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July 10, 2013

RE: Next Generation Bay Agreement

Dear Nick:

The Alliance for the Chesapeake Bay appreciates the opportunity to offer comments and input during the process of drafting a new Chesapeake Bay Watershed Agreement. We hope that our comments are constructive and contribute to the deliberations among the signatories and various goal teams that are working to complete this task.

The Alliance has been a key partner of the Chesapeake Bay Program for many years and has played a part in establishment of all past Bay agreements, especially in facilitating and encouraging stakeholder outreach and engagement. Our mission is strongly rooted in partnership and consensus building. We believe in the power of collaboration reflected in the 30 year history of this Partnership. Over the years the Alliance has worked closely with the Bay Program to provide a variety of services and to develop innovative programs in support of the restoration effort.

The Alliance supports the development of a meaningful new Bay Agreement--one that can engage all jurisdictions in the watershed; recognize the potential of both voluntary and regulatory actions for improving water quality; energize action on a broad set of watershed goals that will improve living resources, land conservation and citizen stewardship; and recognize the need for strong local leadership. We agree with others that this agreement should be one that the Executive Council (EC) is proud to sign and all stakeholders are willing to help implement. We are in need of a new generation of champions for the Bay and its watershed.

The Basis of a new Agreement

While we appreciate all of the hard work and time that has gone into developing a new agreement, we believe that the process to date has focused far too much on internal alignment issues and redefinition of existing federal, state, and Bay Program goals and outcomes and far too little on building the consensus among the partners and stakeholders needed to accelerate the restoration effort and build a strong foundation on which the partnership must depend in the future and to 2025. As such, deliberation has been more about the representing the status quo than an expression of needed vision and commitment.

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The Chesapeake Bay Program has been at a crossroads. With the focus since 2010 squarely on regulatory issues, models and related science, many have neglected to recognize the innovation and success that was catalyzed by voluntary goals and cooperative strategies over the past 30 years. This new voluntary agreement has the potential to continue to stimulate innovative programs and ideas and motivate local groups to act. For the agreement and its goals and outcomes to be successful in this endeavor, a broader base of support by those who are not signatories is essential.

What is different today than when agreements of the past were signed? Today's challenges are not largely about new science, models, or regulatory policies; rather they rest on expanding implementation – implementation that must occur largely at the local level. Beyond funding and leadership, local action relies on a strong sense that people care -- citizen stewardship. This kind of stewardship does not arise from science or regulation; instead it results from ongoing and consistent outreach, education, engagement and communications. At this time, the new Bay Agreement does not yet reflect these challenges. We applaud the efforts to date, but we recommend that the agreement specifically speak to building local leadership, removing barriers to implementation, continuing to inform the public, and the importance of bringing others into the restoration effort.

Accountability and Architecture of the Agreement

We believe the purpose of the new Agreement is not clear to stakeholders and the public. In order for the Agreement to be successful in guiding the Bay restoration efforts for the next decade or more, jurisdictions, stakeholders and the public must share similar expectations related to its goals and outcomes. Everyone must clearly understand the purpose of this plan and what it means for them. It is our understanding that the new Bay Agreement will describe a set of goals and outcomes that collectively represent the achievements necessary to restore and sustain the Bay and that all signatories to the agreement will endorse and support the accomplishment of this set of goals. We are not sure that everyone shares in that interpretation.

We further understand that management strategies for each outcome will be developed in the 6-12 months following the signing of the agreement and will identify roles and responsibilities as well as supportive actions that will be taken by the partners to accomplish them. We support this process, as long as it is clearly defined and transparent, and not overly burdensome. The strategy development process should be flexible enough to capture new ideas as they emerge and accessible enough to build public support, engagement, and momentum. We understand that strategies may change over time, but they still must be clear and accountable. We encourage the partners to design and use the strategy development process not just to finalize internal plans already in the works, but as a vehicle for expanding partnership support and informing and involving the public.

Signatories should have the ability to set priorities in their commitments to and investments in each management strategy as part of the process but not to “opt in or out” of support for the core goals and outcomes that are identified in the agreement. We further expect that this agreement will reinforce the requirements of the Total Maximum Daily Load (TMDL) or Clean Water Blueprint as well as incorporate the Watershed Implementation Plans as strategies for their achievement.

