April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

**RE: Citizen Stewardship Management Strategy Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Citizen Stewardship Management Strategy.

Members of the Choose Clean Water Coalition strongly support the Citizen Stewardship Management Strategy. The strategy focuses on increasing the number and diversity of trained and mobilized citizen volunteers with the knowledge and skills to enhance the health of their local watersheds. The comments below aim to strengthen the final strategy.

## A. The Citizen Stewardship Strategy Should Retain and Continue to Focus on the Sound Behavior Index Mechanism.

The strategy introduces a sound behavior index, which is a value-added method used to track changes in attitudes, behaviors, and actions related to stewardship. It is important to measure long-term shifts in behaviors in order to give policymakers tools for targeting programs that will actually foster volunteerism and local engagement. The index also helps break down barriers to effective outreach.

The strategy includes a section of external factors that are obstacles to citizen stewardship. The first factor is how "public opinion, perception and attitude about Bay clean up varies" among citizens. The index directly addresses this barrier in several ways. For example, it assists in developing messaging regarding a particular issue to inform outreach programs, which are based on public perception data. In order to know and target an audience, you must first understand communication obstacles.

The sound behavior index used here should be modeled after the successful sound behavior index in the Puget Sound region. There, the Puget Sound Partnership implemented a sound behavior index study to determine day-to-day practices and behaviors that may harm Puget Sound. The study recognizes the importance of fostering beneficial behaviors and reducing harmful ones in order to reverse negative trends influenced by human actions. The survey is administered every two years to a scientifically selected sample of residents in order to measure behaviors that affect Puget Sound as well as social capital. Each region is given a score so that progress can be tracked over time. The Puget Sound Partnership is having success with this method, and it is possible to have similar success here in the Chesapeake Bay watershed.

The Coalition sees great benefit in implementing a long-term sound behavior index regionally. We support continued funding, particularly at the state level, for the sound behavior index after

the pilot phase.

**B. The Citizen Stewardship Strategy Should Build on the Emphasis of Local Government and Non-profit Partnerships Through Stormwater Permit Mandates.**

There are several successful models of outreach programs formed by a partnership with local governments and non-profits. For example, the city of Norfolk, Virginia partnered with Elizabeth River Project on the "River Star Homes" program. Individuals and families sign up to be a "River Star Home" if they agree to seven simple things like reducing lawn fertilizer and not putting grease down their sink. Another great example is several partnerships that Montgomery County, Maryland has initiated to create and continue the "Rainscapes Program." Partners include Neighbors of the Northwest Branch, Izaak Walton League, Friends of Sligo Creek, and Audubon Naturalist Society.

The Bay Program and citizen stewardship partners should support these partnerships through providing further guidance on how local governments can facilitate these partnerships. Further, a management approach should be added to encourage these partnerships by making them mandatory as part of MS4 permits.

This partnership mandate belongs in the MS4 permit because of the public participation aspect of the Clean Water Act. The Clean Water Act states, "Public participation in the development…of any…plan or program established by the [EPA] or any state…shall be…assisted by the [EPA] and the States." 33 U.S.C. § 1251(e). To this point, the Court of Special Appeals of Maryland held that the Montgomery County MS4 Permit violated the Clean Water Act in part because the permit lacks opportunities for public participation. Maryland Department of the Environment, et al. v. Anacostia Riverkeeper, et al., Court of Special Appeals of Maryland, No. 2199, April 2, 2015. The Clean Water Act was built on the idea of public participation in the implementation of the act; therefore it is up to EPA and the states to ensure this happens.

With programs like the Watershed Stewards Academy, non-profits are ready and willing to help foster active citizen stewards. Partnerships for specific restoration services should be taken seriously. The Bay Program and state and local governments should see the benefit in and facilitate these partnerships.

**C. The Bay Program Should Support Programs that Build Capacity at the Non-Profit Level.**

The strategy correctly recognizes that as the number and diversity of citizen stewards increases, the non-profit organizations will need to build their capacity in order to maintain the engagement of those individuals. The Bay Program should support capacity building programs at the non-profit level in order to keep these stewards mobilized and able to make decisions about clean water policy.

We are happy to discuss our comments on the draft Citizen Stewardship Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

American Rivers
Anacostia Watershed Society
Audubon Naturalist Society
Blue Water Baltimore
Clean Water Action
Conservation Pennsylvania
Conservation Voters of Pennsylvania
Delaware Naturalist Society
Eastern Pennsylvania Coalition for Abandoned Mine Reclamation
Friends of the North Fork of the Shenandoah River
Friends of the Rappahannock
Izaak Walton League of America
Lackawanna River Corridor Association
Maryland Conservation Council
Maryland Sierra Club
Mid-Atlantic Council of Trout Unlimited
National Aquarium
National Parks Conservation Association
Nature Abounds
Neighbors of the Northwest Branch, Anacostia River
New York League of Conservation Voters
NWF Mid-Atlantic Regional Center
Penn Future
Potomac Riverkeeper Network
Rock Creek Conservancy
Sleepy Creek Watershed Association
South River Federation
St. Mary's River Watershed Association
Susquehanna Greenway Partnership
Trash Free Maryland
Virginia Conservation Network
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Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

Choose Clean Water COALITION

**RE: Climate Resiliency Management Strategy Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Climate Resiliency Outcomes Management Strategy.

## A. We Support Using the "Climate Smart Conservation Cycle" as a Framework for Adaptation Work.

The "Climate-Smart Conservation Cycle," developed by an expert group empanelled by the National Wildlife Federation, features seven steps in an iterative process informed by monitoring and assessment at each step of the cycle. We strongly support use of the Climate-Smart Conservation Cycle as the centerpiece and framework for climate adaptation work in the Chesapeake Bay.

## B. We Support Including Climate Change Considerations into other Management Strategies.

Integration of climate change adaptation into all the management strategies is a pressing issue that needs to be realized as soon as possible. We strongly support the role of the climate resiliency work group in working closely with other Goal Implementation Teams and work groups on the inclusion of climate change considerations into their management strategies. The management strategy should provide more detail on how exactly this collaboration will take place.

## C. The Management Strategy Should Encourage Collaboration Along the Entire Atlantic Coast.

The management strategy should include a component to not only increase regional collaboration, but also collaboration with organizations up and down the Atlantic coast. This type of collaboration is important because issues such as those affecting migratory birds are best managed within a flyway approach. One example of this type of collaboration is National Wildlife Federation's work with New Jersey Audubon on assessing coastal impoundments from Massachusetts to Virginia for their ecological value, vulnerability to sea level rise and storm surge, as well as the protection they offer as a natural barrier to human communities and infrastructure. Partnerships like this should be encouraged beyond the Chesapeake Bay watershed.

We are happy to discuss our comments on the draft Climate Resiliency Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Bluewater Baltimore

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Delaware Naturalist Society

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation

Friends of the North Fork of the Shenandoah River

Friends of the Rappahannock

Lackawanna River Corridor Association

Maryland Conservation Council

Maryland Environmental Health Network

Maryland Sierra Club

Mid-Atlantic Council of Trout Unlimited

National Aquarium

National Parks Conservation Association

Nature Abounds

Neighbors of the Northwest Branch, Anacostia River

New York League of Conservation Voters

NWF Mid-Atlantic Regional Center

Penn Future

Potomac Riverkeeper Network

Rock Creek Conservancy

Sleepy Creek Watershed Association

South River Federation

St. Mary's River Watershed Association

Susquehanna Greenway Partnership

Virginia Conservation Network

Waterkeepers Chesapeake

West Virginia Rivers Coalition

April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

**RE: Diversity Outcome Management Strategy Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Diversity Outcome Management Strategy.

