THE REAUTHORIZATION OF THE CHESAPEAKE BAY PROGRAM

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BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
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THE REAUTHORIZATION OF THE CHESAPEAKE BAY PROGRAM

Thuesday, May 4, 2006,

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT, WASHINGTON, D.C.

The committee met, pursuant to call, at 10:00 a.m. in Room 2167, Rayburn House Office Building, the Honorable John J. Duncan, Jr. [chairman of the committee] presiding.

Mr. DUNCAN. I want to go ahead and welcome everyone to our hearing today on the Chesapeake Bay Program Reauthorization and H.R. 4126 that we are doing at least in major part at the request of our good friend and members of the Subcommittee, Congressman Gilchrest, who is so interested and involved in all of this.

The Chesapeake Bay is the largest estuary in the United States and is critical to the economy, environment and way of life for millions in the mid-Atlantic area. Covering 64,000 square miles, the watershed spans parts of six States and the District of Columbia, and is home to 16 million people. There are 150 major streams and tributaries in the Chesapeake Bay basin. The Bay is an important environmental feature in the region. It is home to millions of waterfowl and a vast array of fish, shellfish and other aquatic plants and animals.

For the human population, the Chesapeake Bay provides millions of pounds a seafood, a wide variety of recreational opportunities and is a major shipping and commercial hub. Two of the Nation's largest ports are on the Chesapeake Bay, the ports in Baltimore and the port at Hampton Roads.

Beginning with colonial settlement and until today, land use changes in the watershed have affected the health of the Chesapeake Bay. Public concerns about the health of the Bay have been raised since the 1930s. The deterioration of the Chesapeake Bay can be seen in a decrease in water clarity, a decline in the oyster and crab populations and a lack of underwater grasses.

There are 11 areas of the Bay that are classified as dead zones, where there is not enough oxygen in the water to sustain life. The EPA says the major causes of the Bay's deterioration are excessive nutrients and sediments coming from farm lands, wastewater treatment plants and urban runoff. Septic systems and air deposition of emissions from power plants, cars and trucks also contribute to the degradation.

In the next 25 years, an additional 3.7 million people are expected to be living in the Chesapeake Bay watershed. As more con-

crete and asphalt replaces forests and open spaces, the runoff of nutrients and sediments into the Bay will quicken. However, it is this same development that provides the economic stability and future growth prospects for the region. We must balance our economic development with our need for clean water and a healthy environment.

In 1983, Maryland, Pennsylvania, Virginia and the District of Columbia signed with the EPA the first Chesapeake Bay Agreement. In 1987, the Chesapeake Bay Program was authorized formally by Congress and the Clean Water Act. Today, the program is a partnership of States, local entities and the EPA that directs and conducts restoration of the Chesapeake Bay. The Chesapeake 2000 Agreement set ambitious restoration goals to be met by 2010.

Over the last 10 years, $3.7 billion in direct funding has been provided to the program from the Federal Government and the States. Of this, $972 million has been provided by the Federal Government. An additional $1.9 billion in indirect funding has gone to programs that improve the health of the Bay.

Also in the last 10 years, the EPA has provided $1 billion to Maryland, Virginia and Pennsylvania through the Clean Water State Revolving Loan Fund. The EPA reports that some progress has been made in cleaning up the Bay, but many challenges remain.

A Government Accountability Office report last year suggested that the reported improvements in the Bay may be overstated. To address the need to reauthorize the Chesapeake Bay Program, our Subcommittee colleague, Wayne Gilchrest, has introduced H.R. 4126, the Chesapeake Bay Restoration Enhancement Act of 2005. The bill has 16 bipartisan co-sponsors, including another Subcommittee colleague, Eleanor Holmes Norton.

The bill would authorize the Chesapeake Bay Program through 2011, with some modifications. H.R. 4126 would increase the accountability of the program to achieve water quality goals, and would increase the role of the local governments in Bay restoration. Also, the bill would increase authorized funding from $40 million to $50 million annually through 2011.

This is an important bill and deserves our careful consideration. We have assembled expert witnesses to help us consider this important program, and Mr. Gilchrest's bill.

We have two distinguished members of Congress from the Chesapeake Bay watershed, Jo Ann Davis of Virginia and Ben Cardin of Maryland. In addition, we have representatives of the State and Federal partners who administer the program. I look forward to hearing from all of you, and let me now turn to my good friend, the Ranking Member, Ms. Johnson, for any opening statement she wishes to make.

Ms. JOHNSON. Thank you very much, Mr. Chairman, for holding this hearing on the Chesapeake Bay, one of our wonders of the world, and on the much-needed efforts to improve its environmental health.

The Chesapeake Bay is an ecological treasure, lying in the back yard of our Nation's capital. Home to more than 16 million people and more than 3,600 species of plants and animal life, the Chesapeake Bay watershed has a long history of human settlement,

starting with the first Native American communities roughly 12,000 years ago.