Public Engagement and Stakeholder Involvement in Development of the Agreement

Previous Bay Agreements have all been prepared within a process involving substantial outreach to stakeholders and earnest efforts to communicate their goals to the public. We acknowledge the change in schedule proposed since the June 19th PSC Meeting providing 30 days for comment on a draft agreement but are not aware of a plan or process for conducting outreach during this time or a clear plan for

incorporation of comment. This must be deliberate and clearly identified. The process for solicitation of comment and the reception and discussion of new ideas or information at Management Board (MB) and Principals' Staff Committee (PSC) meetings to date does not give us confidence that public input will be seriously considered and integrated in the process under current timelines without a change of course.

We strongly suggest that the partnership consider a more significant effort to inform the public and seek input and dialogue with stakeholders to ensure that the agreement drafting process is more transparent. We believe that the limited plans for public outreach and the timing of the agreement process may not provide adequate opportunity for debate and discussion among stakeholders or the time necessary to gain consensus on meaningful commitments.

We also respectfully recommend that the Partnership consider and discuss the option of having the Executive Council sign a draft or framework agreement (sans final goals and outcomes) in 2013 and adopt and put in place a public process to finalize goals, outcomes and strategies and build the momentum and partnerships needed to implement them. Gifford Pinchot, in his maxims for public officials once said, *"Public support of acts affecting public rights is absolutely required. It is more trouble to consult stakeholders and involve the public than to ignore them. But if public support for what is right is missing, postpone the decision and take the time to get it"*. Without the energy and support of the partners and local stakeholders, the agreement will have little meaning.

Comments on the July Draft Agreement

An abridged version of the draft agreement and draft participatory language has been provided for review by jurisdictions and stakeholders at this time. The following are specific comments on the content of these documents.

General Comments

Much of the document language could be simplified and would benefit from the talents of writers with an eye toward communications. The Participatory language in the agreement needs to be clear, concise, and relevant to current challenges of local leadership, expanding support for water quality and watershed stewardship, and removing barriers to implementation. Our understanding is that the language contained in the drafts of sections, other than Goals and Outcomes, will be substantially refined and edited in the coming month. In general most of these sections are far too lengthy and overly bureaucratic and should be reduced in length and simplified. The agreement should be an inspirational statement of purpose and future vision and be able to be read and fully understood by stakeholders and an informed public.

Although it may seem intuitive, we also note that no sections of the Agreement establish or outline any expectation for the Program to share its work with the public. As mentioned earlier, in order to engage citizens in the watershed in our watershed restoration efforts, ongoing and consistent outreach and communications will be required. We suggest the participatory language include recognition of the importance of continually improving channels for public dissemination of the Program's wealth of information, results, and findings and maintaining a process for sharing progress. Language related to CBP's responsibility to communicate with the public should also be included in the operational commitments when those are established.

Section 1: Preamble

This section should inspire through recognition of the complexity, productivity and importance of the Bay as a national treasure-cultural, ecological, and economic. It should speak directly to the challenge of the Bay's vast watershed and extensive local streams. It should briefly highlight the successful history of collaboration and need for ongoing and continued cooperative action to sustain progress. Much of the

language that appears toward the end of this section regarding “regional differences” and “forces beyond local control” should be omitted because it serves only to discount the significance of the agreement as a whole. Rather, one statement such as the following may capture the intent.

“This agreement acknowledges the reality that the partners cannot address every issue at once. Rather, we must prioritize our individual and collective efforts in a strategic manner; focusing on those local and regional actions that will achieve the greatest results and enable, facilitate, and empower others to assist us in these efforts.”

Section 2: Mission

We recommend simplification of the mission statement. We offer... *“The mission of the Chesapeake Bay Program Partnership is to accelerate efforts to protect and restore the Chesapeake Bay ecosystem and its watershed through targeted, coordinated and cooperative approaches that achieve shared goals and inspire others to take action.”*

Section 3: Vision

The vision statement serves to restate many of the goals and could potentially be refined and simplified into a single statement. Such a statement should specifically reflect a vision of future local leadership and increased citizen support and stewardship. However, in the current format, we recommend the following revised language:

We envision a sustainable Chesapeake watershed with:

- *Water that achieves water quality standards, supports ecological resources, and enhances our quality of life;*
- *Healthy populations of living resources including blue crabs, oysters and fish that are safe to eat;*
- *Abundant forests, thriving farms and maritime communities that benefit both the economy and the environment;*
- *A broad network of land and water habitats that are resilient to the impacts of a changing climate;*
- *Conserved lands that reflect the region’s heritage, provide scenic vistas and ensure ample access to the Bay and its tributaries in every jurisdiction ;*
- *Students and citizens who are active stewards of nature and understand their personal impact on the environment;*
- *Local governments who are leaders in watershed protection and restoration;*
- *Citizens who are informed and understand their relationship to the Bay and its rivers; and*
- *A broad base of businesses, schools and universities, non-profit and watershed organizations, and citizens who are empowered as valued partners in achieving the goals and outcomes of this agreement.*

Section 4: Goals and Outcomes

The goals of the agreement should be aspirational and not merely represent a trajectory of what is already being done. Engaging the highest levels of watershed leadership in the goals and outcomes should ensure that our elected and appointed officials provide political leadership and guidance in what will be the essential collaborative components of the restoration effort in the next decade.

The introduction to this section should clearly state that these goals and outcomes represent the collective set of actions needed to achieve the mission and vision of the agreement. The opening statement refers to more collaboration (which we agree is needed) but leaves the impression that this applies only to the signatories to the agreement. Obviously, broader collaboration is needed, especially to accelerate local implementation. We offer following introductory language.

These goals and outcomes reinforce our ongoing work to meet the requirements of the Clean Water Act and other federal or state statutes or regulations. The Partners recognize that these goals and outcomes reinforce each other and together help to achieve our collective vision of a healthy, vibrant, and sustainable Chesapeake Bay Watershed. Achieving them will require greatly expanding collaboration, enabling, empowering, and facilitating the work of local governments as well as businesses, schools and universities, watershed organizations, and others, and building broad support for stewardship among our citizens.

Although we support the use of adaptive management and recognize this flexibility could change management strategies or even goals and outcomes, we believe that because the goals are a part of the overall Bay agreement, any changes to Goals and Outcomes proposed by the PSC in the future must be endorsed by the EC at their annual meeting.

We believe that an appropriate set of goals should fall into three primary categories: Restoration (such as water quality and habitat), conservation (such as healthy watersheds, land conservation, and sustainable fisheries) and engagement and stewardship (such as local leadership, environmental literacy, and citizen stewardship)

Sustainable Fisheries Goal

We support the goal language and the outcomes for blue crabs and oysters (in at least 10 tributary rivers). According to the Bay Program website, the Bay watershed supports 348 species of finfish and 173 species of shellfish and yet except for the Brook Trout Outcome under the Vital Habitats Goal, there are only two proposed outcomes for fisheries. We believe that an additional outcome related to finfish is essential. We recommend a forage fish goal that would help support the survival and health of other iconic fish, like rockfish. Measures seeking to ensure healthy populations of fish highly-valued by the public represent a way to engage sports fisherman/women and tourist and the hospitality industry.

Vital Habitats Goal

We support the vital habitats goal and the outcomes for wetlands, black duck, brook trout, forestry, fish passage and SAV. We are supportive of an outcome related to stream health but do not believe the current outcome as stated will be understandable by the public or easily measured. Likewise, brook trout outcomes may be more appropriately targeted to a % of natural range or specify achieving stream extent or conditions that can support future populations. The Forestry outcome would be more appropriately titled "Critical forests".

Although perhaps premature, we point out that the outcomes for SAV, wetlands, and buffers and the management strategies developed for these outcomes, should reconcile and explain the differences between existing WIPs and agreement outcomes.

Water Quality Goal:

We support this goal language with one minor change. Goal should read, "*Reduce pollutants to achieve the water quality necessary to support the aquatic living resources of the Bay and its tributaries and protect human health.*" We also support the current outcomes but believe that the following additional outcomes should be seriously considered.

Toxics Outcome: A modern Bay agreement must include a toxics outcome. One of the valuable aspects of the Bay Program partnership is the collective knowledge and information sharing among scientists and managers. Implementation of a toxic contaminants reduction strategy is an issue that can benefit from the jurisdictions' collective knowledge and successes on toxics that are severe and widespread.