As a Coalition, we want to commend the Chesapeake Executive Council for including diversity in the Chesapeake Bay Watershed Agreement. The Diversity Action Team has done an outstanding job of identifying obstacles, creating workgroups, drafting this strategy, and beginning the crucial discussion on diversity in the watershed. The Coalition has a few suggestions that seek to build on the great work already done in developing a baseline and implementing the approaches.

## A. The Diversity Strategy Must Gather Information to Establish a Robust Baseline.

The Diversity outcome is to: "Identify minority stakeholder groups that are not currently represented in the leadership, decision-making and implementation of conservation and restoration activities and create meaningful opportunities and programs to recruit and engage them in the Partnership's efforts."

The strategy acknowledges that the number of diverse individuals engaged in protecting and restoring waters does not reflect the diversity of the watershed. The strategy also acknowledges the need to identify minority stakeholder groups that are not currently represented in order to engage those groups. However, the strategy lacks a robust baseline of minority stakeholder groups currently represented in the leadership, decision-making and implementation of conservation and restoration activities. This information is necessary as a starting point to begin tracking improvements in diversity.

### 1. The Diversity Strategy Should Include a Baseline Number of Diverse Employees of Partnership Members.

The strategy acknowledges that there is no baseline for diversity in the Chesapeake Bay watershed. The strategy addresses the lack of baseline by adding an appendix with various outreach policies and programs. While the appendix showcases the efforts the Partnership members are making to reach diverse audiences, the appendix falls short of quantifying the extent to which minority stakeholder groups are currently represented in the Partnership's work.

In order to generate a robust baseline, participating partners should report data about the internal demographics of their employees. Specifically, Partnership members should report

race/ethnicity and other diversity information for employees that work in state agencies or federal government programs and are engaged in leadership, decision-making and implementation of conservation and restoration activities.

Only by compiling information from the Partnership members on the diversity of employees will we be able to track whether the partners are increasing the diversity of those engaged in leadership, decision-making and implementation of conservation and restoration activities over time.

**2. The Diversity Strategy Should Make a Plan to Help Non-Profits Collect and Report Diversity Data.**

Another piece of information currently missing from the diversity baseline is diversity of boards, staff, and volunteers of non-profits working in leadership, decision-making and implementation of conservation and restoration activities. Regional, and local non-profit environmental organizations are clearly in the best position to gather diversity data from their boards, staff, and volunteers, but most have not yet done so. While the vast majority of non-profit organizations would be willing to collect and report this data, capacity issues largely prevent this. The Bay Program and Partnership members should work closely with the non-profit community and funders to build capacity for groups to collect and report this diversity information.

A great example of a method to collect organizational demographics comes from Guidestar and D5 Coalition. Together, they created a questionnaire to support non-profits in collecting diversity data. The survey is voluntary and also has the option of being filled out anonymously. The purpose of the survey is to collect certain content information (i.e. gender, sexual orientation, and disability status) plus specific fields within those categories (e.g. male, female, or transgender).

For example, the race and ethnicity question asks how many board members/staff members/volunteers identify as Asian/Asian American, Black/African American, Hispanic/Latino/Latina, Native American/American Indian/Alaska Native/Native Hawaiian, White, Multi-racial or Multi-Ethnic (2+ races/ethnicities). It also includes options for individuals who decline to state and those who identify as other with the option of filling in a blank. D5 Organizational Demographics.

The questionnaire also gives the organization a chance to share the strategies they use to address diversity. Options include tracking retention across demographic categories, tracking income levels, and tracking age. The questionnaire then gives the organization a chance to share more about their demographic profile including other methods used to support diversity.

We suggest the Diversity Action Team, Bay Program, and the Partnership members work with academic institutions (such as the University of Maryland, School of Public Health) to assist non-profits in collecting diversity data. In the Great Lakes region, Professor Dorceta Taylor from Michigan State University collected diversity data from local and regional environmental groups. *See* http://www.joycefdn.org/assets/1/7/TJF_DiversityBooklet_Final-9.25.pdf. The report, made possible by funding from the Joyce Foundation, is an important resource for the community and allowed for collection of the information without undue burden to the environmental community. We strongly recommend the partnership, environmental groups, academic institutions, and funders work together to replicate that diversity report in the Chesapeake Bay watershed.

### 3. The Diversity Management Strategy Should Include More Examples of Successful Diversity Initiatives.

Several groups have created successful diversity initiatives that should be included in the strategy and then furthered by the Bay Program.

First is the National Fish and Wildlife Foundation's Technical Capacity Program. This program provides funding to groups that provide technical services on behalf of local governments and nonprofits for projects that enhance local capacity to more effectively restore the habitats and water quality of the Chesapeake Bay and its tributaries. One evaluation criterion is "demonstration of need," which states that the "Projects should establish a clear need for the funds being requested and demonstrate that activities would not move forward absent funding" National Fish and Wildlife Foundation Technical Grants Program Request for Proposal. The funding processes are necessarily competitive. However, programs like this provide a great opportunity for programs that would otherwise not receive funding to still have the opportunity to be competitive and participate. This is how the Bay Program is able to help smaller, less established organizations grow.

The Bay Program can also build on programs like this. There is a common realization that the grant process is extremely competitive. This provides an opportunity for the Bay Program (and interested partners) to launch training programs on grant application success for organizations that do not have the knowledge or technical capacity to become more competitive.

The National Fish and Wildlife Foundation has also been successful in partnering with groups that promote diversity initiatives. For example, National Fish and Wildlife Foundation partners with:

- The National Wildlife Federation for the Deep Green Community program, which benefits wildlife and water in Baltimore.

- The Anacostia Watershed Society for the Anacostia Wetlands Awareness and Restoration Effort restoring tidal wetland habitat in the Anacostia Watershed in the District of Columbia.

- Blue Water Baltimore on the Blue Water Congregations program in Maryland, which works with religious leaders to reduce impacts from stormwater.

- Anacostia Riverkeeper on the Community Rain Barrels to install high-volume cisterns in the District of Columbia to harvest stormwater for community use.

- The City of Lexington, Virginia on the Green Infrastructure Showcase which integrates green infrastructure into new and highly-visible, mixed-income neighborhoods of affordable EarthCraft certified homes.

Successful partnerships like these are a unique opportunity to engage the press on local environmental justice stories, including grants. These stories also give the Bay Program the opportunity to promote the prioritization of diversity.

## B. The Diversity Management Strategy Must Provide Clear and Effective Steps on How the Management Approaches Will be Implemented.

The Diversity Action Team generated four management approaches to address the factors affecting the ability to meet the outcome. We believe the management approaches are implementable. However, we have a few suggestions for each approach to help reach the goal.

### 1. The Diversity Management Strategy's Goal of Enhancing Communication and Outreach Can Be Achieved in the Following Ways:

- We agree that the partnership should begin to change how they talk about issues. Many of the strategies are communicated in a way that make them inaccessible and irrelevant for certain diverse individuals who are not experts in working with governmental agencies or familiar with environmental acronyms. The Diversity Action Team should work with the Bay Program communications team to help make Partnership materials more accessible to a wider audience.

- The partnership should support existing communication opportunities, such as the DMV EJ Listserv, the Symposium on Environmental Justice and Environmental Health Disparities in Maryland and Washington, D.C.; the National Environmental Justice Conference, the Choose Clean Water Annual Conference; the Watershed Forum; and Jews United for Justice Social Justice Events.

- The Diversity Action Team should work with states, local governments, and the public access team to ensure public access sites to waters with fish consumption advisories are clearly posted, with signage in multiple languages and including pictures.

