From: Mark Barath
To: John Backus
Subject: Re: MD WQS approval
Date: 10/16/2012 09:41 AM

John:
What will it take to make Secretary Summer's folks happy other than a concurrence letter.. As I told you in one previous email, NMFS has nor concurred on a WQS BE in CB forever it seems like. However, since you RV were based on the CB TMDL for which NMFS did do a concurrence BO, would that be sufficient for your top manager? I could send to you that BO (Don't remember if I already have) but remember, it is over 200 pages long.
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▼ "John Backus" ---10/16/2012 07:27:31 AM---Hey Mark, Just following up. We're still getting questions from the Secretary Summer's office.

From: "John Backus" <JBackus@mde.state.md.us>
To: Mark Barath/R3/USEPA/US
Date: 10/16/2012 07:27 AM
Subject: Re: MD WQS approval

Hey Mark,
Just following up. We're still getting questions from the Secretary Summer's office.
I guess to boil it down, will we get (eventually) a letter or other confirmation that the Services have completed their review?
There's still a feeling of limbo and there's quite a lot riding on the decision.
I know this is a tough question, but that's why you get paid the big bucks.

Thanks, John

>>> Mark Barath <Barath.Mark@epamail.epa.gov> 9/13/2012 2:31 PM >>>
John:
The CB TMDL NMFS TMDL basically agreed with the statement :The total amount of waters (in time and space) added by the these two variances is really a very small percentage to total bay waters covered by these pertaining DUs (to paraphrase NMFS; may but will not adversely affect shortnose and Atlantic sturgeon).
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From: "John Backus" <JBackus@mde.state.md.us>
To: Mark Barath/R3/USEPA/US
Date: 09/13/2012 02:03 PM
Subject: Re: MD WQS approval

Thanks....I think!

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>>> Mark Barath <Barath.Mark@epamail.epa.gov> 9/13/2012 1:51 PM >>>
John:
We did get concurrence from FWS but that was taken out of my draft. There are some things not worth fighting for in the concurrence chain. As far not getting concurrence from NMFS, what else is new? I have done 4 TR in CB basin(this includes MD 2010a, 2010b and 2012) and have yet to get concurrence from NMFS! It took them plus one year to concur with the CB TMDL(+270 pages Biological Opinion[BO]) and that was definitely considered a biggie. Lets just say that for all practice purpose, this is about as final as we are going to get. This NMFS problem is nationwide. Further, in regard to this 2012 TR, since MD came out with original written TR information in January, the Atlantic sturgeon issue really does come into play since the endangered species determination wasn't issued until February. That aforementioned BO basically covered all the issues regarding restoration variance. The total amount of waters (in time and space) added by the these two variances is really a very small percentage to total bay waters covered by these pertaining DUs. The fact that we approved them is the most important part so go for it. Besides these are so closely tied in with the

TMDL implementation process and what decision will be made on all this until the 2017 ground check?

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From: "John Backus" <JBackus@mde.state.md.us>
To: Mark Barath/R3/USEPA/US
Cc: "Matthew Rowe" <mrowe@mde.state.md.us>
Date: 09/13/2012 01:23 PM
Subject: MD WQS approval

Hey Mark,
Secretary Summers received the WQS approval letter yesterday. We notice, however, that the consultations with USFWS and NOAA are still pending. So what does that mean, exactly? And, when can we expect a final "Approval"? You've been telling me for several months that the hold-up was the consultations, and that still seems to be the case; and we really don't have a final approval. We're just wanting to dot the i's and cross the t's, and I'd like to get Bob an explanation. As you know, there's a lot riding on this.

Thanks, John

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