Friday, May 1, 2020
1:00-3:00 PM
CWSP Stakeholder Engagement Meeting Minutes
In Attendance
- ▪ Vermont DEC/ANR– Neil Kamman, Chris Rottler, Ethan Swift, Angie Allen, Danielle Owczarski, Ben Copans, Karen Bates, Billy Coster
    - ▪ Vermont DEC CWIP – Marli Rupe, Katelyn Bockwoldt, Helen Carr, Rachel Wood
    - ▪ VAPDA/ RPCs – Charlie Baker, Dan Albrecht, Peter Gregory
    - ▪ VACD/ NRCD – Gianna Petito, Holden Sparacino, Jill Arace
    - ▪ WUV/ WRP – Mary Russ, Lyn Munno
    - ▪ GMWEA – Amy Macrellis
    - ▪ LCC/ Water Caucus – Jared Carpenter
    - ▪ VHCB - Karen Freeman
    - ▪ Clean Water Board – Jim Giffin
    - ▪ CLF - Zach Porter
    - ▪ UVM – Christopher Koliba

This meeting was completed remotely over Teams due to COVID-19 and need for social distancing.

Agenda
- Comments/Thoughts on minutes
- General check-in (Neil)
- Project process/selection (Ethan)
- Conflict of Interest (Chris R.)
- Open Mic

1. Comments/Thoughts on minutes
    - Advisory Group has approved minutes from last meeting 4/17
2. General check-in
    - Neil welcomes the AG and gives an overview of the current state of clean water fund revenue and expectations for FY20, looking better than expected
    - Gianna and Holden have a cost matrix to present to group that provides a visualization of roles/responsibilities of parties with funding. Neil proposes that they present this matrix at the end of the meeting today during the open mic section of the agenda.
3. Project process/selection
    - Ethan introduces and reviews the document sent out to AG on project development and coordination
    - Jared: An example of a non-RAP Ag project that is different from the ones listed?
        - Gianna: additional livestock exclusion fencing even at non-eroding banks?
        - Floodplain restoration or riparian work on agricultural land…what is an example of a non- RAP?
        - Ethan: require deeper conversation with partners at Agency of Agriculture. Talked a little bit about what is eligible (10% load allocation) the projects that go above and beyond RAP compliance, hold discussion for another meeting for more nuanced conversation with agricultural representatives
            1. Buffer plantings outside the RAP compliance
            2. Woody buffers, large

- Lyn: what about sub-jurisdictional stormwater that is not GSI
    - Not exclusionary
    - Ethan: depend on the example
        1. Don't think Gray stormwater infrastructure to be part of eligible project types
    - Lyn: different definitions of GSI, stormwater practices that are being utilized for under 3 acre might not fit strict definition of green infrastructure project
    - Dan: agree last point, underground chambers (concrete, non=green) but considered GSI due to infiltration on site
        1. NR projects come to mind
        2. Key driver is whether project is treating the landscape, whether landscape is under permit
    - Ethan: a lot of nuanced discussion, requirements under MS4, stands to deserve a deeper dive on eligible project types, not trying to be exclusionary, be mindful of projects that fit under category and need to come up with master list of projects, we could develop and part of guidance going forward
    - Dan: such as but not limited to language
    - Ethan: maintain flexibility, continue to look at universe of opportunity afforded under that schema
    - Neil: one project in this category of armored stormwater
        1. Plainfield gully project, not a 3-acre site, largely voluntary and armory of gully
    - Ethan: stormwater retrofit and stream instability in that project, serve multiple purposes and gully stabilization is a good example
- Amy M.: Part sub-j developed lands, part outfall/slope/channel stabilization and restoration; ultimately protecting water quality. There are a lot of opportunities for this in the LCB! And they cross all kinds of ownership and jurisdictional boundaries.
    - Plainfield project behind Health Center: issue for a decade, glad finally fixed
    - That type of project with sub-jurisdictional/jurisdictional stormwater developed lands ending up into rivers and crossing multiple boundaries/land types is very prolific
    - CWSP going to run into this type a lot, very beneficial projects but hard to get done
    - Neil: mentions programming dollars received from EPA to identify impactful projects and tidy up gullies such as Plainfield, Calaise, and Deer Brook Gully projects
    - Ethan: other funding options may address those types of issues: CW state revolving loan fund, portion of project NR restoration could be forgiven
- Lyn: comment on project order, thanks Ethan for putting this document together, in many cases the order will be reversed from how it happens in real life, want to make sure that we have an opportunity to crosswalk the different project types/programs
    - Project development working happening prior to project selection work
    - Initial selection is BWQC is selecting kinds of projects, implementing organization reaching out to landowners
    - Ethan: not meant to be final document and sequential process, depends on project type

