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**Committee on Transportation and Infrastructure
Subcommittee on Water Resources and Environment
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“Reauthorization of the Chesapeake Bay Program”

Chairwoman Johnson, Ranking Member Boozman, and members of the Subcommittee, thank you for the invitation to appear before you today. On behalf of the Administration of Governor Martin O’Malley, I appreciate having the opportunity to testify about the protection and restoration of the Chesapeake Bay.

The Chesapeake Bay is an unparalleled resource — possibly the most productive and fragile ecosystem on the planet. Years ago, the states of Maryland, Pennsylvania, Virginia and Washington D.C. and the Federal Government acknowledged that they could wait no longer to preserve this great resource. The leaders of these jurisdictions recognized that the Bay’s problems could not be solved by acting alone, so they resolved to act together. It was their belief then, and it is our belief now, that without leadership from all levels of government — federal, state, and local — we will not realize our goal of restoring and protecting this vital resource. Without substantive intergovernmental cooperation and credible accountability, restoring the Bay will not be possible.

We share your sense of urgency for a renewed effort to restore the Chesapeake Bay at the federal, state and local level. Twenty-five years have passed since the first Chesapeake Bay Agreement. Through the recent leadership of Governor Martin O’Malley and the Maryland’s BayStat process, Maryland has a road map of actions necessary and how to most efficiently target resources to meet water quality objectives. Most of the programs needed are in place at federal, state and local government levels. What we need is a deadline, accountability and process to measure our progress along the way.

We are very encouraged by President Obama’s Executive Order on the Chesapeake Bay and the unprecedented level of federal cooperation and leadership it calls for. We are equally encouraged by the draft implementation reports flowing from that Executive Order released earlier this month. In Maryland, we have committed to a significant acceleration of the Bay restoration effort. That commitment represents a 138 percent increase in our rate of nitrogen reduction and over a 500 percent increase in the rate of phosphorus reduction. These reductions put Maryland on pace to meet our Bay Restoration Goals by 2020.

Over the past two years in Maryland, we have increased environmental enforcement by 34 percent from 2007 to 2008; we have put in place standards that require the runoff from new development to mimic the runoff from woods in good condition – state of the art

stormwater controls; we have, for large municipal jurisdictions, initiated a new round of upgraded permits for stormwater control requiring unprecedented levels of retrofits and trash reduction; we have for the first time, put in place manure management requirements for the poultry industry; we are also implementing some of the most stringent nitrogen reduction controls for coal fired power plants in the country; and Marylanders pay a monthly water and sewer fee to pay for state-of-the-art upgrades at our 67 largest wastewater treatment plants to decrease nitrogen and phosphorous discharges to the Chesapeake Bay. None of this has been without controversy. Yet, we know we must do more.

While the path ahead will not be easy, cheap or without controversy, we are at a pivotal moment for the future of the Bay. I respectfully request that this Subcommittee and the Congress play a catalytic role for action in the region and consider the following ideas in the reauthorization of the Chesapeake Bay Program.

Establish a Restoration Deadline

We recommend the reauthorization of Section 117 of the Clean Water Act require a deadline to meet the nutrient reduction goals of the Chesapeake Bay Agreement. Such a statutory deadline will allow us to place a stake in the ground as to where our restoration efforts are headed. Maryland's efforts are aimed at a deadline of 2020.

Require Binding and Enforceable Implementation Plans

Very importantly, there is a need to ensure that Total Maximum Daily Load – the pollution budget – for the Chesapeake is implemented through plans with short term deadlines designed to ultimately achieve nutrient and sediment reduction goals. These plans must be binding and enforceable. The Administrator of EPA needs the clear authority to require and enforce the implementation of these plans and identify appropriate consequences if they are not successfully implemented.

The Clean Air Act is a good model upon which to pattern amendments to the Clean Water Act. During the period from 1990 to 2008, the Clean Air Act successfully reduced ozone levels in Maryland by 40 percent. The Clean Air Act uses many of the same permitting and planning tools that are prevalent in the Clean Water Act, but there is one critical difference between the two environmental statutes. If a state fails to produce an air quality control plan that demonstrates the state's ability to achieve attainment with federal ambient air quality standards, the Clean Air Act imposes meaningful sanctions on the state, including loss of transportation and other federal funding, more stringent permit requirements on new and modified regulated facilities in the non-attainment area and limits on initiation of new transportation projects.

It is less clear what the ramifications are for failure to meet Clean Water Act standards, or to have a credible plan to do so. We urge the Subcommittee to establish clear requirements on the states to develop implementation plans subject to approval and enforcement by EPA if plans are not approved or satisfactorily implemented. These

sanctions might include withholding of federal funds or additional requirements to offset pollution loads from development.

Provide Adequate Funding

While most of the needed programs are in place, it is clear they are not structured at the capacity levels needed to accomplish these goals. It is critical to assure adequate funding for this Program is authorized. Our understanding is that Bay Program funding has remained steady at approximately \$20 million for well over a decade, while the authorized spending level is \$40 million. The Program should be fully funded at the authorized level of \$40 million, with the increases provided to the States through implementation grants. We also recommend that increases in funding to States be proportional to the nutrient allocations.

In addition to the Chesapeake Bay Program, it is a fact that over the past eight years the core water programs implemented by the States have been crumbling around us. You have heard many times that mandates for States have increased while funding to states from EPA has decreased. This is reaching a critical tipping point in what we call the core water programs – NPDES permitting, stormwater, wastewater and others. At a time when the Bay jurisdictions are accelerating efforts on top of already depleted programs, this is becoming more critical to our success. Restoring EPA funding through increases in the CWA Section 106 and other program support grants is critical to our future success, as well as that of the EPA, in restoration efforts.

Blue Plains Wastewater Treatment Plant

The single largest action that can be taken to restore the Bay is to complete the upgrade of the Blue Plains Wastewater Treatment Plant, the Plant that serves the Nation's Capitol. That project will also significantly assist with water quality in the Anacostia and Potomac Rivers by correcting Combined Sewer Overflows (CSOs) from the District and Sanitary Sewer Overflows (SSOs) from suburban areas in Prince Georges and Montgomery Counties. A major federal funding commitment to match the local shares of funding is needed to make this upgrade a reality.

Create Greater Accountability

Bay related agencies in Maryland have come to appreciate the value and importance of Governor O'Malley's BayStat Process. BayStat is a real time management tool that advances accountability and coordination among key government agencies to evaluate state Bay initiatives to ensure resources are efficiently targeted. We monitor progress against established benchmarks and make adjustments where necessary. Over the past two and a half years, BayStat has focused Maryland's Bay restoration decisions to:

- Be based on the best available science;
- Target resources to get the biggest return one ach dollar invested; and
- Increase transparency and accountability to Maryland citizens.

We in Maryland are very heartened that President Obama and EPA Administrator Jackson have elevated the BayStat concept regionally in the new Presidential Executive Order.

We also recommend that the National Academy of Sciences serve as an independent scientific and programmatic evaluator of the Bay Program and its partners as was called for by Congress to ensure timely and successful restoration of the Everglades.

With these changes, we can all make the Chesapeake Bay Restoration our shared reality. Madame Chairwoman, Maryland appreciates the opportunity to testify on such an important matter. We respectfully urge your Subcommittee to fully explore opportunities to strengthen the restoration effort and the mechanisms by which all of the watershed States and all levels of government will be held accountable for accelerating restoration as you consider the reauthorization of the Chesapeake Bay Program.