



March 17, 2014

Mr. Joseph Gill, Chairman,
Principals' Staff Committee,
Secretary, Maryland Department of Natural Resources

Nicholas DiPasquale, Director,
Chesapeake Bay Program,
Environmental Protection Agency

RE: Comments on new Bay Watershed Agreement
Sent via email to: agreement@chesapeakebay.net

Dear Chairman Gill and Mr. DiPasquale:

The Alliance for the Chesapeake Bay appreciates the opportunity to offer comments and input during the final drafting of a new Chesapeake Bay Watershed Agreement. We realize that the process to reach consensus is nearing an end and will limit comments to those most critical to us at this time.

As you know, the Alliance's mission is strongly rooted in partnership and consensus building. We have been a key partner of the Chesapeake Bay Program since its inception and have played a part in establishment of all past agreements, especially in facilitating and encouraging stakeholder outreach and engagement. For years, the Chesapeake Bay Program has been a model for interstate coordination and past agreements have played the critical role of inspiring collaboration among the signatories as well as motivating individual policy and program innovation in each of the jurisdictions.

The Chesapeake Bay restoration effort remains unique in the world. For 30 years it has served as a model for a collaborative approach to watershed restoration and management and its success in part has been guided by a series of agreements that have built on one another to advance contemporary challenges. The agreements form the foundation on which rests individual and coordinated leadership. We believe in the power of collaboration reflected by these agreements and therefore support the need for a new voluntary agreement among the Bay Program partners. With the addition of Delaware, West Virginia, and New York as signatories, this new Agreement will have the potential to continue that tradition with recognition of the entire watershed.

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THE AGREEMENT SHOULD STRONGLY ENDORSE CITIZEN STEWARDSHIP

As we have stated in the past, in addition to program funding and the regulatory compliance fashioned through the TMDL, we believe that future success will depend on local leadership; local action that depends on a strong sense that people care – citizen stewardship. This kind of stewardship does not arise from science or regulation; instead it results from strong commitments to outreach, education, communications and the active and ongoing engagement and support of local governments and grass roots clean water and conservation initiatives. We have pointed out in the past that that the new Bay Agreement does not adequately reflect the importance of these challenges. We believe that this agreement should more specifically speak to: 1) building local leadership, 2) removing barriers to implementation, 3) continuing to inform and engage the public, and 4) recognizing the importance of bringing others into the restoration effort.

A Stewardship Goal:

It is appropriate that the agreement strongly acknowledge the importance of local leadership and citizen stewardship. Although they are not signatories, thousands of local governments are on the front lines for both financing and carrying out a majority of the actions needed to accomplish the agreement's goals. In addition, there are over 300 local conservation and watershed organizations in our region that are empowering citizens to restore and protect their local streams and rivers. Inspiring local support for the difficult choices that must be made to change behavior, implement new practices and finance restoration is essential.

The Alliance has long supported the inclusion of a citizen stewardship goal that recognizes the need to broaden the base of knowledge, support, and involvement in the goals and outcomes and to energize individual actions that will be needed to accomplish them. Raising this need to a goal makes a strong statement that the signatories recognize this key challenge for the future. It speaks to the need to engage a new generation of leaders. It could demonstrate what is “new” about this agreement.

Citizen and local stewardship comes from building local capacity, advancing education, communicating clearly, and creating connections to nature. Although it could stand on its own, we continue to believe that (although currently proposed as separate goals) one way the agreement could strongly endorse this is if local government leadership, environmental literacy and public access served as outcomes for the broader goal of citizen stewardship. We suggest consideration of the following language:

Goal: *Promote implementation strategies and support initiatives that increase the number and diversity of local citizen stewards, including local governments, and help find common ground that will mobilize citizens to support and carry out the conservation and restoration activities that achieve healthy local streams and a vibrant Chesapeake Bay.*

- **Local Leadership Outcome:** Engage, empower, and facilitate leadership by local governments through training, technical assistance, improved communications with states and removing barriers to implementation.
- **Local Leadership Outcome:** Identify and promote innovative financing solutions and increase the number of local governments that have developed and implemented local financing strategies to meet agreement goals. (2010 Baseline year)

- **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 and by 2025, add 300 new public-access sites, with a strong emphasis on providing opportunities for boating, swimming and fishing, where feasible. (2010 baseline year)
- **Environmental Literacy Outcome:** Enable students in the region to graduate with the knowledge to use scientific evidence and citizenship skills to act responsibly to protect and restore their local watershed.
- **Meaningful Watershed Educational Experience Outcome:** Increase the number of students participating in teacher-supported meaningful watershed educational experiences in elementary, middle and high school and develop metrics for measuring progress.
- **School and School System Model Development Outcome:** Support and highlight models of sustainable schools and local education agencies that use system-wide approaches for environmental education.
- **Stewardship Outcome:** By 2015, work with Chesapeake Bay Program partners and other academic, local government and citizen organizations to develop a metric for evaluating progress in citizen stewardship.