Yet there is also a long history of declining health of the Chesapeake Bay in part because of the utilization of the Bay watershed's natural resources. For example, during the 19th century, a shift toward commercial agriculture led to more land devoted to crop production, more reclaimed wetlands as well as the importation and utilization of nitrogen fertilizers to enhance productivity. These factors, when combined with residential and industrial growth in the region, placed significant pressure on the delicate balance of the Bay's ecosystem.

Soon afterwards, the warning signs of the Bay's declining health began. By the late 1800s, oysterman began to record declining harvests of oysters from the region. By the beginning of the 20th century, reports document declining migratory bird populations and fewer acres of native eel grass beds and other habitat.

In 1968, a local survey reported that pollution in the Chesapeake Bay cost $3 million in annual losses to the Bay fishing industry. Mr. Chairman, the warning signs have been around for over a century. Yet we have only recently started paying attention.

For decades, numerous governmental and non-governmental organizations, including many here this morning, began to focus on declining health of the Bay and on the steps necessary to stop the decline and hopefully assist in the restoration and protection of this resource. As an example, the ever-present Save the Bay bumper stickers have encouraged citizens' awareness for over 40 years.

Yet awareness of the issues and achieving cleanup results are two different ends of the same task. I am concerned that despite our efforts thus far, we are no further in actually restoring the ecological health of the Bay than we were decades earlier. Mr. Chairman, decades of study on the Bay have outlined where the problems are and identified how to address these problems.

So this is not a question of what is wrong or how we can clean it up. This entire debate boils down to one key point: do we have the commitment? Do we have the commitment to take steps necessary to control the sources of nutrients and silt that continue to pollute the Bay? Do we have the commitment to take an aggressive stand on land use and non-point sources of pollution? Do we have the commitment at all levels of Government to collect and spend necessary financial resources to make a different in addressing ongoing sources of pollution to the Bay?

Without an aggressive commitment to address ongoing sources of pollution and to fund necessary projects throughout the watershed, I am certain that when we revisit this issue in the next reauthorization of the Chesapeake Bay Program, the statements you hear will be the same as today: that we know where the problems are, but we are not aggressively taking steps to address them.

I hope after today's witnesses, which I look forward to hearing, we might be able to move forward. Thank you very much.

Mr. DUNCAN. Thank you, Ms. Johnson.

Mr. Gilchrest.

Mr. GILCHREST. Thank you, Mr. Chairman.

I want to thank you and the Ranking Member for holding this hearing today. And actually, I enjoyed listening to both of your

statements. They were a combination of describing the beauty in an eloquent fashion of the Chesapeake Bay watershed, and quite accurately, I might add, the history of human activity in the Bay watershed, and the fact that now we know how, we understand the physics of the ecological system of the Chesapeake Bay. So we know what the parameters are for fixing this problem, and it is in essence making human activity compatible with nature's design. And the science of that is evident. Our commitment has to be reinvigorated.

What we are trying to do with this reauthorization is to take this legislation that has been around now for almost 20 years and fine tune it to the extent that there is more collaboration, more coordination from the Federal agencies, the vast array of Federal departments, with the State governments and the local governments, so each has an enhanced but an acceptable amount of responsibility to not only report the findings but do something about the findings.

So today, we would like to have some understanding from the perspectives of the witnesses as to what are the greatest accomplishments of the Chesapeake Bay Program to this point, what are the weaknesses of the Chesapeake Bay Program up to this point. And where are we as far as restoring living resources, water resources, vital habitats and managing open space?

And in Maryland, for example, how are we managing our critical areas laws? Are we enforcing this with all our efforts? Or are we lax with the relationship between State and local planners? How do we deal with sprawl? How do we deal with impervious surfaces? Impervious surfaces in the last 10 years have increased by 40 percent as the population has increased by 8 percent.

And we know that impervious surfaces are one of the key difficulties with restoring the Bay habitat. What is the relationship between EPA and USDA as far as the Chesapeake Bay Program is concerned? What is the relationship between EPA and all the other Federal agencies that have an impact on the Chesapeake Bay? Do we have a prediction as to how much water is available for future development and what about the sewer systems and their impact over the next 20 or 30 years?

Is there an effective collaborative nature of the program with small watershed grants between the various States, between the various agencies? What is the relationship between the Corps of Engineers and EPA, especially with non-native species and the introduction of non-native species?

The involvement of the President's cabinet with the Bay restoration, Federal agencies, the Chesapeake Bay ecosystem and the unified plan. That is an entity that has a working relationship with the Bay program. The States' role. I guess I could go on and on.

One last comment about the State and local government. How well are they coordinated, collaborative effort with the program to ensure fair and equitable distribution of the limited funds for small watershed grants? And certainly, we want to increase the amount of money for those small watershed grants, because that is where the rubber hits the road.