- Lyn: Potentially project development funds managed differently, only % of projects that come to fruition, stage of process managed differently
- Ethan: all of this is nuanced depending on project type, robust guidance/methodology around what that process may look like, this document is just a starting place
- Charlie B: critical to put more thinking into earlier stage that BWQC needs to decide how to invest in project identification and development, evaluation to get information on table before BWQC decides where to spend money, what is expected in developing projects, working with landowners
- Ethan: continue to massage nuances of this in guidance specific to project and BWQC and their process, all good points
- Gianna: what is the intention of this document (in terms of how closely we are looking to wordsmith)? Is the process from Project ID through implementation going to be dictated as part of required guidance? Is this just to help the committee and DEC wrap their minds about the steps? Ethan is using "development" to mean "design" in NRCD/WUV terminology and is using "project ID" as project development
    1. Feeling prescriptive, not quite sure envisioning moving into guidance other than BWQC and CWSP need to have thought through and decided on project development process and how they will fund it
    2. Ethan: refer to guidance, most of process does not live in rule, this document is intended to be a laundry list of consideration and not meant to be prescriptive, want to identify all points of consideration
        a. Apologies for format, do not envision this document outline to be directly translated into guidance, though many of the project development elements are referenced.
        b. Want to identify all salient points that need to be part of the process
- Dan A: quick comment: Flood resilience is a subset of Hazard Mitigation. May be good to list: Flood Resilience on its own then add Other Hazard Mitigation Benefits
- Dan A: 30/60/90, depends on how fast all that moves, don't want to make it like a zoning bylaw, want to be sure it moves quickly
    - Ethan: one way to increase functionality, way to notify technical program staffer
        1. Wetlands database example: biologist has a certain amount of time to review and approve a project
        2. Ensure projects move along in a timely fashion
- Mary R: Would appreciate an explicit mention of how this process complements/aligns with the Tactical Basin Plan process, which does a lot of the same types of things: project identification & prioritization, etc. Clarifying this would insure the CWSP/BWQC project selection process seats within the current framework - no need to reinvent the wheel.
- Charlie B: is project sometimes the same as "problem?" A lot of these assessments identify the need for a project, but haven't figured out exactly what the project should be.
- Gianna: this ties to Mary's point- this are all great tools to ID stressors and natural resource concerns but that feels more like "basin planning" and bringing that info to the

council to ID where implementers may need to look for projects or where development money should be spent

