



**Delaware River Basin Commission**

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Executive Director

**MEETING SUMMARY  
WATER QUALITY ADVISORY COMMITTEE  
JANUARY 28, 2016**

**ATTENDEES:**

<b>NYS DEC</b> Scott Stoner <i>(via telephone)</i>	<b>DE DNREC</b> David Wolanski <b>**Chair of WQAC**</b>
<b>NJ DEP</b> Frank Klapinski	<b>PA DEP</b> Tom Barron
<b>EPA</b> Wayne Jackson, EPA, Region II <i>(via telephone)</i> Evelyn MacKnight, EPA, Region III	<b>Academia Representative</b> John Jackson, Stroud Water Research Center
<b>Environmental Organization</b> Maya van Rossum, Delaware Riverkeeper	<b>Regulated Community Representatives</b> Bart Ruiten, Chemours Bryan Lennon, City of Wilmington
<b>National Park Service</b> Allan Ambler	<b>Local Watershed Organization</b> Abigail Pattishall, Wildlands Conservancy
<b>DRBC:</b> Pamela Bush, Commission Secretary / Asst. General Counsel Greg Cavallo, Senior Geologist Tom Fikslin, Manager, Modeling, Monitoring & Assessment Branch Ron MacGillivray, Senior Envir. Toxicologist Ken Najjar, Manager, Planning & IT Branch Elaine Panuccio Erik Silldorff, Senior Aquatic Biologist Namsoo Suk, Supervisor, Modeling Section Steve Tambini, Executive Director Victoria Trucksess John Yagecic, Supervisor, Standards & Assessment Section	<b>Other Attendees:</b> Chris Arnott, NPS Jason Cruz, PWD Michael Dillon, Manko-Gold Brenda Gotanda, Manko-Gold Denise Hakowski, EPA, Region III Kelly Heffner, PADEP Heather Jensen, Army Corps of Eng. <i>(via telephone)</i> Josef Kardos, PWD David Katz, PWD Danielle Kreeger, Part. Del. Estuary Rhonda Manning, PADEP Meg McGuire, Delaware Currents Scott Northey, Chemours Angela Padeletti, Part. Del. Estuary Nicholas Patton, Delaware Riverkeeper Network Ian Piro, DELCORA Alison Quimby, City of Wilmington Larry Sandeen, Rohm & Haas Peter Sharpe, National Park Service Eric Vowinkel, Rutgers Univ. Richard Watson, Hamilton Twp WPCF Kirk White, USGS

### **1. Announcements**

- No audio recording of the meeting will be taken
- Added item to the agenda: David Katz from Philadelphia Water Department will discuss their plans for a Dissolved Oxygen Improvement Partnership in the estuary

### **2. Review & Approval of Meeting Minutes**

- The meeting summary / minutes from March 26, 2015, were approved without revision

### **3. “Existing Use” Next Steps**

The Committee began the discussion by reviewing the history of the Existing Use evaluation and the table of options (Option A – F) distributed to the Committee by DRBC for possible paths forward. Committee members expressed their rationale for supporting one or more of the listed options, as well as arguments for not supporting alternative options. One of the central issues was the timeframe for moving forward. In addition, both the legal and regulatory landscapes were discussed relative to the various options under different timelines. Members and stakeholders from the regulated community reiterated their need for a single regulatory target for long-term planning and capital investments, and that the capital costs for further improvements were substantial. In addition, at multiple points in the discussion, members emphasized that the Existing Use improvements are a tremendous success story that needs to be more widely celebrated.

David Katz from the Philadelphia Water Department then presented a supplemental initiative to improve dissolved oxygen in the estuary in the near-term on a voluntary basis and to continue to support implementation of DRBC’s Nutrient Criteria Plan. Termed the “Delaware River Dissolved Oxygen Improvement Partnership,” the initiative would seek to demonstrate innovative technologies for BOD reductions and then share their experience using these technologies with other stakeholders throughout the region. First among the demonstrations would be a side-stream deammonification process for Philadelphia Water Department’s Southwest plant at a cost of roughly \$30 million. This PWD presentation generated additional discussion on both the PWD ideas and the options table for Existing Use.

The Committee then spent additional time more specifically discussing the possible timeline, particularly as they relate to the development of a water quality model for the estuary to evaluate “attainability” for both uses and dissolved oxygen criteria. DRBC acknowledged that financial resources will, in part, determine how quickly this work can be completed. Implementation questions for any new use and dissolved oxygen criteria were also raised, as well as the anti-backsliding protections for the Existing Use under Clean Water Act and DRBC regulations. The group then discussed the data collection efforts (both water quality and biological) that have supported this process to date, and what additional data might be needed in the future.

Prior to breaking for lunch, Committee members again articulated their preferences among the options presented in the Existing Use table.