Toxic pollution that causes fish advisories could have long-term impacts on human health, particularly in communities at risk due to subsistence fishing. We believe it would be appropriate for future strategies to focus on reduction of persistent bio-accumulative and toxic (PBT) contaminants and non-PBT contaminants that have an effect on the ecosystem and human health. Strategies should also improve our knowledge of the effects of contaminants of emerging concern on human health and the health of fish and wildlife. This issue could rally public support and potentially engage more diverse communities

Agricultural Conservation Outcome: Although sector water quality outcomes are not currently contained in the agreement, we believe that the partners should consider the role of the USDA as a critical partner in the success of our watershed conservation work. An agricultural conservation outcome, if adopted, should secure USDA support for the agreement as well as efforts to support, track, and verify agricultural conservation practices. Language to read: “Work with producers to apply new and effective conservation practices on at least 4 million acres of agricultural working lands in high priority watersheds by 2025 to improve water quality in the Chesapeake Bay and its tributaries.”

Conowingo Dam Outcome: The sediment behind the Conowingo Dam is an issue that needs to be addressed. An outcome in the agreement provides an opportunity to show the public that the Bay Program is serious about fully engaging the states of Maryland and Pennsylvania and private partners in solutions for the increasing sediment storage capacity behind the dam. This issue has major implications on downstream water quality and the health of habitats that are required for SAV and oyster populations. Additionally, a Bay Program collaborative solution for the dam may prove to be a positive response to concerns expressed by coalitions and local governments this past year. An appropriate outcome would identify a timeline for development of a plan and for beginning its implementation.

Healthy Watersheds Goal

The Alliance strongly supports the goal of protecting and sustaining watersheds in good condition while restoring those that fall short of water quality and aquatic health goals (*protect the best and restore the rest!*). For some the word, protect may elicit the wrong meaning. We recommend...

Sustain the health of watersheds that are currently recognized for their exceptional water quality and high ecological value.

We suggest deleting the term “state-identified”. We recognize that it serves to both narrow and clarify this goal but think it also may restrict its effectiveness. Eliminating this language could broaden the goal to allow outcomes to be more clearly identified including an outcome that specifically addresses state- specific designations but would also allow the incorporation of the land conservation outcome of “225,000 acres of wetlands and 695,000 acres of forest land of highest value for maintaining water quality.” Both of these land conservation outcomes are directly aimed at sustaining healthy watershed conditions and are more appropriate outcomes here than under land conservation. Since these targets (e.g. 695,000 acres of priority forest) were carried over from the earlier agreements and the 2007 EC Directive, the baseline for measuring accountability should be clarified and /or the outcome adjusted.

We also believe that a future strategy may be to integrate the protection of community drinking water sources with goals for water quality restoration. There is a need to raise the profile of source water protection (generally healthy watersheds) and integrate it with our restoration efforts. Most water systems are being managed by municipalities but source water protection is often separated from WIP or other efforts. This linkage has the potential to build new public support for the Bay restoration effort.

Land Conservation Goal

We support the land conservation goal and outcome but believe the outcome for “225,000 acres of wetlands and 695,000 acres of forest land of highest value for maintaining water quality.” was carried over from earlier agreements and EC Directives. Clarification is needed as to whether or not these are new acres or if a new baseline will be established for measuring future accomplishments.

Environmental Literacy Goal

This goal was opposed by one or more members of the PSC at its last meeting. However, we believe that the environmental literacy goal, especially one that provides meaningful Bay or stream outdoor experiences for every school student, is a crucial education and outreach responsibility of the Chesapeake Bay Program. While some jurisdictions have expressed concern with this outcome, we are mindful that 80% of this commitment in Chesapeake 2000 was achieved in only 5 years of implementation. Many watershed organizations in our region deliver programs that help make these meaningful watershed experiences a reality for students and this goal provides the states with an opportunity to continue engaging these groups in contributing to the accomplishment and tracking of this outcome.

Together with educational development opportunities for teachers, the proposed student literacy and teacher/educator outcomes (focus should be on these) are essential to the future of our restoration and protection and the need to inspire a new generation of leaders and stewards. While an important goal, the current outcomes as proposed still lack a mechanism for measuring progress.

Local Leadership Goal:

The Alliance strongly endorses the importance of highlighting local government engagement as a critical element of a next generation Bay Agreement. There is no question that increasing the capacity of local governments to take action and local elected officials to support initiatives that are vital to the Bay restoration effort will be critical to success. Yet this is not clearly reflected in the new agreement. We support the recommendation made by the Local Government Advisory Committee (LGAC) to include a specific goal related to the role of local government, such as:

Engage, empower and facilitate leadership by local governments for implementation of actions that restore and protect the Chesapeake Bay watershed.

Measurable outcomes for this goal still require development by the LGAC but could include building the capacity of local governments through leadership and other training, increasing communications between states and local governments, removing barriers to implementation, increasing the number of local governments that have developed new financing strategies (such as stormwater utilities) or those who actively participate in management strategies.

