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**TESTIMONY BEFORE THE
U.S. SENATE COMMITTEE
ON ENVIRONMENT & PUBLIC WORKS
SUBCOMMITTEE ON WATER & WATERLIFE**

SENATOR BEN CARDIN, CHAIRMAN

***“CHESAPEAKE BAY RESTORATION:
PROGRESS & CHALLENGES”***

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**Chesapeake Exploration Center
600 Discovery Lane
Grasonville, MD 21638**

OPENING STATEMENT

Good morning and thank you to the Committee for inviting me to participate in this important hearing. I want to first acknowledge Sen. Cardin for his commitment to the restoration of the Chesapeake Bay, and my colleagues here with me, for their dedication and expertise.

When I moved to Anne Arundel County 21 years ago, I moved to be close to the Chesapeake Bay – there is nothing more beautiful or nothing more worthy of preserving. I think we can all agree that to preserve the Bay’s future, we must preserve it today.

Anne Arundel County is a primary beneficiary of the Bay, with over 500 miles of shoreline within our boundaries. There is no question that we must continue to focus our attention on the Bay cleanup – not just for today, but for years to come.

How we clean up the Bay is of particular concern to me, specifically how much that cleanup will cost our taxpayers and our accountability to them.

When I was appointed County Executive in February, our County Council was prepared to pass the stormwater management fee, also known as the “Rain Tax.”

This tax was mandated by the State Legislature in 2012 as a funding source to reduce pollutants associated with stormwater runoff. In 2012, the MD General Assembly mandated the State's 10 largest jurisdictions – not all 24 jurisdictions, but a select 10 – to adopt local laws by July 1, 2013. I vetoed the bill because our County didn't deserve another tax and also because the County had not done a good enough job educating the public about the fee and, more importantly, what the money would be used for. Ultimately, my veto was overridden by the Council. I will talk more about that within the context of challenges.

ANNE ARUNDEL COUNTY'S BAY RESTORATION EFFORTS

Watershed Implementation Plan

In July 2012, Anne Arundel County submitted its detailed Water Implementation Plan to the MD Department of Environment, which is designed to achieve the necessary 32% reduction in nitrogen; and 47% reduction in phosphorus and sediment to meet our "pollution diet" by 2025.

Wastewater Treatment Plants

Anne Arundel County has made significant progress in reducing the pollutants from wastewater treatment plants. The County is halfway through the implementation of a \$250 million program to provide enhanced nutrient removal, or ENR, at all seven wastewater plants. The work will be complete by 2017 and will remove nearly 470,000

pounds of nitrogen. At ultimate plant capacity, the pollutant load removal increases to nearly 720,000 pounds.

This effort is dependent on the “flush tax” that was imposed by the State Legislature on **ALL** property owners across the entire State. By applying the tax to the broadest base, the rate was kept lower and has been viewed as a cost-effective means of addressing a major source of Bay pollution. No one wants taxes, but when they are spread across the board, it is a fairer process and the pain seems a little bit more tolerable.

Stormwater

When it comes to addressing urban runoff and the challenges of stormwater, the estimated cost to implement a strategy is \$1 billion, according to our Department of Public Works.

As I mentioned, in 2012, the MD General Assembly mandated the State’s 10 largest to adopt local laws by July 1, 2013, to establish a Watershed Protection and Restoration Program and include a “stormwater remediation fee” (Rain Tax) for the purposes of funding the 2025 Bay TMDL stormwater goals. I am not aware of any other Bay region state that has imposed new taxes for both wastewater treatment plant upgrades and stormwater remediation.

Candidly, I vetoed the local stormwater tax in Anne Arundel County because I did not like the way in which it was imposed on our residents, by the State. It has resulted in a “race to the bottom”

among the 10 jurisdictions to see who could impose the lowest tax, including one jurisdiction that has refused to impose a local tax at all.

I have personally read hundreds of emails on this subject. Last week, while I was speaking to a group of reporters and editors in Baltimore, they asked what was the top question I received from constituents. Without needing a second to think, I responded, the rain tax.