Following lunch, Maya van Rossum presented a new option developed by a subset of the Committee members over lunch. This new option (“Option G” added to the options table with

revised final language – see Attachment) included a DRBC resolution acknowledging a higher Existing Use, deadlines for actions toward completing the water quality model and adopting revised water quality standards, and a link to ammonia criteria development. This new option received extensive discussion, including efforts to modify the original language to reflect the wider views of other Committee members.

The Committee then moved to a series of votes related to the Existing Use path forward.

**Motion #1: Shall the new option developed over lunch (as revised during the meeting) be added to the table of options distributed by DRBC as a new “Option G”?**

Vote: 10 “Ayes” – John Jackson, Maya van Rossum, Abigail Pattishall, Bryan Lennon, David Wolanski, Frank Klapinski, Scott Stoner, Tom Barron, Evelyn MacKnight, Allan Ambler  
1 “Nay” – Bart Ruitter

**Motion #2: Shall each member be allowed both a 1<sup>st</sup> preference and a 2<sup>nd</sup> preference vote for each of the eight “Existing Use” options?**

Vote: 11 “Ayes”

**Motion #3: What path forward does the WQAC recommend to the Commissioners with respect to the Aquatic Life Use and associated Dissolved Oxygen criteria for the Delaware Estuary?**

Vote: *(see attached table for the language of each option)*

Option A (no votes in favor)

Option B (no votes in favor)

Option C – Bart Ruitter (1<sup>st</sup> preference), Bryan Lennon (2<sup>nd</sup> preference)

Option C1 – Frank Klapinski (1<sup>st</sup> preference), Bryan Lennon (1<sup>st</sup> preference), Scott Stoner (1<sup>st</sup> preference), Tom Barron (2<sup>nd</sup> preference), Bart Ruitter (2<sup>nd</sup> preference), David Wolanski (2<sup>nd</sup> preference)

Option D – John Jackson (2<sup>nd</sup> preference)

Option E – Evelyn MacKnight (2<sup>nd</sup> preference), Allan Ambler (2<sup>nd</sup> preference)

Option F – Maya van Rossum (2<sup>nd</sup> preference)

Option G – John Jackson (1<sup>st</sup> preference), Tom Barron (1<sup>st</sup> preference), Abigail Pattishall (1<sup>st</sup> preference), David Wolanski (1<sup>st</sup> preference), Evelyn MacKnight (1<sup>st</sup> preference), Maya van Rossum (1<sup>st</sup> preference), Allan Ambler (1<sup>st</sup> preference)

*[Abstentions – Pattishall (2<sup>nd</sup> preference), Klapinski (2<sup>nd</sup> preference), Stoner (2<sup>nd</sup> preference)]*

#### **4. Other Business**

The Committee had discussed whether any action was necessary or advisable on the DRBC report “Existing Use Evaluation for Zones 3, 4, & 5 of the Delaware Estuary Based on Spawning and Rearing of Resident and Anadromous Fishes” as revised through September 30, 2015. The Committee voted unanimously to support the release of this draft report by DRBC.

**Motion: The WQAC recommends that DRBC finalize and move to public release the draft report, “Existing Use Evaluation for Zones 3, 4, & 5 of the Delaware Estuary Based on Spawning and Rearing of Resident and Anadromous Fishes,” and recognize the efforts of DRBC staff in preparing this report.**

Vote: 11 “Ayes”

Meeting Adjourned @ 4:07 pm.

## Water Quality Advisory Committee (WQAC) - January 28, 2016

**Question:** What path forward does the WQAC recommend to the Commissioners with respect to the Aquatic Life Use and associated Dissolved Oxygen criteria for the Delaware Estuary?