- Agreeing with Dan and Charlie that there is a lot of great ways to identify where a problem is but that is not the same thing as identifying a project. All great tools that basin planner can bring to council. Project ready for design does take landowner outreach, figuring out who owns the land, working with town, context determining and is a different thing than what is being presented
    1. Ethan: mean that in terms of sequence of how this vetting happens?
    2. Gianna: yes, looking at document, not presenting this in sequence and that's fine since these are just things that need to be considered, wonder if some things need to be considered for the basin planning department and basin planners sitting at the table
        a. Assessment tools that DEC can bring as council but not necessary as a step by step process for CWSP/BWQC
        b. Not project identification, more a basin planning defining the stressors, though the basin planning process looks at current water quality monitoring data to inform geographic priorities, and that can be translated into targets per TMDL implementation.
    3. Ethan: basin as written in act, project identification/selection process should comport with priorities that are identified in the basin plans and that should be driven based on priorities identified through water quality monitoring data
        a. Information should already exist through basin plans, frontloaded and can lead to additional work for landowner outreach and project feasibility
    4. Charlie B: phases of process, basin planning at the front end and some of what is described here overlaps with basin planning work
        a. Phase in between basin planning and implementation (I've been calling identification and develop, not sure if using all same terminology) – what needs to be done
        b. Phase lets decide on cost effectiveness of projects and fund them
        c. What would be helpful: who is responsible
            i. DEC is responsible for basin planning as primary staff,
            ii. we have roles as partners in basin in participating in reviewing basin plan
            iii. middle phase it is very clear that partners primary role in working with landowners and evolve projects into something fundable
            iv. BWQC needs to decide how much money to put into that phase and how much money to partners to do that work
            v. third phase of design and implementation, provider administering fund
        d. appreciate this document, helpful if we got to table/list of phases – worry we are talking in words that are not 100% on same page

5. Ethan: raise two good points
   a. Need to define terms better to use same terminology
   b. Project mechanics of document doesn't reflect on guidance we have discussed nor how funding will flow
- Gianna: integration of basin planning and priorities in directing funding, see a lot of the tools being brought to basin council parts of the meeting, where data is used to shape where funding goes, see a lot of this being integrated into prioritization tool scores projects, metrics and layers get into 80% of scoring and weighting as a clear and succinct tool would be helpful
- Ethan: in development process, see what analytic tools will yield, difficult to say apriori what these projects represent, process in how this will unfold, anticipate being able to frontload projects, figure out how to streamline project development process, thinking about what all the points of consideration might be
- Gianna: streamline means states participation is with basin planner at the council through prioritization matrix, what are the ways to simplify to move projects forward
- Chris K: I'd just ask that we keep the door open to the evolution of models that can take into account new data availability and modeling capacity for decision support.
   - Not to hardwire this
   - We evolve this more sophisticated tools may be developed that allow people to sort and site projects, scope and sequence them to find out when load reductions would come, reduce load upstream with one project how would that affect downstream,
   - Looking at climate change and precipitation may affect this
   - Opportunities to build tools there
   - Nothing specific, idea of flow chart or mocking this up is a great idea to figure out decision support tools and informatics are needed at what stages of project planning and implementation
   - UVM – developing next generation SWAT model for some watersheds, working with Agency, could be beneficial to providers as we go
   - Providers and council communication flow with science community (LCBP) to identify tools that would be useful
   - Plug for future model and data supports
   - Road map tool is a great start
- Ethan: excellent points, references Chesapeake scenario tool, type of complex systems thinking we need in developing and deploying a decision support tool
- Angie Allen: I suggested a "mock" BWQC mtg. at some point...maybe this could be valuable?
   - Useful mock trials to set stage to allow relevant actors to play roles
   - Walking through steps and interactions, identify what works and doesn't
   - What information we need in hand to bring, basin planners need to have in hand to inform meeting to provide support
   - Sitting around a table with a representative council (9 folks) to inform this
   - What information should come from CWSP and be pre-determined to be ready and hit ground running
   - Allow flexibility as well as tools come online