- The Bay Program and Partnership should consider funding a mobile phone app that allows user to identify fish consumption advisories on waters in the watershed. The app could be modeled after Swim Guide, which helps users identify swimming advisories before swimming. Fish Guide could provide users with up-to-date information about fishing advisories in their local waters and would help anglers traveling to new places to fish know their risks.

### 2. The Diversity Management Strategy's Goal of Increasing Employment and Professional Engagement Can Be Achieved in the Following Ways:

- The partnership should create an ad hoc employment workgroup by inviting key stakeholders with expertise in diverse hiring and employment (such as career advisors from Historically Black Colleges and Universities, professors from diverse backgrounds, or affinity groups representing minority groups in environmental and engineering fields) in order to determine the best strategies for increasing employment and professional engagement.

- Additional focus should be added on how to "actively recruit" people of diverse backgrounds. Recruitment means to actively find qualified individuals and ask them to join an organization. This is important because the problem is that individuals are not applying for jobs. The reason for this is not necessarily because they are not seeing the job postings.

- Partnership members should take steps to make their workplace more welcoming and inclusive for diverse individuals.

**3. The Diversity Management Strategy's Goal of Promoting Environmental Justice Can Be Achieved in the Following Ways:**

- The partnership should incorporate community leaders (i.e. neighborhood associations, faith based organizations, community development groups, and youth groups) into the fulfillment of the strategy for environmental justice purposes. We suggest that community leaders are invited to sit on a committee or take part in a work group to ensure they can bring their community issues/interests to the table. We want to see the partnership involve these leaders in the planning phase so each project contains an eco-social benefits to the community (i.e. jobs, health, and recreation). This also ensures community leaders are informed of potential projects before those projects are placed in their communities

- Other groups should be incorporated into this strategy's implementation including Maryland Commission of Environmental Justice and Sustainable Communities; Clean Water Action; Green Latinos; Green for All; Broccoli City; and various community colleges and universities.

- We strongly support the use of EJScreen to implement the strategy. We also encourage the tool be released for public use immediately.

We are happy to discuss our comments on the draft Diversity Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Blue Water Baltimore

Chesapeake Bay Foundation

Clean Water Action

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation

Friends of the North Fork of the Shenandoah River

Friends of the Rappahannock

Lackawanna River Corridor Association
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Maryland Sierra Club
Mid-Atlantic Council of Trout Unlimited
National Aquarium
National Parks Conservation Association
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Neighbors of the Northwest Branch, Anacostia River
Penn Future
Potomac Riverkeeper Network
Sleepy Creek Watershed Association
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Susquehanna Greenway Partnership
Trash Free Maryland
Virginia Conservation Network
Waterkeepers Chesapeake
West Virginia Rivers Coalition

April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

**RE: Environmental Literacy, Students, and Sustainable Schools Management Strategies Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Environmental Literacy, Students, and Sustainable Schools management strategies.

The Coalition strongly supports the Environmental Literacy, Students, and Sustainable Schools management strategies. The Chesapeake Bay Program facilitated Education Workgroup meetings, Environmental Literacy Summits, and a series of special meetings to shape the Environmental Literacy Goal and Outcomes.

Broad-based representation from state agencies, regional agencies and non-profits resulted in comprehensive management strategies to be accomplished collectively as a region and within each jurisdiction. The management strategies are designed to meet each jurisdiction where it is, taking into account current resources and funding. This arrangement recognizes that all jurisdictions are working toward a more environmentally literate citizenry but are at different places along the continuum.

We are happy to discuss our comments on the draft Education Management Strategies further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Blue Water Baltimore

Conservation Pennsylvania

Conservation Voters of Pennsylvania

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Friends of the North Fork of the Shenandoah River

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Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

Choose Clean Water COALITION

**RE: Riparian Forest Buffer Management Strategies Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Riparian Forest Buffers Management Strategy.

The Coalition recognizes the extensive benefits of riparian forest buffers on water quality and habitats in the watershed. From a public policy standpoint, the Coalition strongly agrees with the goal of 70 percent of riparian areas throughout the watershed being forested. The comments below are intended to help the Bay Program partners reach this goal.

## A. The Riparian Forest Strategy Should Focus on Permanent Protection to Ensure Riparian Forest Buffers Remain Over Time.

The Chesapeake Bay Watershed Agreement Riparian Forest Buffer Outcome is:

> Continually increase the capacity of forest buffers to provide water quality and habitat benefits throughout the watershed. Restore 900 miles per year of riparian forest buffer and conserve existing buffers until at least 70 percent of riparian areas throughout the watershed are forested.

The strategy falls short of reaching this goal because it fails to implement permanent protection measures which would ensure forest buffers remain over time. Currently, the United States Department of Agriculture's Conservation Reserve Enhancement Program targets high-priority conservation issues. Riparian forest buffers are a common Conservation Reserve Enhancement Program practice and approximately 63,000 acres of forest buffers are kept under these contracts in the Chesapeake Bay watershed.

The problem with contracts is that they expire. First, the average investment period is only 15 years (the life of the contract). Once the contract lapses, the landowner can re-enroll as long as they are in compliance. The strategy recognizes that those enrolled in a 15-year contract are allowing their contracts to expire instead of re-enrolling. Second, when there is intergenerational transfer of land, the contract expires. These contracts represent a great amount of effort and financial investment.

Bay Program partners should ensure landowners re-enroll in riparian forest buffer contracts to minimize the loss to acres and to safeguard investments. Under "Factors Influencing Success"

Part G, the strategy discusses how many of the contracts are expiring. Here, there should be language to explain why the contracts are expiring (i.e. because the forest buffer stock is inadequate due to lack of outreach during the length of the contract) and how the Bay Program can assist in ensuring these contracts do not lapse. The Bay Program can help avoid lapses through: (a) active outreach during the life of the contract; (b) learning the landowners intentions through outreach and increasing the landowner's awareness of the opportunity to re-enroll (preferably in an easement); and (c) encouraging the landowner to re-enroll in either a contract or an easement (*See* Buffering the Bay – Forestry Workgroup Report).

As the strategy recognizes, another effective solution to this problem is permanent easements on properties. An easement would allow the Department of Agriculture to fund the landowner to maintain the riparian forest buffers overtime through cost-share programs. On page 5 under "Description", the strategy generally mentions that contracts should be rolled over through easement programs. The following language should be added under "Management Approaches" to incentivize landowners to roll their contract over into an easement:

- "An easement program should be implemented where the landowner is paid an extra $600/acre for permanent retirement of the land."

This ensures the riparian forest buffers remain permanently. The 2014 Farm Bill has a provision to convert contracts into easements, but this needs to be a priority. It is essential to protect the long lasting planted buffers because they have the most impact on protecting the watershed from runoff.

**B. The Riparian Forest Buffer Strategy Should Require Riparian Forest Buffers Be Incorporated into State Stormwater Plans**

Currently, riparian forest buffers are not a priority practice. Under the "Actions, Tools and Support to Empower Local Governments and Others," riparian forest buffers are recognized as critical barriers between polluting landscapes and receiving waterways using relatively little land. One suggestion is to integrate riparian forest buffers into the state stormwater programs. This idea is mentioned under the heading "Make new program linkages and use financial leverage to conserve and restore more riparian forest buffers." This suggestion should be a focus of the final strategy, not merely be mentioned in passing. Because riparian forest buffers reduce runoff of nitrogen and phosphorus, it is reasonable to incorporate the riparian forest buffer mandate into state stormwater programs.