Option	Designated Use	D.O. Criteria	Regulatory Revisions	Technical & Administrative Timeline	1 <sup>st</sup> Preference: Votes of WQAC Members	2 <sup>nd</sup> Preference: Votes of WQAC Members
A	Adopt Existing Use to include “improving propagation”	Keep existing D.O. criteria	<ul style="list-style-type: none"> <li>Single regulation revision initiated in the immediate future</li> </ul>	Approx. 1 to 2 years	(none)	(none)
B	<ul style="list-style-type: none"> <li>Adopt Existing Use to include “improving propagation” initially</li> <li>Revise to Highest Attainable Use (HAU) following completion of UAA (may reflect 101(a)(2) uses).</li> </ul>	<ul style="list-style-type: none"> <li>Keep existing D.O. criteria initially</li> <li>Single revision to the D.O. criteria protective of HAU following UAA.</li> </ul>	<ul style="list-style-type: none"> <li>Two regulatory steps (depending on HAU attainability results)</li> <li>Near-term regulation change to adopt Existing Use</li> </ul>	Approx. 6 to 8 years	(none)	(none)
C	<ul style="list-style-type: none"> <li>No initial regulatory action on Designated Use</li> <li>Adopt HAU at end of UAA (may reflect 101(a)(2) uses)</li> </ul>	D.O. criteria protective of the HAU following UAA	<ul style="list-style-type: none"> <li>Single regulation revision at the end of the UAA</li> </ul>	Approx. 4 to 6 years	<p><b>1 vote</b></p> <p>Regulated – Industry (Ruiter)</p>	<p><b>1 vote</b></p> <p>Regulated – Municipal (Lennon)</p>
C1	<ul style="list-style-type: none"> <li>No initial regulatory action on Designated Use</li> <li>DRBC Resolution recognizing “improving propagation”</li> <li>Adopt HAU at end of UAA (may reflect 101(a)(2) uses)</li> </ul>	D.O. criteria protective of the HAU following UAA.	<ul style="list-style-type: none"> <li>Single regulation revision at the end of the UAA</li> </ul>	Approx. 4 to 6 years	<p><b>3 votes</b></p> <p>NJ (Klapinski) NY (Stoner) Regulated – Municipal (Lennon)</p>	<p><b>3 votes</b></p> <p>DE (Wolanski) PA (Barron) Regulated – Industry (Ruiter)</p>
D	<ul style="list-style-type: none"> <li>Adopt 101(a)(2) Uses first</li> <li>Initiate UAA process</li> <li>Possible revision downward to HAU following completion of UAA</li> </ul>	<ul style="list-style-type: none"> <li>Keep existing D.O. criteria initially</li> <li>Single revision to the D.O. criteria protective of HAU following UAA</li> </ul>	<ul style="list-style-type: none"> <li>Two regulatory steps</li> <li>Initially revise the Designated Use with no D.O. criteria revision</li> <li>Later revise the use and D.O. criteria</li> </ul>	Approx. 6 to 8 years	(none)	<p><b>1 vote</b></p> <p>Academic (Jackson)</p>

Option	Designated Use	D.O. Criteria	Regulatory Revisions	Technical & Administrative Timeline	1 <sup>st</sup> Preference: Votes of WQAC Members	2 <sup>nd</sup> Preference: Votes of WQAC Members
E	<ul style="list-style-type: none"> <li>Adopt 101(a)(2) Uses first</li> <li>Possible revision downward to HAU following UAA</li> </ul>	<ul style="list-style-type: none"> <li>D.O. criteria fully protective of the 101(a)(2) use first</li> <li>Possible revision to D.O. criteria protective of HAU following UAA</li> </ul>	<ul style="list-style-type: none"> <li>One or two regulatory steps (if UAA is conducted and indicates lower use/criteria)</li> <li>Near-term regulation change to adopt 101(a)(2) use and protective criteria</li> <li>Possible second step if UAA indicates lower Use/Criteria (HAU)</li> </ul>	Approx. 8 to 10 years	(none)	<b>2 votes</b>  NPS (Ambler) USEPA (MacKnight)
F	Adopt 101(a)(2) Aquatic Life	D.O. criteria fully protective of the 101(a)(2) use	Single regulation revision initiated in the immediate future	Approx. 1 to 2 years	(none)	<b>1 vote</b>  Environmental (van Rossum)

Option	Recommendations	1 <sup>st</sup> Preference: Votes of WQAC Members	2 <sup>nd</sup> Preference: Votes of WQAC Members
G	<ul style="list-style-type: none"> <li>Immediately propose a Resolution that recognizes propagation as an existing use to be later implemented</li> <li>Within three years DRBC will calculate wasteload allocations needed to accommodate a use of propagation assuming 5 mg/l DO (DRBC's number for other zones where protect for propagation)</li> <li>Within 2 additional years (5 years total) DRBC will set a designated use that meets the highest attainable use or, at a minimum, that sets the designated use as the existing use (as recognized in the resolution) with DO criteria of 5.5 over a 7 day average</li> <li>The resolution proposed will include a schedule with specific milestones to achieve these</li> <li>Resolution will include a commitment of dedicated resources</li> <li>Resolution would acknowledge that ammonia criteria are important for addressing the D.O. issue in the estuary so any HAU analysis would include consideration of ammonia criteria and a proposed standard by the end of 5 years</li> </ul>	<b>7 votes</b>  Academic (Jackson) DE (Wolanski) Environmental (van Rossum) NPS (Ambler) PA (Barron) USEPA (MacKnight) Watershed (Pattishall)	(none)

Abstentions: NJ – 2<sup>nd</sup> (Klapinski)  
 NY – 2<sup>nd</sup> (Stoner)  
 Watershed – 2<sup>nd</sup> (Pattishall)