- Neil: outstanding idea, take preparatory work, as we are building rule and guidance it might be timely and interesting to give this a go
    1. Request assistance of LEAN facilitators to facilitate process and do the pre-work to make it a productive meeting to be observed by folks on this group
- Chris K: A process flow chart may be helpful with recommended touch points to data and models during the program? And I like the mock BWQC meeting idea.
- Lyn: interesting idea, fits with what I was saying earlier, crosswalk – walk mock through the process, want to make sure folks who are potential can help walk us through this knowing real life scenarios
    1. Make sure people that are participating are folks who have a great handle on how projects move through right now
    2. Getting feedback from folks on this is important
    3. Make sure document can be read to broader selection of people
- Ethan: there will be opportunity to step back and broader view of what we have, relate to governance structure and how all the fiscal planning works and relates to this whole process
    1. Not intending this to be prescriptive
    2. Some of these will be process steps that may have already occurred
- Lyn: Can we at some point explore how O&M will work between CWSP and Project Implementers ?
    - Unclear think about O&M funding is handled differently and going directly to CWSP
    - How envision who will hold O&M responsibility, if there are options that project implementor has that O&M responsibility and funding to do that work
        1. Has relationship with the landowner
    - Neil: states relationship will be with provider, outcomes the state is seeking is O&M of project, whatever the most efficient method for securing future pound reductions by O&M would be in the interested in provider to do it
        1. Going to be between provider and implementor/network
    - Lyn: make sure whatever the guidance isn't phrased as though they are doing all the O&M but have the ability to manage O&M similarly to project work,
        1. Make sure door is left open
    - Neil: bandwidth to deal with this, wait until we determine the CWSP?
    - Charlie B: not bad to make sure wording is open enough/clear that it is the provider and the sub-contractor with money
        1. Make sure wording isn't so restrictive as not workable
- Chris R: As we can see from the discussion, there is a need for new language/defined terms, but there are also new relationships being created in this new process. Understanding all those relationships is difficult, and identifying them (at the various stages) is where I see we are at. One key relationship is with Watershed Management.
- Charlie B: can you discuss if Partnership and project development block grants will continue into the future?
    - Ethan had it near end of document as a category, continuing into FY21, wasn't sure if it being in that document there was an intention past that point, getting into funding project identification and development
    - Partnership part of that includes basin planning work

- Basin planning not mentioned as part of that category
- Should those two be broken out, as one is continuing definitely and other may not be
- Getting feedback about concern of funding of council members to be at table and participate, looked at statute
    1. Reminded that basin planning funding (500,000) funding to partners for basin planning, BWQC participation, education, and outreach
        a. Don't want to lose these important parts and funding
- Neil: traversed ground before but not so explicit, adding council members and not, the amendments under act 76 tie basin planner dollars to participation at the BWQC table, for specific statutory partners
    1. Will figure that out
    2. Intended to be professional and not volunteer service
    3. Building network to function
- Neil: partnership block grant development into FY21 intended, keep an eye on revenue coming into fund, important to build que
    1. Post formula grant world, once formula grants are up and running not sure see space for project development block grant work or DI block grant work in non-regulatory space
    2. Take form for regulated space (tier 2 municipal SW and tier 3 private SW grant programs)
    3. Not sure doing this in non-regulatory, intent to decentralize
- Lyn: Outside of the Basin, we will still need those funds
    1. Neil: enhancement and protection program, municipal stormwater for the MRGP side will still be available statewide
    2. 3 acres not statewide (Lake Memphremagog and Lake Champlain basins only)
- Ethan wraps up his presentation of document and thanks AG for contribution, discussion, and comments
4. Conflict of interest
    - Chris R: asks Ethan to scroll his document to 80/20 split section
    - Chris R: COI talked previously, training on ethics and in ethics class talked about COI and one of the documents was the VLCT model policy regarding COI
        - Shared the document with AG earlier this week
        - Document summary: talks about importance of having a COI policy that deals with situations with incompatibility with public and private interests of a public official
            1. Not dealing with public official but this is a public work
            2. Conflict between private of BWQC and public interest of BWQC process
        - Good start to look at document as reference
        - Range of concern what COI for BWQC should look like in previous conversations
        - When looking at VLCT COI immediately thought of 80/20 split and where COI should be applied
            1. Goes to the 20% chunk which looks like the subjective part of decision-making process
            2. 80% set up by DEC and informatics and analytics