**C. The Forest Buffer Strategy Should Focus on Advancing Tools to be More Targeted and Cost-Effective.**

The strategy highlights the importance of science and technology to improve riparian forest buffer practice. The strategy highlights using and analyzing geographic prioritization tools and using demographic tools and high resolution imagery.

We support the idea of the geographic prioritization tool. This provides the most cost-effective strategy and targets the low hanging fruit. We also support monitoring efforts involving data derived from high resolution imagery. These tools must continually advance to become targeted and cost-effective in order to achieve the riparian forest buffers outcome.

We would like to see more specific recommendations in the final strategy on the methods that will be used to track riparian forest buffers.

## D. The Riparian Forest Buffer Strategy Should Directly Focus on Strategic Outreach to Landowners in Order to Make Riparian Forest Buffer Practices More Attractive.

The strategy recognizes that outreach to landowners needs to be improved through the expansion of outreach resources and for effective communication. We have a few suggestions to make outreach stronger.

### 1. The Forest Buffer Outcome Should Not Be Limited To Agriculture.

The riparian forest buffers strategy appears to relate only to agriculture. The strategy includes section regarding suburban areas needing improvement in protecting and establishing riparian forest buffers. However, urban outreach and implementation is completely missing from the strategy. Surface runoff occurs in many urban areas and this should be implemented into the strategy under the "Non-Ag Lands" strategy element section.

### 2. The Riparian Forest Buffer Strategy Should Focus More Heavily on Strategic Outreach to Landowners.

Riparian forest buffers are a tough ask for landowners, particularly farmers who make up the majority of the current Conservation Reserve Enhancement Program contracts for riparian forest buffers. The strategy discusses improving programs to make the practice more appealing, which includes technical assistance, maintenance, more flexible Conservation Reserve Enhancement Programs, and strategic riparian forest buffer outreach. However, the strategy fails to mention how this outreach, which is a key component to the success of this outcome, will work.

In order to have effective outreach regarding riparian forest buffers, it is necessary to target areas that lack buffers. A method needs to be established and implemented to determine areas that are in need of riparian forest buffers. Further, research, focus groups and message testing should be done to learn why farmers choose to protect and maintain riparian forest buffers and to create messaging aimed at new farmers that reflects this research. Once target areas and effective messaging are identified, key messengers should be employed to encourage use of riparian forest buffers in those areas.

We are happy to discuss our comments on the draft Riparian Forest Buffer Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

American Rivers

Anacostia Watershed Society

Audubon Naturalist Society

Bluewater Baltimore

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Delaware Naturalist Society

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation

Float Fishermen of Virginia
Friends of the North Fork of the Shenandoah River
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Choose Clean Water COALITION

**RE: Public Access Management Strategy Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Public Access Management Strategy.

Members of the Choose Clean Water Coalition recognize the importance of increasing public access and support the management strategy. We especially commend the strategy for including considerations of climate change and a focus on enhancing public access for a diverse population. We provide the following comments to make this strategy stronger.

**A. New Public Access Sites Should Be Prioritized For Development in Urban Areas.**

The Public Access Management Strategy does not explain how public access sites will be prioritized for development. In order to carry out the strategy's approach of enhancing public access for a diverse population, urban public access sites should be prioritized for detailed assessment, project design, and implementation.

**B. The Strategy Should Focus on Providing Robust Local Technical Assistance.**

We recommend that federal and state agencies provide technical assistance and resources to localities and to approach local businesses when pursuing public water access projects. Local governments are key decision makers in access site development and they are motivated by projects that can demonstrate a strong economic impact. Local business involvement is essential, and agencies should share models of success within the Chesapeake watershed that can be replicated and build momentum in emerging communities.

Federal and state agencies should also provide local communities resources on managing conflicts among users—which too often prevent access sites from being built or opened to the public. Local governments and partners should be provided a toolkit and resources on public access development, including a guide for working with neighbors and landowners that addresses issues including liability, maintenance, and stewardship. A model of success that can be replicated throughout the region is the Anne Arundel Public Water Access Committee in Maryland, which is comprised of recreationists, business owners, and recreation park officials. This committee advises the Anne Arundel County Department of Parks and Recreation on low-cost access site development while building broader community support.

## C. The Strategy Should Foster Reopening Existing Public Access Sites Where Access has been Unlawfully Limited.

The current draft of the management strategy only discusses fee simple land acquisition or other often cost prohibitive methods for providing public access. The strategy, under Section III's Public Lands paragraph, mentions "obstructions", but omits a very basic cost effective remedy that is endemic in the region. Public access is often prohibited at bridges and other water crossings or other roadways with “No Parking” signs along roads that have adequate shoulders and room for parking. Often these “No Parking” signs are present due to the pressure put on local officials from private landowners who do not want the public to access water near their property. The strategy should encourage jurisdictions to revisit these public access areas and reinstate public access.

## D. The Commonwealth of Virginia Should Protect Citizens’ Right to Fish, Wade and Float.

The Commonwealth of Virginia should actively protect the constitutionally-guaranteed rights of its citizens to access the lands and water. The Commonwealth should protect the rights of its citizens, including those with a clear, uncontested King's Grant to access the Commonwealth's water resources. Article XI of the Virginia Constitution is clear that its citizens have a right to use and enjoy public lands and waters (and specifically to fish) in these areas. Unless a landowner has a King's Grant, they do not own the riverbed or streambed, which means that people can wade or float on streams and rivers to fish, kayak/canoe, or swim as long as they do not trespass on shore. Virginia should undertake an effort to clarify which areas are open to public access and find ways to protect legitimate ownership interests while offering anglers and other users’ protections against false claims of ownership.

## E. The Strategy Should Focus on Preventing and Reversing Private Dedications of Public Rights-of-way.

The jurisdictions have not actively sought to re-establish public rights-of-way in many areas that have been effectively taken over by adjacent private property owners who have restricted the public's legal access to the water - often in residential areas. Most roads that dead-end at the water, especially in tidal areas, have a legal public right of way to the water, but they are often illegally posted by adjacent landowners, or unnecessarily restrict parking, effectively eliminating real public access. This strategy would be a cost-effective way of enhancing public access in residential areas.

We are happy to discuss our comments on the draft Public Access Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Bluewater Baltimore

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation
Float Fishermen of Virginia
Friends of the North Fork of the Shenandoah River
Friends of the Rappahannock
Friends of the Rivers of Virginia
James River Association
Lackawanna River Corridor Association
Maryland Conservation Council
Maryland Sierra Club
Mid-Atlantic Council of Trout Unlimited
National Aquarium
National Parks Conservation Association
Nature Abounds
New York League of Conservation Voters
Penn Future
Potomac Riverkeeper Network
Sleepy Creek Watershed Association
South River Federation
St. Mary's River Watershed Association
Susquehanna Greenway Partnership
Virginia Conservation Network
Waterkeepers Chesapeake
West Virginia Rivers Coalition

April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
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Choose Clean Water COALITION

**RE: Toxics Policy and Prevention and Toxics Research Management Strategies Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Toxics Policy and Prevention and Toxics Research Management Strategies.

Members of the Choose Clean Water Coalition specifically asked that the toxics goals and outcomes be included in the Chesapeake Watershed Agreement. We are pleased that the goals and outcomes were included in the agreement, and we recognize the significant work and resources that went into compiling the detailed information and approach related to PCBs in the policy and prevention strategy. We also recognize the effort to address a broader suite of toxics in the research strategy.

However, the toxics management strategies need significant work to ensure that they will meet the stated outcomes.