Stewardship Goal:

This goal was opposed by one or more members of the PSC at its last meeting. We believe engaging communities is a key component of the Alliance’s mission and many watershed organizations in our region are empowering citizens to restore and protect their local streams and rivers. This proposed goal recognizes the important role non-profits and businesses play in supporting and coordinating community engagement and action aimed at water quality and habitat improvement. These accomplishments in support of Bay goals are often not accounted for in tracking Bay Program accomplishments.

The Alliance supports the inclusion of a citizen stewardship goal that recognizes the need to broaden the base of knowledge and support for the goals and outcomes and for the individual actions that will be needed to accomplish them. Raising this concept to the status of a full goal recognizes a key challenge for the future. It speaks to the need to engage a new generation of leaders. We suggest consideration of the following language:

Promote and support initiatives that increase the number and diversity of local stewards, including local governments, who support and carry out the conservation and restoration activities necessary to achieve our shared vision of a healthy local streams and a vibrant Chesapeake Bay.

Measurable outcomes for this goal will need to be developed. However, it is also our belief that citizen and local stewardship comes from building local capacity, advancing education, communicating clearly, and creating connections to nature. Therefore, we believe that (although currently proposed as separate goals) one option could be to consider local government leadership, environmental literacy and public access as outcomes (with minor modifications) for the goal of greater citizen stewardship. For example,

- **Local Leadership Outcome:** Engage, empower, and facilitate leadership by local governments through leadership training, improving communications with states, removing barriers to implementation, and developing new financing strategies.
- **Public Access Outcome:** Expand public access to the Bay and its tributaries through existing and new local, state and federal parks, refuges, reserves, trails and partner sites adding 300 new public access sites by 2025.
- **Environmental Literacy Outcome:** Ensure that every student in the region graduates environmentally literate having participated in teacher supported meaningful watershed educational experiences and increase the number of students participating and the number of teachers receiving professional development, and/or the number of green schools by XX% above 2013 baselines.

Section 5: Management Strategy Elements

The Alliance recommends the following revised language for this section.

Section 5 outlines key elements of strategies to be developed for each of the outcomes in the Agreement. Management Strategies' development will be led by Goal Implementation Teams with input and involvement of partners and local stakeholders. Strategies will identify those signatories, federal agencies and stakeholders committed to achievement of each Outcome and outline related actions and resources for doing so. They will identify factors influencing accomplishment of the Outcomes including climate change adaptation and regulatory or land use barriers. Strategies will be updated every 2 years or on an interval specified in the original Strategy.

To encourage greater participation by local groups and to expand partnerships, existing state, federal, or foundation funding criteria or priorities or other incentives could be offered for partner participation in implementing management strategies prepared as part of this agreement.

Section 6 and 7: Principles and Operational Commitments

We recommend the agreement explain the purpose of the principles and operational commitments and how they will be used in the Bay Program to meet or reinforce the goals and outcomes of the agreement. Currently, they are both expansive (we will work together on water quality) and incomplete (no mention verification of BMPs). It is difficult to respond to the current language with any detailed comments without a clear idea of the intended use of these sections.

Additionally, we recommend that if these sections are meant to guide the structure of the agreement and resolve conflicts among competing views that they should be used as a guideline by the Issue Resolutions Committee when discussing the proposed goals and outcomes in the first signed agreement and future changes.

In conclusion

The Alliance supports the development of a meaningful new Bay Agreement--one that can engage all jurisdictions in the watershed and establish a new generation of champions for the Bay and its watershed. The Alliance believes this agreement has the potential to show more accountability than previous agreements. It can recognize the crucial role of local governments and the need to expand citizen stewardship. As mentioned above in our comments on the goals and outcomes, we believe this agreement should recognize and take advantage of the restoration work conducted by different stakeholders, including local governments and watershed organizations, who are not signatories to the agreement. We also strongly encourage the Bay Program partnership to use the management strategy process to encourage an open dialogue with stakeholders who wish to comment and/or participate.

We look forward to hearing from you on how these recommendations and the views of other stakeholders are considered.

Sincerely,



ALBERT H. TODD
Executive Director

Cc Members, Chesapeake Bay Program Management Board
Jessica Blackburn, Citizen’s Advisory Committee Coordinator
Mary Gattis, Local Government Advisory Committee Coordinator