

**Shari T. Wilson, Secretary**  
**Maryland Department of the Environment**

**Maryland Congressional Delegation**  
**Chesapeake Bay Meeting**  
**Thursday, April 23, 2009**

We share your sense of urgency for a renewed effort to restore the Chesapeake Bay, increase transparency of our efforts and make us all accountable for the restoration.

As you are aware, Governor O'Malley is leading Maryland's accelerated effort. Through BayStat, we account for our progress monthly, we target resources to programs where each dollar gets the largest nutrient reduction, and we have significantly increased the transparency of Maryland's Bay restoration efforts. In the past two years, Maryland has improved the critical area requirements which apply to development within 1000 feet of the shoreline, enacted a law requiring *living* shorelines instead of bulkheads wherever feasible, enacted Maryland's Chesapeake Bay 2010 Trust Fund, which for the first time ever, is dedicated to providing \$50M annually for non-point source pollution, enacted regulations for the first time requiring comprehensive animal waste management permits for Maryland's largest poultry operators producing over half of the chicken litter produced in Maryland, upgraded three sets of stormwater requirements, increased environmental enforcement by 34% and, most recently, enacted laws requiring new and replacement septic systems in the critical area to have nutrient removal technology, requiring local governments to set measurable land use goals and promoting aquaculture.

Next month, we will join our Chesapeake Bay partners in setting plans to accelerate, significantly, the Bay restoration effort. These plans follow on the heels of the actions just listed. So, your inquiry is very timely and we thank you for the opportunity to highlight several issues that are critical to Maryland's accelerated restoration plan that the federal government can assist with.

Blue Plains Wastewater Treatment Plant

Upgrading Blue Plains Wastewater Treatment Plant is the single largest action we can take to restore the Bay. The Plant is owned and operated by the D.C. Water and Sewer Authority, but serves citizens in Maryland (46%), Virginia (13%) and the District of Columbia (41%). Blue Plains currently discharges approximately 5.5M pounds of nitrogen each year. The upgrade of the Blue Plains WWTP with correction of the combined sewer overflows and adding Enhanced Nutrient Removal technology will reduce nitrogen discharges from Blue Plains by nearly 4 million pounds per year.

The total project cost is estimated to be \$3.2B. The District, Maryland and Virginia have invested nearly \$700M in upgrades to the Plant over the last decade, which the Federal government has matched with grants of about \$135M. However, a significantly larger investment is needed to create the technology at the facility to make the kind of strides in the Bay cleanup that we all desire.

The costs will be distributed among the jurisdictions and their users according to the percentage of capacity allocated to each. The current estimated Maryland share of 46% will range from roughly \$286 million to \$437 million (preliminary planning numbers). Maryland is working with Virginia and the District of Columbia to address the funding needs of this critical project.

The Blue Plains WWTP, with a design capacity of 370 million gallons per day, is the largest plant in the Chesapeake Bay Basin. The full implementation of nutrient removal at this plant will have a significant, beneficial impact on the restoration of the Bay. Maryland has made it a priority to seek \$170 million annually for ten years to provide a meaningful commitment by the federal government toward this vitally important project.

### Mandating Accountability in the Chesapeake Bay Reauthorization Act

Since the Chesapeake Bay Executive Council committed last December to a new approach – establishing transparent and measurable two year milestones for nutrient reductions, the States and the District of Columbia have been working to identify accelerated actions that will reduce nutrients to improve water quality. For example, to meet an accelerated schedule, Maryland currently estimates it must double its rate of effort. This requires a very significant increase in resource allocation and a significant political commitment.

As Congress contemplates reauthorizing the Chesapeake Bay Program, it is essential to ensure that there is a mechanism by which the States will be held accountable for the acceleration, and for the restoration. By way of example, the highly successful Clean Air Act uses many of the tools that are prevalent in the Clean Water Act – permits for emissions or discharges from a particular facility, ambient standards for air or water quality, planning requirements, and there are others. One critical difference between the two, though, is states are keenly aware that under the Clean Air Act, if a state fails to produce a Plan for which it can demonstrate will reach air quality standards, it risks loss of federal transportation funding. It is far less clear as to what the ramifications, if any, are for failure to meet Clean Water Act standards, or to have a plan to do so. While we are not advocating for tying transportation funds to water quality, we do advocate for the need for a result or ramification if we are not providing and implementing plans that will enable us to meet water quality standards.

As Congress contemplates reauthorizing the Chesapeake Bay Program, it is also important to assure adequate funding for this Program, which is fortunate to have a team of highly regarded scientists. Our understanding is that the funding for the Bay program has remained steady at approximately \$20M for well over a decade. This level of funding should be at least doubled.

### Ensuring a Progressive Clean Air Interstate Rule to Reduce Nitrogen Deposition

It is currently estimated that 30% of the nitrogen in the Bay comes from air deposition. Maryland is reducing nitrogen deposition from its coal fired power plants through a 2006 law known as the Healthy Air Act. Emissions of NO<sub>x</sub> will be decreased by 75% when this new law is fully implemented. EPA's Clean Air Interstate Rule, or "CAIR," was to require NO<sub>x</sub> reductions from power plants in 28 states. Over 50% of the NO<sub>x</sub> emissions in Maryland come from out-of-state. While Maryland and other states did not feel the EPA CAIR proposal went far enough, it was estimated to reduce nitrogen deposition to the Bay. Last Fall, that rule was sent back to EPA by the Courts.

This presents a golden opportunity for the Bay. Maryland estimates that a more progressive CAIR rule could actually as much as double the decrease in nitrogen deposition to the Bay. We are very encouraged by Administrator Jackson's commitment to put a new CAIR rule in place by 2011 and we urge EPA and Congress to take into account water quality as well as public health in developing the new CAIR proposal.

### Restore EPA Funding for State Delegated Programs

While not as appealing or attention getting as other issues, it is a fact that over the past 8 years, the core water programs implemented by States are 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 adding acceleration efforts on top of already depleted programs, this is very concerning. Restoring EPA funding through increases in the CWA Section 106 and other program support grants is critical to ours, and EPA's future success in restoration efforts.

Again, thank you for the opportunity to attend today's meeting and we look forward to working with you on these and many other issues of importance to restoring America's treasured Chesapeake Bay Basin.