**A. The Toxics Policy and Prevention Strategy, as Currently Drafted, Will Not Meet Chesapeake Watershed's Toxics Outcome.**

The Chesapeake Bay Watershed Agreement toxics outcome is to:

> Continually improve practices and control that reduce and prevent the effects of toxics contaminants below levels that harm aquatic systems and humans. Build on existing programs to reduce the amount and effects of PCBs in the Bay and watershed. Use research findings to evaluate the implementation of additional policies, programs and practices for other contaminants that need to be further reduced or eliminated.

The Toxic Contaminants Policy and Prevention Management Strategy's sole focus on PCBs to the exclusion of all other toxic contaminants fails to meet the outcome's broad focus on toxic contaminants. Policies and programs to reduce PCBs is only one element of the outcome.

The Toxics Management Strategy work group claims that other toxics will be addressed in later iterations of the management strategy. But, as the Chesapeake Bay Watershed Agreement explains, "the strategies will outline the means for accomplishing each Outcome" and "will be implemented in two-year periods." *Chesapeake Bay Watershed Agreement at 15*. To spend a year developing a management strategy that only addresses PCBs and then to suggest that other toxics will be addressed later misses this opportunity of public comment and partner

attention and resources to address a broader suite of toxics. Focusing on PCBs for the first two-year implementation period may be a good strategy. But limiting the entire management strategy to only PCBs and then suggesting other toxics be addressed at some later point in time is unacceptable.

At the very least, the Toxic Contaminants Policy and Prevention strategy should contain the general outline of management approaches for a broad range of toxics policy and prevention issues that can be further fleshed out in two-year work plans and through the adaptive management process. These comments provide specific suggestions of elements of management approaches that should be included in the final Toxic Contaminants Policy and Prevention Management Strategy. Significantly, offers by members of the work group to draft language addressing a broader suite of toxics issues were rejected by the work group lead.

**B. The Toxic Contaminants Policy and Prevention Management Strategy Should Include Management Approaches Addressing a Broad Array of Toxic Contaminants.**

The current version of the Toxic Contaminants Policy and Prevention management strategy only addresses PCBs, to the exclusion of other toxic contaminants. Because public health and aquatic systems in the Chesapeake Bay Watershed are threatened by more toxic contaminants than PCBs, the policy and prevention management strategy must lay out the framework for addressing additional toxic contaminants.

Further, because several Chesapeake Bay Watershed Agreement signatories are already taking policy and prevention steps to address toxic contaminants beyond PCBs, we can learn from those signatories and incorporate into the management strategy toxic policy and prevention strategies that are already underway in Bay states. By recognizing the steps that jurisdictions are already taking to address toxics, we will give jurisdictions credit for the work they are doing to address toxics and will facilitate a process by which other jurisdictions can replicate those strategies.

For example, several states are currently pursuing toxics policy and prevention strategies that would not be covered within the draft strategy. These include, but are not limited to:

- Virginia's rail safety effort;
- West Virginia's effort to address chemical storage facilities;
- Maryland's ban on microbeads; and
- The City of Harrisburg, Pennsylvania's resolution against oil trains.

Including placeholders for crude-by-rail safety, chemical storage, accumulated metal, fracking wastewater and tailings, microbeads, coal ash, tar sealants, pesticides, and other contaminants in the policy and prevention strategies will allow us to recognize the work being done around the watershed while making space for jurisdictions to design their own toxics 2-year work plans.

### 1. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Chemical Storage.

On January 9, 2014, a chemical storage tank in Charleston, West Virginia leaked 10,000 gallons of a chemical into the Elk River shutting down access to drinking water for the capital city and nine surrounding counties. As the Elk River spill in West Virginia demonstrated, chemical storage is an important issue to address in preventing the effects of toxic contaminants in our waters. There are over 1,100 toxic chemical storage sites within the James River watershed alone. The Policy & Prevention management strategy is missing a huge opportunity to preserve these issues for future discussion, in light of the prevalence of chemical storage in the Bay watershed and demonstrated impacts of poor management of these sites.

Suggested management approaches include:

- Map above-ground chemical storage locations along all waterways.

- Develop and adopt a policy of regular inspections of above ground chemical storage facilities. Areas that have the potential to contaminate waterways should have stricter standards to ensure that leakage does not occur.

- Review current industry practices and determine range of standards. Fill any gaps identified in the existing industry toxic storage policies and procedures with standards that ensure adequate safeguards and inspections for the storage of all chemicals. These should include storage tank construction, labeling, inspection, leak detection, and recordkeeping requirements.

### 2. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Crude-by-Rail Safety.

On April 30, 2014, a train carrying crude oil derailed and caught fire in Lynchburg, Virginia. Three rail cars fell into the James River. One caught fire and completely lost its contents, either by burning up or spilling into the river. In the aftermath of the Lynchburg oil train explosion and the resulting fire on the James River, it is important to include rail safety—particularly related to oil trains and trains carrying toxic chemicals—in the toxics policy and prevention strategy.

Suggested management approaches include:

- Encourage the federal government to adopt comprehensive new safety standards including strict speed limits, adequate insurance requirements, and tank car standards which will protect the public from future accidents involving Bakken crude trains.

- Insist that new safety standards classify Bakken crude oil appropriately based on its volatility and require appropriate notification to state and local governments of the hazardous substances being carried through their borders.

- Increase inspections, particularly along the lines hauling Bakken crude oil. This issue can be addressed simply by hiring new inspectors.

### 3. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Sedimentation Accumulation of Metal Loadings such as Iron, Aluminum, or Manganese.

Approximately 1,920 stream miles in the Susquehanna River Basin are impacted by sedimentation accumulation of metal loadings such as iron, aluminum, or manganese. These toxics metals, often the result of abandoned mine drainage, pollute more than 5,500 miles of Pennsylvania's waterways. These impacted waterways, often easily identified by their bright orange or neon-blue hue, are literally rendered lifeless. There are no fish, crayfish, not even grasses in these toxic streams. Groups in Pennsylvania such as Eastern Pennsylvania Coalition for Abandoned Mine Reclamation have been working tirelessly to address these toxic conditions, and these conditions should be addressed by the management strategy. It is improper to limit the definition of "toxic" to chemicals that have been identified as such in regulation. Toxic should be interpreted broadly to include the quantity of pollutants that leads to impairment of the aquatic life use.

Suggested management approaches include:

- Prioritize and fund abandoned mine drainage impacted watersheds in need of cumulative hydrogeological watershed assessments to measure metal (iron, manganese, aluminum), sediment, and acidity loadings of the headwater tributaries impacted that flow to the Susquehanna River's East and West Branch's, ultimately reaching the Chesapeake Bay.

- Conduct riparian forest and streamside buffer projects along previously impacted abandoned mine lands within the Chesapeake Bay watersheds where reclamation and reforestation initiatives can be implemented under the Appalachian Region Reforestation Initiative.

- Utilize geographic information systems (GIS) maps that can be overlapped with stormwater MS4 communities in need of correcting their deficiencies to prioritize funding for BMPs and watershed restoration work.

- Map abandoned mines within the Chesapeake Bay watershed that have the potential to produce abandoned mine drainage leading to significant harm of aquatic conditions.

### 4. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Fracking Wastewater and Tailings.

Somewhere between 20% – 40% of the water used for hydrofracking a well returns to the surface as wastewater, also known as produced water. This wastewater not only contains the toxic and hazardous chemicals used in fracking fluid but also contains contaminants that it picks up from deep within the earth, most notably heavy metals, volatile organic compounds, salty brine and radioactive materials. Insufficient or incomplete treatment of wastewater results in water being released into our streams, rivers and lakes that contain contaminants that are in higher levels that are considered safe. Given the existence and growth of hydrofracking in the region, the management strategy should address this issue.