3. Space in 20% subjective wing of equity section of co-benefits and flood resilience
4. Opportunity for COI on projects that may be getting scale tipped and undue consideration
- Open floor up to AG for comments
    - starting point for this discussion is that:
        1. There should be a COI policy
        2. That it should govern this 20% section
        3. Should be uniform across all CWSP
- Jared: I agree with all three points -- must have one and it should be set by the agency so it is uniform across all BWQCs
- Lyn: challenge thinking about reality of 80% of work being not subjective, and 20% as being subjective
    - Bringing together these BWQC and CWSP to work through challenge task of figuring out priorities and projects for achieving our goals
    - In order for this to be collaborative, not sure apply a number
    - Want groups to be brainstorming and functioning
    - Thought we had decided before that there was some kind of process for not scoring own project, but not limiting BWQC to make these important decisions
    - Don't understand this in practice
- Holden: 80/20, if project is really highly ranked but landowner isn't willing the project won't move forward
    - Landowner willingness fall within scoring?
    - Might be things that make project not make sense
- Ethan: takes a while landowner willingness/cooperation, it's good to keep projects on radar and wait for next generation of landowner or economic change
    - Going to be long process and be open to opportunities even with initial unwillingness things may change
- Holden: project development = won't make sense to rank since so much will be unknown
    - 80/20 split might look different for a development project vs implementation vs O&M
- Gianna: legislation and guidance, is there anything keeping CWSP from having a rotating table of anonymous scorers?
    - Two phased: scoring of all them using matrix provided by state and council and then they present in ranked order and council discusses
    - Discussion point is where there is COI
    - Scoring point: if CWSP has a project in hopper that could be a COI point
    - CWSP has three anonymous readers that are doing scoring/facilitate is an option
    - Neil: interesting idea and akin to how LCBP works, top heavy and ensure level of integrity
        1. 80 is empirical as well, make sure that the scoring is clear numeric computation and yes/no answers then I don't think 80/20 is problematic
        2. Come back to concept of COI, do we have agreement that there needs to be a process?

- - - a. Folks in chat are agreeing with this
- Charlie: Agree that BWQCs have COI policy. It should require a process as VLCT's does, not dictate the answer
  - VLCT has merit. Requires body and individuals participating to walk through a process
  - Doesn't out front dictate. What generated my concern was upfront dictating the decision
  - This will be nuanced, will they participate in scoring, voting on package vs individual project,
  - Biggest concern as likely CWSP that is not likely to actually have projects in hopper: I don't perceive that I, as my organization, would be confronted with this question but am concerned about partners in the basin
    1. Concerned in notion that we set up these councils with intention that it be people with most knowledge of issues be at table to make decisions
    2. Need to have a COI, but want to hear from districts and watershed organizations if they aren't allowed to participate and if this will be a disservice to the public interest
    3. Need to be thoughtful of how we are doing it, how much of private interest is there
    4. VLTC policy did a good job of saying if situation comes up talk about it and make a decision
    5. Want to hear from project implementor partners about how they think they should be participating and the VLTC policy
- Mary: how similar the VLTC policy is to COI process hammered out awhile ago
  - Initial scoring has come to BWQC, list of projects in numeric order
  - All at table may have interest in one or more of those projects (conflict)
  - Argue for a different type of scoring at which point if it was me I would recuse myself but be part of process as to why scoring should change, finalized vote would be part of suite
  - Echoes VLTC process
  - Feels fair to make case and step away from ultimate decisions and vote on suite
- Gianna: agree with need to recuse from voting, curious if top 10 project people would be invited to make a case, compare and see all projects submitted or if a council member have unfair advantage having seen all projects and make argument
  - Mary: open meeting law requirements and folks get told when meeting topic will happen then this would accommodate that process
- Chris R: struggling with reconciling various comments, like what Mary is saying as staring point, people generally agreeing that we need a COI policy
  - Struggling with like the uniform policy but like VLCT example which allows for regional approaches
- Charlie B: VLTC policy is a consistent policy, suggesting a different decision in each situation, don't know how you can dictate
- Amy M: Maybe each basin/BWQC's policy must be developed, given clean baseline criteria like the VLCT policy? (by 'clean' I mean clear and consistent)
- Holden: There should be a uniform COI policy - unless anyone has an example of why a different COI policy for a specific basin would be justified?

