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Testimony Before the Subcommittee on Water and Wildlife
U.S. Senate Environment and Public Works Committee

A Renewed Commitment to Protecting the Chesapeake Bay: Reauthorizing the Chesapeake Bay Program

Monday, August 3, 2009

Thank you, Mr. Chairman and Members of the Committee, for this opportunity to testify in support of the reauthorization of the Chesapeake Bay Program, Section 117 of the Clean Water Act. At the outset, I want to commend Senator Cardin for his leadership in bringing this important issue to the forefront to advance restoration of the Chesapeake Bay. The role of the Federal government is critical to the success of the Bay restoration. For the effort to succeed, that role must grow stronger. I am here today, as a Virginian, as the Chairman of the Chesapeake Bay Commission, and as a proud Republican, to tell you that we need the Federal government to play a stronger and more targeted role in Bay restoration. The Clean Water Act must provide new authorities and accountability measures that complement our state efforts in order to minimize pollution from all sources.

Let me begin with a brief explanation of the Chesapeake Bay Commission. The Chesapeake Bay Commission is a tri-state legislative commission established in 1980 to coordinate Bay-related policy across state lines in Virginia, Maryland and Pennsylvania. Our focus is to develop shared solutions for the region. The Commission serves as the legislative arm of the Chesapeake Bay Program and as such has signed every agreement and directive since the Program's start. There is hardly a piece of state or Federal Bay-related legislation that the Commission has not been involved in, and we continue to promote policy initiatives on a full spectrum of Bay issues: from living resources protection and land conservation, to water quality restoration. Important to today's meeting, the Commission also acts as the liaison to Congress on all issues of concern to the health and resources of Chesapeake Bay. I am here today to stress the importance of enhanced Federal participation in the Bay restoration via the reauthorization of Section 117. We believe that restoring our nation's largest estuary is a shared responsibility -- not just of state and local governments and the private sector, but of the Federal government as well.

Along these lines, in February, 2008, the Commission developed and broadly distributed a special report containing a full suite of recommendations for Federal legislation and funding to advance the Bay's restoration over the three year period 2008 to 2010. Included within that

report were recommendations that the EPA Chesapeake Bay Program be reauthorized with a heightened focus on new authorities, increased implementation and accountability. Bottom line: Since we have to do more with less, we need to do a better job choosing what is regulated, what is incentivized, and where these programs are more strategically applied.

I have been a member of the Commission for five years and have had the honor of Chairing the Commission in 2009. In the past five years, I can say that we have seen a huge increase in state and local government investments in the Bay. In Virginia, through the state Water Quality Improvement Fund we have invested well over a half a billion dollars to upgrade our wastewater treatment plants within the Bay watershed. Our local governments have stepped up their commitments and are utilizing the Clean Water Revolving Loan Fund to help shoulder their burden to cover the remaining costs of the upgrades. Recently, Federal funding to the Clean Water Revolving Loan Fund has increased and we thank you very much for that. Other states in the Bay are also using this fund and making good progress in tackling their point sources of pollution to the Bay.

So, thanks, in large part to increased state and Federal funding and existing regulatory permit authority within the Clean Water Act, we are reducing point sources of pollution delivered to the Bay. Hundreds of sewage treatment plants throughout the watershed are being upgraded with new technologies to reduce nutrient loads. In Virginia alone we have already cut over one million pounds of nitrogen from our wastewater treatment plants and we are expected to slash the amount of nitrogen by another two million pounds. Bay-wide we expect to reduce nitrogen loads by over 12 million pounds from 2005 levels. Because of this successful Federal, state and local government partnership we are achieving real results in cleaning up the Bay.

The Federal government is however making slow progress in upgrading its own wastewater treatment plant, Blue Plains, located within the District. As the largest point source in the entire watershed almost four million pounds of nitrogen stands to be reduced from the Bay's nutrient load from this one facility. Mr. Chairman, we thank you for your ongoing leadership in securing essential Federal funding for this key action to reducing nitrogen pollution to the Bay. We ask that you remain vigilant in your efforts to support this immense task.

