)

The goal of the Seaside Restoration grant is to restore eelgrass and bay scallops into the seaside bays of VA's Eastern Shore. In addition to CZM funding, VIMS has received grants from Keith Campbell Foundation, The Nature Conservancy and the Army Corps of Engineers. The CZM Seaside Restoration

grants began in 2009 and continued from the Seaside Heritage Program grants that spanned 2002-2008. Acres planted with eelgrass seeds and acres of eelgrass mapped were shown. Acres mapped have grown exponentially due to the spread of plants from the seeded areas.

Bay scallops had been extirpated from the Seaside in the 1930s. After sufficient eelgrass acreage was restored, VIMS secured bay scallops North Carolina. Scallops live for only 1 ½ to 2 years. VIMS has been spawning scallops and building up the broodstock at their Wachapreague lab. They are held in cages on the seaside to grow out to ensure a better survival rate. There was a large increase in scallops in the 2014 and 2015 year classes however in 2016 many were lost for unknown reasons. So far 2016 numbers are looking better. Aquaculturists are seeing lots of scallops everywhere. An unintended consequence is a growing interest in scallop aquaculture on the Shore.

Discussion ensued as to whether any places in the Chesapeake Bay would support SAV restoration efforts. Bob Orth recommends we watch for populations of plants that are spreading naturally in support restoration in those areas. However, the long-term trend is not very encouraging due to climate turbidity and temperature changes. The outlook for eelgrass in the lower Chesapeake Bay is not good. However, freshwater plants are different. The Mattaponi River and Pamunkey River supports hydrilla. The water clarity is very poor in the Rappahannock River. The Potomac River from Quantico up is doing well for grasses and below Quantico is not doing as well. Some of the areas in the rivers are so dynamic they have to put in adult plants, not seeds.

#### **FY17-19 Focal Area Priorities & November Coastal Partners Workshop: Laura McKay**

Results of the survey on topics for the Coastal Partners Workshop were shared (see [www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT\\_Meeting\\_9\\_20\\_2106\\_CPWorkshop\\_survey.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/CoastalZoneManagement/CPT_Meeting_9_20_2106_CPWorkshop_survey.pdf) for file). Several topics were clearly ranked “high” and will be set up as plenary sessions. Others will be set up as concurrent given the survey showed a strong preference for a mix of plenary and concurrent sessions.

#### **Ocean Management – Laura McKay, Shep Moon and Virginia Witmer**

Copies of the draft Executive Summary were distributed. A trailer for a film about ocean planning was shown (<https://youtu.be/GHiYOFF5ZcM>). The Mid-Atlantic Ocean Action Plan will be submitted to the National Ocean Council on October 31. Once certified, implementation is expected to begin in January 2017. Laura developed 5 of the 6 healthy ocean ecosystem actions and will be the state co-lead on four actions during implementation: identifying and assessing ecologically-rich areas; mapping shifts in ocean species; developing an ocean acidification monitoring network; and developing a regional marine debris strategy(ies). Additional actions in the plan she will work on include further development and maintenance of the ocean data portal and development of a regional applied research agenda. Many of the actions in the plan to meet the goal of sustainable uses revolve around providing data for and using data in the portal to better inform decision-making.

Shep provided an update MARCO Climate Change Action Team (CCAT) grant activities. CCAT will be involved in the NOAA Regional Coastal Resilience Grant received by MARCO, including helping with development of a plan for an ocean acidification monitoring network for the Mid-Atlantic. A MARCO grant to the National Wildlife Federation (NWF) to help advance the use of natural and nature-based features to improve coastal resiliency has been extended. NWF will use unspent funds to support an additional workshop on monitoring and assessment of these features. A MARCO-funded draft report from the Environmental Law Institute that evaluates how resilience goals are incorporated into wetland management programs in the Mid-Atlantic should be available soon.

Virginia provided an update on the Balloon Reduction grant (funded by NOAA CZM and Marine Debris Program) with Clean Virginia Waterways. The goal is to use social marketing campaigns to reduce helium balloon debris in Virginia. The pilot campaigns in spring 2017 will focus on colleges and universities and wedding event planners. A two-day training workshop on community based social marketing with Doug McKenzie-Mohr will be held June 5-6, 2017. It will include a 1 ½ hour overview of social marketing for managers.

### **306A Projects and Guidance: John Kuriawa**

The 306A guidance for low cost construction and land acquisition grants is being updated including the environmental compliance responsibilities. The form dealing with environmental compliance will be more open-ended than the previous “categorical exclusion checklist.” The updated guidance could come either at the end of 2016, or next spring. There will be an official comment period in the spring of 2017. There will be no blanket categorical exclusion on the overall award. \$200,000 (rather than \$100,000) or less will now be considered a small project. The cost threshold for land acquisition will likely be \$500,000. For low cost construction projects to be eligible, the CZM dollars must be a significant portion of the total cost.

### **Other Partner Updates**

*Sea Grant* – Fellowships are being advertised now – this includes the Coastal Policy Fellowship.

*VDOT* - VDOT is expanding their TMDL program and has hired a new employee. VDOT posted a Request for Proposals for a \$5 million contract to prepare a TMDL Action Plan.

Discussion: MPPDC asked how the CPT and VA CZM are recognizing the Pamunkey Tribe. The CZM Manager reported that the tribe may be extremely busy dealing with all that comes with Federal recognition but has engaged a bit with Mid-Atlantic ocean planning and has a seat on the Regional Planning Body. NOAA will check on whether federally-recognized tribes are eligible for 306A projects through the VACZM Program. Virginia CZM hopes to engage the Chickahominy tribe in its work in the lower Chickahominy. MRC asked if tribes have to get federal consistency determinations for work on their land. [NOAA reported that would be unusual but will check on this.](#)

**Attendees:**

Elizabeth Andrews - Wm & Mary CPC  
April Bahen – VA CZM  
Tom Ballou – DEQ Air  
John Bateman - NNPDC  
Sharon Baxter – DEQ P2  
Steve Begg – VDOT  
Jason Bulluck – DCR-NH  
Jennifer Ciminelli – VCU  
Ian Day – Wm & Mary CPC  
Ray Fernald - DGIF  
John Fisher – DEQ EIR  
Lewis Gillingham – VMRC  
Becky Gwynn - DGIF  
Tracey Harmon - VDOT  
Todd Janeski – VCU/DCR-NH  
John Kuriawa - NOAA  
Sam Lake – VA Sea Grant  
Lewie Lawrence - MPPDC  
Mark Luckenbach – VIMS  
Pam Mason - VIMS  
Ben McFarlane - HRPDC  
Laura McKay – VA CZM  
Nick Meade – VA CZM

Corey Miles - NVRC  
Donna Milligan - VIMS  
Shep Moon – VA CZM  
Chip Neikirk - VMRC  
Alicia Nelson - VMRC  
Bob Orth – VIMS  
Meghann Quinn – DEQ P2  
Willy Reay - CBNERRVA  
Dan Salkovitz – DEQ Air  
Joan Salvati – DEQ Water  
Keith Skiles - VDH  
Curt Smith - ANPDC  
David Spears - DMME  
Sarah Stewart- RRPDC  
Tina Sullivan – DEQ EIR  
David Tiller - VDH  
Tony Watkinson - VMRC  
Joe Weber – DCR-NH  
Julia Wellman – DEQ EIR  
Virginia Witmer – VA CZM  
Richard Snyder, VIMS Wachapreague Lab (on the phone)