It is also important to recognize in the preamble and in language describing this goal, that the partnership’s methods and plan of action will likely change when more diverse participants are included. It should be clear that our intent is to not simply inform but to seek common ground between the needs of the Bay restoration effort and the needs of the watershed's diverse residents. The new Bay agreement currently speaks more to those already involved in and informed about Bay restoration. As the Bay restoration effort seeks to involve more diverse watershed residents it should be understood that current methods may change due to the new ideas and perspectives of those joining the environmental conversation.

THE NATURE OF THIS NEW AGREEMENT IS DIFFERENT

We believe this watershed Agreement is fundamentally different than previous Bay agreements. Beyond the inclusion of all states in the watershed, it is difficult to answer the question, “What is new? How is this agreement different than those of the past?” The answer to this question is in what the agreement lacks, rather than what is new. The new Agreement is far less comprehensive and far more operational. Instead of setting out a vision with aspirational goals it rather lays out more of a strategic plan for ongoing programs. Like many in the region, the Alliance has been disappointed that the process used to develop this agreement, unlike the *Chesapeake 2000* agreement (C2K), has focused primarily on carrying forward some of the existing commitments of the states and federal agencies as outlined in C2K, the federal Executive Order and the TMDL.

Further, although most goals do offer measurable outcomes, successful accountability for this plan relies largely on actions that are guided by as yet undefined management strategies. While we support the intent to develop these more flexible, adaptive and priority-based management strategies as a realistic path forward, there is still uncertainty about how these processes will generate the collaborative actions that ultimately lead to success. This uncertainty has fed much of the “opt in/opt out” rhetoric found in many stakeholder comments.

The Management Strategy process must engage the public.

While the Alliance supports the use of management strategies as a practical approach to implementation and understands the need for priority setting by states and others, we strongly advise that the process by which they are developed be fully transparent in terms of partner actions and

commitments. Strategies should also be more than internal documents produced by federal/state committees. We strongly suggest that the CBP partnership actively seek broad input from stakeholders to ensure that management strategies result in an opportunity for debate and discussion, encourage meaningful commitments from signatories, and capture new ideas and build momentum for collaborative actions and public support. This must be active outreach rather than simply communications, something that the Chesapeake Bay Program partners will need to consider a priority if they are to be fully prepared to implement. It is unclear at this time how this might occur.

The language of the "Management Strategies" section is also very "top-down". It talks about "empowering local governments" in the first paragraph but not local communities. It mentions incorporating stakeholder input in the third paragraph, but in the context of commenting on or reacting to strategies once developed. We suggest that the language used here and the guidance provided to Goal Implementation Teams emphasize the need for processes in which citizen and community input/needs/concerns help drive the strategy and engage a broad base in the solution.

Opting out: Although the strategies may change over time, the goals and outcomes of the agreement represent the commitments of the Executive Council (EC); and so outcomes that are a part of this agreement should only be changed, removed or added by approval of the EC. Likewise, we suggest that no signatory should have the ability to completely "opt out" of participation. Rather than opting out, commitment to the outcomes should mean that the signatory will also participate in the development and implementation of all management strategies. Participation should simply be clearly defined by signatories. Participation may vary by state and by time and available resources. It may include direct investment when priorities align and there is funding, technical personnel, and programs to support actions while, at other times, participation may be limited to technical advice, shared experience, or support and consent. Essentially, each signatory should identify clearly what they will contribute and should revisit those commitments on a regular basis. We suggest that participation in strategies be defined in this way.

Additionally, while we support the concept of "adaptive management," we note that along with the flexibility to change course, comes the responsibility to specify, clearly document and publicly communicate the reasons of the change, so that the decision-making process is transparent and understandable to all concerned.