Suggested management approaches include:

- Ban open pits in the watershed.
- Prohibit fracking waste water from being sent to publicly owned treatment works.
- Ban use of use of wastewater from drilling for winter snow and ice clearing and dust management.
- Prohibit use of use of fracking drill cuttings in roadways and well pads as a "beneficial reuse."

### 5. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Microbeads.

Tiny plastic particles from a wide range of personal care products and cosmetics have been found in increasing numbers in waters across the region. Scientists checking four Maryland rivers with a net pulled up microplastic particles in all but one of their 60 samples, with the greatest concentrations in Baltimore's Patapsco River.[1] Microplastics may be harmful to fish that ingest them, where they could irritate or damage their digestive systems. Further, plastic marine debris also accumulates toxic pollutants such as PCBs.

Suggested management approaches include:

- Ban microbeads in cosmetics.

### 6. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Coal Ash Impoundments.

On February 2, 2014, a stormwater pipe burst sending 39,000 tons of coal ash and 24 million gallons of wastewater into the Dan River in Eden, North Carolina. The Dan River incident raised awareness of the dangers of coal ash and the toxic impacts such catastrophes can have on aquatic life. In Virginia, eleven coal ash facilities lie along the banks of rivers. Four are in the James River watershed and others discharge directly to the Potomac River.

Suggested management approaches include:

- Map all coal ash impoundments in the watershed.
- Design safeguards to ensure the coal ash impoundments are maintained and do not fail (i.e. lead to groundwater or surface water contamination).
- Require emergency preparedness plans for all jurisdictions in which coal ash impoundments are located.

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[1] *See* Yonkos et al. Microplastics in four estuarine rivers in the Chesapeake Bay, U.S.A. Environ Sci Technol. 2014 Dec 16;48(24):14195-202 http://www.ncbi.nlm.nih.gov/pubmed/25389665

### 7. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Coal Tar Sealants.

Coal-tar based seal coat is the black, viscous liquid sprayed or painted on asphalt pavement like parking lots. Studies by the United States Geological Survey have identified coal-tar based sealcoat as a major source of polycylic aromatic hydrocarbon (PAH) contamination in urban areas for large parts of the Nation. Polycyclic aromatic hydrocarbons (PAHs) are suspected to be human carcinogens and are toxic to human life.

Suggested management approaches include:

- Ban use of coal-tar-based sealcoat

### 8. The Toxic Contaminants Policy and Prevention Management Strategy Should Address Pesticides.

A steadily growing body of research links toxic chemicals, especially pesticides, to contaminated intersex fish, fish kills, alarming rates of bee hive deaths and public health impacts. These include increased rates of asthma, autism, birth defects, cancer, ADHD, depression, obesity, neurological, reproductive and developmental impacts, Parkinson's disease, Alzheimer's, reduced IQ and more. Given these threats, pesticides should be addressed in the management strategy.

Suggested management approaches include:

- Create a simple and cost-neutral, centralized online pesticide reporting database accessible to public health and environmental experts. The database can be funded database through an increase on the annual product registration fee paid by pesticide chemical manufacturers.

- Protecting pollinators by requiring labelling of nursery plants treated with toxic, bee-killing pesticides and restrict their consumer use.

### 9. The Toxic Contaminants Policy and Prevention Management Strategy Should Address a Broad Array of Toxics, including Tributyltin and copper.

While PCBs are a legacy problem, other toxics are an increasing problem throughout the watershed. Toxics like polycyclic aromatic hydrocarbons (PAHs) and metals like copper and chromium also have toxic effects in the waterways. They should be tested for and policies should be adopted to minimize their presence in our waterways.

Suggested management approaches include:

- Encourage alternatives to anti-fouling paints.

- Limit copper in brake pads, like California and Washington.

- Assess the feasibility of testing for all PAHs and 23 Target Analyte List metals more regularly from stormwater dischargers.

**C. The Research-related Management Approaches Should Be Moved from the Toxic Contaminants Policy and Prevention Management Strategy to the Toxic Contaminants Research Management Strategy.**

Several of the management approaches included in the toxics policy and prevention strategy actually relate to research. For example, the draft includes an entire section labeled "Stormwater Research Approaches." There are also wastewater and atmospheric approaches related to research. Any research-related approaches should be included in the Toxic Research Management Strategy instead of the policy and prevention strategy.

**D. The Toxic Contaminants Policy and Prevention Management Strategy Should Be Edited to Make the Strategy More Readable and Accessible to the Public.**

The Toxic Contaminants Policy and Prevention Management Strategy is nearly unreadable for people who are not experts in working with government agencies and scientific acronyms. In the first five pages of the management strategy, it uses 27 different acronyms 123 times. This level of acronym use is unacceptable in a document that is sent out for public comment and meant to provide an umbrella approach for reducing toxics throughout out watershed. While use of some common acronyms, like PCBs and TMDL, may be unavoidable, acronyms like TCW, CWA, ICPRB, OSCPP, LCD and abbreviations for the states only serve to make the document extremely difficult to read.

To the extent the Bay Program partners seek partnership and assistance from any non-profit groups in meeting the toxics goals, the Toxic Contaminants Policy and Prevention Management Strategy needs to be edited with an eye to making the strategy more readable.

We are happy to discuss our comments on the draft Toxics Management Strategies further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Blue Water Baltimore

Clean Water Action

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Delaware Naturalist Society

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation

Friends of the North Fork of the Shenandoah River

Friends of the Rappahannock

James River Association

Lackawanna River Corridor Association

Maryland Conservation Council

Maryland Environmental Health Network

Maryland Sierra Club
Mid-Atlantic Council of Trout Unlimited
National Aquarium
National Parks Conservation Association
Nature Abounds
Neighbors of the Northwest Branch, Anacostia River
New York League of Conservation Voters
Penn Future
Potomac Riverkeeper Network
Rock Creek Conservancy
Sleepy Creek Watershed Association
South River Federation
St. Mary's River Watershed Association
Trash Free Maryland
Virginia Conservation Network
Waterkeepers Chesapeake
West Virginia Rivers Coalition

April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
410 Severn Avenue, Suite 109
Annapolis, MD 21403

**RE: Tree Canopy Management Strategy Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft Tree Canopy Management Strategy.

Members of the Choose Clean Water Coalition recognize the importance of urban tree canopy cover offering stormwater control and other water quality benefits. This strategy focuses on increasing the urban tree canopy capacity with a strong goal of 2,400 acres by 2015. We believe the goal represents good public policy. However, we have several comments to make this strategy stronger.

**A. The Tree Canopy Strategy, as Written, Will Not Achieve the Outcome**

The 'State Targets' chart takes into account the current annual target (new acres) and the 2025 target (new acres). The annual state targets, even if met annually over the next 10 years, do not add up to the 2025 target. For example, if Delaware achieves its target of 5 acres a year, it will only achieve 50 acres by 2025, which is 10 acres short of the 60 acre target.

This means that even if each state hits its yearly target, the 2025 goals will not be met. The strategy suggests state targets "may" be increased over time, but there is no guarantee of this in the strategy. The Bay Program and the partnership must work together to set annual targets that ensure that, collectively, the partnership will meet the 2025 target. Otherwise, the strategy will fail to achieve the outcome even if all state partners act as pledged.

**B. The Tree Canopy Strategy Correctly Focuses on Establishing Baseline Data for a Watershed-Wide Urban Tree Canopy Baseline in the Next 1-2 Years, But Should Not Discount The Current Local Baseline That Already Exists.**

The Chesapeake Bay Watershed Agreement Tree Canopy Outcome is: "Continually increase urban tree canopy capacity to provide air quality, water quality and habitat benefits throughout the watershed. Expand urban tree canopy by 2,400 acres by 2025."