While the states have been making significant progress overall with our point sources, we have not been as successful with reducing other diffuse sources of nutrient pollution entering the Bay. For our non-point sources of pollution we have good established Federal and state partnerships but we lack the necessary funding and the regulatory authority to get the job done.

Nearly one-quarter of the Bay watershed's land area is devoted to agricultural production. Through the Federal Farm Bill we now have a program targeting funding to the Chesapeake Bay watershed for the first time ever. This, together with state funding, provides an important new tool to reach new farmers and increase farmer participation in on the ground conservation practices. But the enrollment levels are not close to where we need them to be.

The other sector of non-point source pollution that must be addressed is stormwater runoff from urban and suburban lands. Here we are actually losing ground. Polluted runoff from the land is actually escalating because of increased development across the Bay watershed. As the states

tackle this challenging problem, we need the Federal government to continue to be a strong partner in this effort. As a large landowner of property throughout the watershed, the Federal government, as called for the in the Presidential Executive Order, should be a leader in addressing these issues. We have seen such leadership exhibited by the U.S. Navy within Virginia. The Navy has committed to use low-impact development techniques to ensure reduced runoff from their facilities within the region. It would be great to see this impressive initiative expanded across all Federal lands, including Federal highways. We need stronger Federal, state and local government partnerships and increased regulatory authority to restore this 64,000 square mile watershed that is degraded by a diverse range of nonpoint sources of pollution.

In reauthorizing the Chesapeake Bay Program we have the opportunity to capitalize on additional Federal and state efforts underway to make real progress in cleaning up the Chesapeake. First, the Bay states have agreed to chart-out and implement two-year restoration milestones. Second, EPA is developing a Bay-wide TMDL. And third, the President issued an Executive Order directing Federal Agencies to coordinate their restoration efforts and prioritize the Chesapeake as a National Treasure.

Because of these current efforts and the previous three decades of restoration invested in the Chesapeake, we believe that the Bay's TMDL should be a model for the nation. We ask that you codify the Bay TMDL within the reauthorization of Section 117 of the Clean Water Act and set the highest standards for the region. Strengthen language within the Clean Water Act to better ensure an effective and enforceable TMDL will achieve the necessary nutrient and sediment reductions for the Bay. If we are to achieve the goal of a clean Bay within our lifetimes, we must have more accountability and more Federal authority to get the job done. We must also keep in mind that while restoring the Chesapeake Bay is our ultimate goal, much of the land within the watershed is private property. And as such, it is critically important to remember private property rights so that the owners can get full enjoyment or value from their investments.

Currently, the Clean Water Act applies to all point sources of pollution. However, many sources of pollution fall outside the scope of the Clean Water Act. To protect a system like the Chesapeake, where the majority of the nutrient pollution comes from nonpoint sources, we must be sure that all sources are controlled in a meaningful and highly accountable way.

If we are to learn from what has worked in the past and what continues to work in the present, the Clean Air Act offers some useful models for success. The Clean Air Act utilizes State Implementation Plans, or SIPs, and time schedules giving states discretion to develop state-specific means to attain air quality standards within a region by a certain date. The watershed-based approach of the Bay-wide TMDL would benefit from a similar regulatory approach. States would be provided with the flexibility to develop and implement their own plans to meet their share of a watershed goal. The Clean Air Act also contains noncompliance sanctions that work as incentives for expeditious and effective state programs. Enhancing this approach with the already agreed upon two-year state milestones would help to ensure progress continues throughout the restoration process- not only with our point sources but also with our multitude of non-point sources of pollution.

We need to build on our existing partnerships to increase our accountability and to increase our

rate of success. By reassessing what is working to clean up the Bay and building on those examples we can continue to make progress. However, we need to make sure we have the right tools. So far those tools have included strong intergovernmental partnerships and clear regulatory authority.

Mr. Chairman, that concludes my testimony. Thank you very much for the opportunity to appear before your subcommittee this afternoon.