- Charlie B: yes, consistent policy and process. last comment on this topic: Chris, please think about the idea that projects may have multiple partners involved. The decisions will need the ability to be more nuanced than black or white.
- Lyn: part of challenge is that COI is tied to the project selection methods, still unclear how that will work
  - Scoring if 80% is based on number generated that everyone would come up with same number
    1. Question this method, never have a system where that number is that obvious and always be differences of opinion on all aspects of it
    2. Liked Mary bringing up that we had discussed DEC playing a role in that project evaluation
  - Took all projects of any project type put through same process might come out using 80/20 split with only certain project type coming to top
    1. Ensure a mix of project types
    2. How we apply scoring will depend on how we address project types and determined on a basin by basin basis
- Neil: add in addition to desirability of certain projects that is all weighted against cost per pound component of this
  - Great to have a lot of this kind because of opportunity but many not be best at frontend for most cost-effective
  - Intimately tied with project selection
- Chris R: agree needs to be some contextual on the spot decision making for whether a given situation is a COI, most of us saying we need a COI policy and more to come
5. Open Mic
   - Holden and Gianna given opportunity to share their matrix
   - Gianna: matrix revolved out of need to visually see things some have been struggling with
   - Neil: thank you for putting this together, we see a lot commonality
   - Ethan: get some review from basin planner perspective, speaks to what we see as being fundable activities associated with project development, term needs more development
   - Charlie B: sub group working on melding that table with Ethan's outline of process I'd be interested in participating in that
     - Work on it and come back to knit everything together and who is responsible for what part of the process
   - Neil: timeline on this?
     - Part of guidance
     - Table robust discussion until next phase of meeting
       1. RFP is closed, selection is done, and working out guidance
       2. Create subgroup
   - Gianna: don't' know timeline for contract for developing standard cost tool, does play into that in some way
     - Maybe already clear at DEC level of what is being paid for
     - Directly ties to standard cost
   - Neil: want to incorporate other team members time to make comment
   - Lyn: Charlie mentioned hearing concerns from people wanting to make sure time is being paid for BWQC what is being paid for and what is expected, are you thinking of timing over summer? Get sense of timing to help answer questions for people

- Neil: am thinking over the summer, while being respectful of time, needs to wait till Hoyle & Tanner contract is done?
  1. Ethan: project is moving along brusquely, less than a year to get to final steps in that process
- Lyn: working through this on summertime rather than wait a year
- Neil: FY21 statutory requirement to put money into basin planning for basin participation, funding will be available
- Jill: Perhaps a mixed group of potential implementers can spend more time with Gianna & Holden's sheet and make some recommendations to DEC about needs and suggested forms and policies.
  - watershed reps and RPC representatives can dig into this a little bit
  - DEC does not have bandwidth right now
  - some could get on same page and save time
  - we feel this and suggest this
  - be productive with maintaining momentum
- Chris R:this is the last meeting on books for this group, unless you see a need for future meetings between now and RFP closes…envision going to start developing rule and guidance based on feedback you have given us while we are on 3-4 week break, RFP proposals come in, sometime in June bring group back in, last two weeks of June (June 15th may be ambitious or at least 26th placeholder meeting) hopefully selected CWSP will get together and outline next steps
- Neil: 26th of June, 8 weeks pause to do work and convene back as a group later
- Jill: 26 is a good idea considering schedule for state budget, all in same room, update on what is going on
- Chris: put two meetings on calendar for 18th and 26th of June
- Neil: thanks the AG for input throughout this