Currently, there is no baseline for watershed-wide urban tree canopy coverage. One of the major goals of the strategy is to build on current data and incorporate new data to determine this baseline. The strategy correctly acknowledges that certain counties and localities are already conducting high resolution urban tree canopy assessments. These were developed in the Urban Tree Canopy Goal Setting: A Guide for Chesapeake Communities, a document which led to the use of high-resolution tree canopy assessments to set policy goals. However, a

watershed-wide urban tree canopy estimate has not yet been developed. This strategy seeks to develop this through building on the high resolution data that is already available.

Unfortunately, it is difficult to work toward any state-wide or 2025 target without an accurate depiction of tree canopy in the entire watershed. Because high resolution pictures of the entire watershed are necessary, part of the strategy itself is to develop a baseline. The main suggestion we have is that the final strategy use the current existing local tree canopy coverage data as an interim baseline until the final baseline is established. Therefore, we can begin counting urban tree canopy coverage now instead of waiting 1-2 years.

### C. The Tree Canopy Strategy Should Require Urban Tree Canopy Goals to be Incorporated into State Stormwater Plans.

Because tree canopies are recognized as providing air quality, water quality, and habitat benefits, the Bay Program considers them a priority practice and began setting goals in 2003. One way to meet the goals set forth in this strategy is to integrate urban tree canopies into the state stormwater programs. This idea is mentioned in Table 1 under the "Tree Planting" row which states, "tree planting has not been well integrated into TMDL/WIP/stormwater goals. This idea is mentioned a few times in passing in the strategy, but should be a focus in the final strategy. A great example of this is Washington D.C. which has tree planning targets in their MS4 permit. Urban tree canopies often reduce stormwater runoff by catching the water before it reaches the ground, thus it naturally fits into the idea of stormwater management.

Along these lines, any incorporation into stormwater plans should focus on older trees, which are inherently better for stormwater management. For example, the Baltimore Watershed Implementation Plan does not address maintenance of tree canopies at all, focusing only on new planting. If older tree maintenance is incorporated, this would compel local governments to fund tree maintenance and not just new tree planting. Maintaining trees will play a critical function in watershed wide stormwater runoff reduction.

### D. The Tree Canopy Strategy Should Incorporate Environmental Justice by Expanding on the Management Approaches for Reaching Diverse Audiences.

Studies show that there are more trees in advantaged and wealthy neighborhoods, and in disadvantaged and impacted neighborhoods there are fewer. We commend the strategy for suggesting a collaboration with the Diversity Action Team to reach diverse audiences. We agree that engaging the correct civic organizations, providing proper education, increasing outreach, and identifying these communities will address the environmental justice issues at hand. To this point, we have a few suggestions:

- The strategy should make it obvious that Urban Tree Canopies are an Environmental Justice issue. The Bay Program partners have taken steps to promote Environmental Justice and this management approach is one of those very important steps.

- Under "Education, Communications and Outreach," the education portion should be more specific. In the strategy, education begins with involving new communities in data collection. But these communities need to know why tree canopies are important, why they need to collect this data, and how it will benefit their neighborhood.

- Since densely populated areas are heavily impacted when storms occur, it is important to increase coordination between local agencies, non-profits, and utilities. These groups

are able to assist homeowners with maintaining overhanging tree limbs, which threaten property and human health. This is of particular interest to less engaged homeowners who are concerned about the cost-benefit from added canopy shade and damage.

We are happy to discuss our comments on the draft Tree Canopy Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

Anacostia Watershed Society

Audubon Naturalist Society

Blue Water Baltimore

Conservation Pennsylvania

Conservation Voters of Pennsylvania

Eastern Pennsylvania Coalition for Abandoned Mine Reclamation

Float Fishermen of Virginia

Friends of the North Fork of the Shenandoah River

Friends of the Rappahannock

Friends of the Rivers of Virginia

Izaak Walton League of America

Lackawanna River Corridor Association

Maryland Conservation Council

Maryland Sierra Club

Mid-Atlantic Council of Trout Unlimited

National Aquarium

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Nature Abounds

Neighbors of the Northwest Branch, Anacostia River

New York League of Conservation Voters

NWF Mid-Atlantic Regional Center

Penn Future

Potomac Riverkeeper Network

Rock Creek Conservancy

Sleepy Creek Watershed Association

South River Federation

St. Mary's River Watershed Association

Susquehanna Greenway Partnership

Virginia Conservation Network

Waterkeepers Chesapeake

West Virginia Rivers Coalition

April 30, 2015

*Via e-mail to agreement@chesapeakebay.net*
Mr. Nicholas DiPasquale
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410 Severn Avenue, Suite 109
Annapolis, MD 21403

**RE: 2017 WIP, 2025 WIP and Water Quality Standards Attainment and Monitoring Outcomes Comments**

Dear Mr. DiPasquale and Management Board Members:

The undersigned members of the Choose Clean Water Coalition—a coalition of organizations from Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia with the common goal of restoring the thousands of streams and rivers flowing to the Chesapeake Bay—respectfully submit the following comments on the draft 2017 WIP, 2025 WIP, and Water Quality Standards Attainment & Monitoring Outcomes Management Strategy.

We strongly support the incorporation of the 2017 WIP Outcome, the 2025 WIP Outcome, and the Water Quality Standards Attainment & Monitoring Outcomes in the Chesapeake Watershed Agreement. Inclusion of these outcomes reinforces the importance of our long-term water goals and the incremental local strategies and investments needed to achieve those water quality goals. We provide the comments below to strengthen the management strategy and to support the attainment of these critical outcomes.

## A. The 2017 WIP, 2025 WIP, and Water Quality Standards Attainment & Monitoring Outcomes Management Strategy Should Incorporate the Phase III Watershed Implementation Plans as Part of the Management Approaches.

The 2017 WIP, 2025 WIP, and Water Quality Standards Attainment & Monitoring Outcomes management strategy does not include the Phase III Watershed Implementation Plans in the management approaches. According to materials prepared by the Bay Program, the Phase III WIPs will be submitted by state agencies in 2017 as an update to the Phase II WIPs and with an emphasis on establishing realistic implementation expectations over the 2018 – 2025 timeframe. The Phase III WIPs are therefore an important tool to achieving the 2025 WIP Outcome and should be included as a management approach.

## B. The Bay Program Must Require That Two-year Milestones are Aggressive Enough to Make Significant Progress Towards the 2025 Goals.

The two-year milestones are an important tool to ensure that jurisdictions are making progress towards implementing practices that will meet the 2017 and 2025 goals. However, jurisdictions have not consistently been setting two-year milestones that make significant progress towards the ultimate water quality goals. Meeting conservative two-year milestones may provide jurisdictions with small victories, but also sets them up to face huge implementation requirements in the future to meet 2017 and 2025 goals. EPA needs to ensure that jurisdictions ramp up best management practice implementation, so that we can meet 2017 and 2025 WIP Outcomes.

## C. The 2017 WIP, 2025 WIP, and Water Quality Standards Attainment & Monitoring Outcomes Management Strategy Must Recognize the Current Monitoring Results and Use Monitoring to Measure Progress.