Lastly, because of the importance of the Management Strategies in the ultimate decision-making and prioritization of resources of the partnership, the Alliance believes the Executive Council should review and assess how the strategies are progressing during its annual meeting. We further suggest that because management strategies are of paramount importance in driving the accountability for Goals and outcomes, that this agreement be viewed with a limited time frame, such as 5 years, with the provision to evaluate the goals and outcomes, consider the adoption of new goals and outcomes, and rededicate the partners to the goals at this time.

OTHER COMMENTS CARRIED FORWARD FROM JULY 2013

The Alliance provided extensive comments in July 2013 upon release of the first public draft of the Agreement. Some comments were not incorporated and are offered again at this time.

Toxics Outcome: A modern Bay agreement must include a toxics outcome. Toxic pollution that causes fish advisories could also have long-term impacts on human health, particularly in communities at risk. 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 affect 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 respond to environmental justice issues affecting diverse communities. The September draft of the Agreement included two provisions to address toxic issues that should be brought back and added to the Water Quality Goal.

Climate Change: Regardless of ideological and scientific opinions on the causes of climate change, its effects are indisputable. The Agreement should contain language that clearly recognizes that climate change will affect our decisions about restoration actions and the success of our efforts in the future. For example, tidal wetland restoration and protection will be challenged by ongoing sea level rise. Language related to management strategies should include consideration of climate change effects and the need for adaptation planning.

Healthy Watersheds Outcome: Sustaining the health of only state-designated waters and watersheds “recognized for their exceptional quality and/or high ecological value” will leave many other healthy waters and watersheds in excellent condition vulnerable. Defining healthy waters and watersheds this narrowly will also be a significant missed opportunity for watershed states to prevent the decline of local and tributary waters that are still of good quality from moving to “fair” or even “poor” status. Thus, while the proposed objective is reasonable, the goal and outcomes should be stated in broader terms. We recommend deleting the term “state identified”. Another option might be to include a quantitative outcome for designation of new waters of high quality on state lists.

Working lands Conservation Outcome: Although sector-based water quality outcomes are not currently contained in the agreement, we still believe the partners should consider the role of the USDA as a critical partner in the success of water quality and land conservation goals. A working lands conservation outcome, previously offered by USDA, if adopted, would help recognize USDA support for efforts to support, track, and verify conservation practices on farm and forest lands. As previously suggested, such an outcome could read: “Work with private landowners to apply new and effective conservation practices on 4 million acres of 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 has long been an issue that has generated both concern and skepticism regarding restoration plans. An outcome in the agreement provides an opportunity to show the public that the Bay Program is serious about fully engaging Maryland, Pennsylvania, the federal government, and private partners in solutions for increasing sediment storage capacity and reducing sediment deposition behind the dam while reducing storm scour events. An appropriate outcome would identify a process and timeline for development of a plan and its implementation.

PRINCIPLES

This is a good list of guiding principles. We recommend a few editorial changes.

Bullet 5 { revise to read “...innovative technologies and approaches...” Creating space for things like ecosystem markets.

Bullet 12: This very much reads like “convince others that they should join us”. We would recommend that more appropriate wording as “Continue to seek common ground between the needs

of the Bay restoration effort and the needs of the watershed's diverse residents and communities in order to achieve the long term goals of the Agreement."

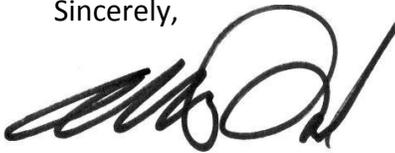
Bullet 13: Rather than "Explore the application of social science to" Can't we just say "Apply social science to...!"

CONCLUSION

The Chesapeake Bay Program has been at a crossroads for some time. With the focus squarely on regulatory issues since 2010, 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 new Watershed Agreement and its goals and outcomes to be successful, the crucial role of local citizen stewardship and the support of those who are not signatories to the agreement needs to be better recognized. Without clear goals to drive this, the Alliance strongly encourages the partnership to use the management strategy development process to promote an open dialogue and to align the delivery of programs to incorporate a broader base of local support and partners.

Thank you for the opportunity to weigh in on the future of the Chesapeake Bay Watershed Partnership.

Sincerely,

A handwritten signature in black ink, appearing to read 'Albert H. Todd', written in a cursive style.

ALBERT H. TODD
Executive Director

Cc Jessica Blackburn, Citizen's Advisory Committee Coordinator
Mary Gattis, Local Government Advisory Committee Coordinator