My staff and I have received numerous complaints from every type of taxpayer: residential, non-profits, religious organizations and businesses. People do not understand the causal connection between urban runoff and sediment pollution in the Bay. There was no large-scale public education campaign to let citizens know what TMDL stands for, and they were totally unprepared for yet another tax on their property – this time to pay for stormwater projects. Because the County Council promptly overrode my veto, we have a stormwater tax in effect in Anne Arundel County.

Our hands are tied, so we are moving forward. Anne Arundel County is implementing a Watershed Protection and Restoration Program. The stormwater tax is now assessed on residential and non-residential properties within the County and appears on the property tax bill. The residential fee is assessed based on zoning density. The non-residential fee is assessed on impervious surface determined from aerial photography. The base rate is \$85 per 2,940 square feet. When fully phased-in over three years, the stormwater tax will generate \$22.5 million in fiscal year 2016.

Our County's current six-year Capital Improvement Program is budgeted for \$460 million to fund stormwater projects which will achieve a 10% reduction in nitrogen, 25% reduction in phosphorus, and 22% reduction in sediment by 2019. Anne Arundel County taxpayers are already carrying a significant share of the Bay cleanup.

Septics

The third and most costly sector toward meeting our pollutant reduction mandates is the conversion of septic systems to public sewer. Anne Arundel County has over 40,000 septic systems which deliver an estimated 515,000 pounds of nitrogen to the Chesapeake Bay each year. We must reduce our nitrogen loads by 230,000 pounds annually, requiring us to convert roughly half of our septic systems to public service (or 20,000 connections). This is estimated to cost Anne Arundel County nearly \$1.5 billion.

The technical and regulatory challenges associated with this effort are daunting. Success will require an integrated partnership of federal, state and local governments. Local government can not do this alone. Nor should we have to. Yes, the Chesapeake is a treasure for our community, but it is also an economic development engine for the eastern half of the United States. When you consider the widening of the Panama Canal, the Chesapeake serves an important economic development function for the eastern half of the United States. Cleaning up the Bay is an important job for everyone who benefits from the Bay.

In the 1970s when the Clean Water Act came into being, the Federal government provided 87.5% of funding to help local governments pay for the massive investment in extending sewer service to un-served areas. Today's challenges are similar in the magnitude of what we are being asked to do. The Chesapeake Bay is a national treasure. It's a *shared* resource and it should be a *shared* responsibility.

COMPLIANCE CHALLENGES & EMERGING ISSUES

We have many challenges ahead.

Diplomacy of Stormwater

Without question, where you stand on this important issue, stormwater in Maryland will be a defining issue in the 2014 election. Consequently, the Maryland legislature will have pressure to revisit the issue during the 2014 Session, injecting more uncertainty into our program, which received no financial assistance from the State. Public acceptance of a benefit they cannot visualize is an ongoing challenge for every elected official.

Federal Financial Assistance

Although the efforts of federal and state governments are appreciated, financial assistance has been woefully inadequate compared to the costs local governments are facing for stormwater retrofits. Finding the dollars to comply is an issue of legitimate concern – particularly for local governments who have limited tax bases to support such a costly undertaking. We look to our federal

partners for a more creative and collaborative approach to achieving our goals.

Federal Permitting Process

A more technical challenge involves navigating a lengthy and difficult federal regulatory process to obtain necessary permits for stream restoration projects. Getting permits often takes one to two years. Often, the permits require extensive and costly pre- and post-construction monitoring. This results in significant additional project costs, as well as expansion of project schedules due to the duration and timing of the required monitoring, costing taxpayers more money.

Federal permitting requirements have become a barrier to Anne Arundel County achieving mandated targets. In the past year, Anne Arundel County has engaged in an ongoing dialogue with Federal and State agencies to address the permitting issue. This is an action item that demands resolution.

Conclusion

If there is anything to take away from lessons learned, it is a fact that the Chesapeake Bay is the nation's largest estuary, and one of the world's most productive bodies of water, worthy of national attention no different than the federal response to the Great Lakes or Florida's Everglades. No one county, no one state, no one region should have to bear the entire burden of remediation. We must ALL be in this together.

On behalf of the citizens of Anne Arundel County, I appreciate the opportunity to share with the Subcommittee a local government experience to date in meeting the EPA's "pollution diet" for the Chesapeake Bay. Thank you, Mr. Chairman, for inviting me to speak today.