In this huge bureaucracy, we need initiative, ingenuity, intellect, clarity, collaboration and strong, determined leadership. And the goal sits out there. How are we compatible with nature's design?

That is our target. That is the local planners' target, the county commissioners' target, the mayors' target, the manager of EPA, USDA, the Federal agencies, the Governor, DNRs, you name it. How do we become more compatible?

So I really look forward to everyone's testimony and I want to thank the Chairman for his indulgence with my, what can we say, too much chatter? Passion.

But what I would like to do is submit my official statement for the record and former Governor Baliles from Virginia, his statement into the record. Thank you, Mr. Chairman.

Mr. DUNCAN. Without objection, those statements will be placed in the record.

Dr. Boustany, do you have a statement?

Mr. BOUSTANY. Thank you, Mr. Chairman.

I am just going to say, I want to commend my colleague, Mr. Gilchrest, for the hard work, the passion that he brings to this issue. And also state that much of what we have learned with the Chesapeake Bay applies also to my home State of Louisiana and the coastal issues that we deal with.

With that, I look forward to the testimony. Thank you.

Mr. DUNCAN. All right. Thank you very much.

Ms. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman.

I know that, coming from Pennsylvania, it is our tributaries that flow into the Chesapeake. I have been a strong proponent of bringing home Federal dollars to assist a lot of the small, rural communities in my district to improve wastewater facilities and make sure that we are being responsible stewards of those Pennsylvania tributaries to make certain that the national treasure that we have in the Chesapeake Bay continues to be a place where it is environmentally sound that we continue to respect the integrity of that.

So we appreciate the two of you being here today and we will continue in Pennsylvania to work to keep our streams and rivers clean. Thank you.

Mr. DUNCAN. Thank you very much, Mr. Shuster.

As we have discussed at other times, there is an important Federal role in regard to this work, because people from all over the Country come to and visit the Chesapeake Bay area. On the other hand, I know from my home area and places all over the Country, people have gone berserk over land that is on the water. The value of the properties on water have just exploded. What that means is that some of the local governments are going to have to shoulder perhaps a little more of the burden also than they have done in the past. But we will get into that as we go along.

Our first panel is a members panel. In my six years chairing the Aviation Subcommittee and now my sixth year chairing this Subcommittee, with members panels, I always ask the members to withhold any questions to the members in consideration of the fact that these members have very busy schedules and need to get on to other things, and also, because we can discuss matters with them on the floor and at other times.

So we will put your full statements into the record and we give you, we ask that witnesses limit their statements to five minutes. We know it is hard to get a five minute statement sometimes into

that amount of time, so we give you six minutes. But after that, we ask you to stop, so we can get on to other witnesses.

We will go first with ladies first, our friend, Congresswoman Jo Ann Davis, who represents the Commonwealth of Virginia. Ms. Davis.

TESTIMONY OF THE HONORABLE JO ANN DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA; THE HONORABLE BENJAMIN L. CARDIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Ms. DAVIS. Thank you, Mr. Chairman, and thank you for the opportunity to be with you today.

I appreciate your efforts, and I thank you for allowing me to sit in on your committee this morning.

Mr. DUNCAN. Let me interrupt you just a moment. I have to run and do a vote in another committee. Dr. Boustany is going to take over for me, but I will see your full statements.

Mr. BOUSTANY. [Presiding.] Mr. Chairman, while we are waiting for the change in chair, I just want to welcome Ms. Davis and Mr. Cardin this morning. I would be remiss if I didn't say that both these members work very hard for the restoration of the Bay that they also reside on. Thanks for coming to testify today.

Ms. DAVIS. Thank you.

Mr. BOUSTANY. You may proceed.

Ms. DAVIS. Thank you, Mr. Chairman. To my colleague on the other side of the water, Representative Gilchrest, I want to thank you for your efforts on behalf of the Chesapeake Bay. As a member of the Chesapeake Bay Watershed Task Force, I commend you for your leadership and your dedication to the Bay. In the six years that I have been here, I have heard about the Bay from you for those entire six years.

The Chesapeake Bay is a national treasure, as I said, and I am proud and honored to represent Virginia's First Congressional District, which spans most of the Bay's western border. The James, York and Rappahannock Rivers, three of the Bay's major tributaries, flow through my district. The Bay and tributaries have shaped and continue to shape the lives of the residents of Virginia, especially in my district. I want to see the Chesapeake Bay restored and the environment improved.

We as a Nation have a special responsibility to act as stewards of our natural resources and environment. In Virginia, we are gearing up for the 400th anniversary of America's founding at Jamestown. Part of the commemoration, hopefully, will include the designation of the Captain John Smith Chesapeake Bay National Historic Water Trail.