### 1. The "Baseline and Current Conditions" Should Include Recent Monitoring Results.

The management strategy reports that "As of 2013, based on the CBP partnership modeling tool estimates, practices are in place to achieve 27 percent of the nitrogen reductions, 43 percent of the phosphorus reductions, and 37 percent of the sediment reductions…. that are necessary to attain applicable water quality standards in the Bay." Unfortunately, these statistics convey an overly optimistic picture of the current status of the Bay's water quality. The management strategy should acknowledge that the proof of attaining water quality standards will be actual water quality monitoring, not modeling, which is only a predication, or estimate, based on a variety of information and assumptions. Recent monitoring data, as EPA knows, show little or no improvement in water quality. *See* U.S. Geological Service, *Understanding Nutrients in the Chesapeake Bay Watershed and Implications for Management and Restoration – The Eastern Shore* (March 2015). The language in the first paragraph on page 4 should include a cautionary sentence following the recitation of the modeling results stating that, unlike the modeling estimates, actual sampling in the Bay suggests that little if any improvement in water quality has actually been achieved so far.

### 2. The "Monitoring Progress" Section Should Recognize that Our Success Will Ultimately Be Measured Using Water Quality Monitoring Data.

The "Monitoring Progress" section includes a discussion of "Modeled Loads." Given the importance of monitoring data to determine actual progress, the third sentence of the "Modeled Loads" paragraph on page 12 should be revised to insert the underlined text, as follows: "The estimated modeled loads, <u>together with all relevant monitoring data,</u> will be used to track progress with achieving the 2017 WIP outcome." Without this change, the statement in this paragraph on measuring progress would be inaccurate and misleading.

### 3. Monitoring Data Should be Used When Evaluating 2017 WIP Outcomes.

The strategy states that it will evaluate the "2017 WIP Outcomes" by using modeling. There is no mention of the use of monitoring data. Given the Bay Program's recognition that actual monitoring data is what provides the true measure of progress on improving water quality (*see* pp. 2, last par.; 3; 4 (2d par); 13; and 12 and 14, each under the heading "Water Quality Standards Attainment and Monitoring Outcome"), the "2017 WIP Outcomes" should be evaluated by reviewing all relevant monitoring data, which will determine actual progress towards meeting the WIP and Water Quality Standards goals. This point is vital because, if actual water quality remains polluted, the health of the fish will not be improved by the fact that Bay Program has produced a model simulation indicating that the water is clean.

### 4. The "Water Quality Monitoring System Understanding" Activities Should Be a High Priority.

The strategy's discussion on "Water Quality Monitoring System Understanding" is excellent. We hope that at least some of the results of the listed activities will be available in time to be used during the 2017 mid-course assessment. These actions should be given a high priority.

## D. The 2017 WIP, 2025 WIP, and Water Quality Standards Attainment & Monitoring Outcomes Management Strategy Should Increase Transparency and Better Involve the Public and Local Government Officials.

### 1. Nutrient Management Plans and Other Best Management Practices Must Be Verified and this Information Should Be Publicly Available.

In the "Factors Influencing Success," the strategy recognizes that reviewing and updating historical implementation data is integral in calibrating the model and planning and assessing progress. This discussion should be expanded to the need to verify the full implementation of any nutrient management plans or other best management practices is also a factor in influencing success. The discussion includes steps currently being taken or processes being developed for verification. Anticipated reductions from nutrient management plans and best management practices should not be credited in assessing progress unless implementation has been verified. Otherwise, progress will be overstated.

This discussion characterizes data from 1993-1995 as "critical." There is no explanation of why data from this period is critical nor what use will be made of the data. The strategy should explain these points.

Further, much of the information necessary for verification is not generally available to the public. To assist in verifying best management practice implementation and assessing progress, nutrient management plans and other information necessary for verification should be made available to the public.

### 2. Management Approaches Should Include Timely Dialog With Local Government Officials.

Under Section V – Management Approaches – the document has a placeholder for "Approaches Targeted to Local Participation". Here is some language you might consider including in this section:

> Much, if not most, of the implementation of the load reduction measures required by the Bay TMDL and the WIPs will be carried out at the local level. This includes municipalities, counties, soil and water conservation districts (which in some states coincide geographically with counties) and local private sector groups and individuals. For some measures, such as stormwater controls and agricultural BMPs, these will be both designed and implemented at the local level, often in consultation with a state agency. Therefore, management approaches should be designed to include timely dialogue with the responsible persons or agencies at the local level, and provision of funding and technical support should take this into account as well.

### 3. Meetings of Expert Panels Should Be Open to the Public.

The "Monitoring Progress" discussion on page 11 describes the work done by the Bay Program's "expert panels." The meetings of those panels should be open to the public so that the public can observe the process and provide timely comments. There will likely be a number of knowledgeable scientists attending at least some of those meetings with relevant experience and good ideas.

## D. The Strategy Should Use Recent Reviews to Improve Modeling Simulations.

In order to monitor progress towards the Water Quality Standards Attainment and Monitoring Outcome, the strategy says that findings from a 2009 EPA review of its monitoring programs will be "used to improve CBP model simulations." We hope and assume that the Bay Program would include the use of post-2009 reviews of any aspect of its monitoring programs as well. If this is the case, the strategy should say so.

## E. The Strategy Should Use Caution in Using Filter Feeders.

In the "Factors Influencing Success," the strategy includes "Assessing the implementation potential of filter feeders for nutrient and sediment reductions." We advise caution in assessing the use of oysters or other filter-feeders as a pollution reduction measure. The oyster population remains low and vulnerable to disease, overfishing and adverse effects of pollution. We do not support the use of oysters to comply with permit requirements.

## F. The Strategy Should Use Different Language in a Few Places to Be Accurate and Correct.

### 1. The Strategy Should Consistently Refer to Water Quality Standards.

In the "Baseline and Current Conditions" section, the strategy discusses the goal of "attaining applicable water quality standards." In the next to last line of the second paragraph on page 3, the strategy uses the term "water quality *criteria"* (emphasis added). For consistency, "criteria" should be changed to "standards." This change is important because the term "water quality criteria" under the Clean Water Act refers to "criteria" recommended by EPA under Section 304(a), whereas the "water quality standards" are developed under Section 303 by either a state or EPA and are legally enforceable, and it is the "standards" that are the subject of this management strategy.

### 2. The Strategy Should Fix the Following Word Choices.

On page 6, under the first bullet, 6th line down, the word "principles" should be changed to "methods" or "procedures." On page 8, in the first line of the first full paragraph, the word "currently" should be changed to "current."

We are happy to discuss our comments on the draft 2017 WIP, 2025 WIP, and Water Quality Standards Attainment and Monitoring Outcomes Management Strategy further. Please contact Jill Witkowski by phone at 443-842-7525 or by email at witkowskij@nwf.org.

Respectfully submitted,

American Rivers

Anacostia Watershed Society

Audubon Naturalist Society

Blue Water Baltimore

Clean Water Action

Conservation Pennsylvania

Conservation Voters of Pennsylvania
Delaware Naturalist Society
Eastern Pennsylvania Coalition for Abandoned Mine Reclamation
Friends of the North Fork of the Shenandoah River
Friends of the Rappahannock
Izaak Walton League of America
James River Association
Lackawanna River Corridor Association
Maryland Conservation Council
Maryland Sierra Club
Mid-Atlantic Council of Trout Unlimited
National Aquarium
National Parks Conservation Association
Nature Abounds
Neighbors of the Northwest Branch, Anacostia River
New York League of Conservation Voters
NWF Mid-Atlantic Regional Center
Penn Future
Potomac Riverkeeper Network
Rock Creek Conservancy
Sleepy Creek Watershed Association
South River Federation
St. Mary's River Watershed Association
Susquehanna Greenway Partnership
Virginia Conservation Network
Waterkeepers Chesapeake
West Virginia Rivers Coalition