John Smith explored most of the Chesapeake Bay and the tributaries in 1607 and 1608. What he found was an astonishing assortment of wildlife and beautiful scenery. He wrote in his journal, "Heaven and earth never agreed better to frame a place for man's habitation." And I, along with about 16 million other people, agree that the Bay and its tributaries are a great place to live. They are also worth protecting and taking strides to improve the health of the region's waterways.

The Chesapeake Bay 2000 Agreement focused on significantly reducing nutrient pollution and sediment deposits by 2010. That date is fast approaching and with much still left to do. Improved water quality is and should remain the number one priority of the State, Federal and local partners involved in the Bay cleanup. This is such a large undertaking and the complexities of understanding such a large estuary are daunting. The Federal and State governments have already invested billions, and it is our responsibility to make sure that we are getting the most cleanup for our tax dollars.

I am encouraged by Representative Gilchrest's vision to address these concerns by increasing the responsibilities and the role of local governments in Bay restoration. Localities and individuals are vital components of any action and plan to clean up the Bay.

I want to take a minute or two to give a couple of concrete examples that exemplify a wide range of local efforts underway to improve water quality in the Bay region. This morning the National Association of Counties recognized the efforts of community volunteers in Caroline County, Virginia. About a dozen volunteers were instrumental in assisting local officials with a critical wastewater project.

Dawn is a small, rural community without indoor plumbing. Poor drainage and heavy storms wash waste into the drainages, threatening wells, groundwater and public health. Seeing the need and recognizing the health and environmental impact, volunteers assisted local officials to collect easements and regulatory paperwork. Thanks in large part to volunteer efforts, the community is slated to begin construction of a wastewater facility early next year.

This is just one example of how local officials and communities working together can address the health and environmental problems that will ultimately impact the health of our waterways.

I want to give you one more example of the important role that local governments are playing in Bay restoration. Fredericksburg, Virginia is reflective of many areas in the Bay watershed. Located just south of D.C., the whole region is feeling the pressures of growth and the strains associated with traffic, congestion and land use. In Fredericksburg, along the banks of the Rappahannock, the local government has just voted to place 31 miles of riverfront land under conservation easement, creating an important buffer against runoff and development. This is another examples of concrete steps that local groups are making to preserve green spaces, to protect Bay tributaries and enhance restoration efforts.

Finally, I want to remind the Committee of the important role that our watermen, oystermen and commercial fishermen of eastern Virginia have in the future health of the Bay. Generations of watermen have fished and lived off the water. Still in my district, commercial watermen, private companies and individuals are cultivating millions of oysters each year. Oyster aquaculture business adds oysters that clean and filter Bay waters, an important component to improving water quality. These men and women know better than most the status of the Bay and their input is essential.

Residents of Northumerland County have relied on the health and the bounty of the Bay's fish stock for generations. Reedville, Virginia is the third largest fishing port in the United States. It is a little tiny rural area. We need to ensure that when these issues

are discussed that local communities and businesses that have the knowledge, investment and stake are consulted and involved in the process.

I believe that the Chesapeake Bay Program and the EPA should make it top priority to meet mandated improvements to water quality before embarking on efforts to manage fisheries which may be best addressed under the existing structure at the National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission.

I want to just say that when I was in the State legislature, I was on the Chesapeake Bay and its Tributaries committee then. Like Representative Johnson said, we have all discuss it, we all know the problems. But it is going to take the commitment of all involved, the Federal, State and local, to do what is necessary to clean up our Bay, keep it clean for our generations and for future generations to come. I have a granddaughter three months old and I want it to be there for her in years to come.

I thank you, Mr. Chairman, for indulging me.

Mr. BOUSTANY. We thank you for your testimony.

Next we will hear from the Honorable Benjamin Cardin from the State of Maryland. Mr. Cardin, you may proceed.

Mr. CARDIN. Thank you, Mr. Chairman. Let me thank you for this opportunity to testify. I want to thank Mr. Gilchrest for his leadership on this legislation. I am proud to join his as a co-sponsor, along with every member of the Maryland Congressional delegation, as well as many other members. I want to also thank Jo Ann Davis for her leadership on this issue.

Mr. Chairman, let me go back if I might, I am not going to go back 400 years, a lot has changed in the Chesapeake Bay since Captain John Smith traveled down it. But in the 1980's, before the Federal partnership was created, I was the speaker of the Maryland House of Delegates and Harry Hughes was Governor of Maryland. We, along with colleagues from Pennsylvania and colleagues from Virginia and the Nation's capital, got together in an effort to try to do something about a Chesapeake Bay that was in trouble.

We developed a partnership in the 1980's and recognized that unless we took dramatic action, the Bay that we loved, the Bay that was part of the life of the people of this region and Nation, one of the great treasures of our Country, would be lost. We developed a program that changed laws in our States and formed partnerships with private organizations and got people energized about taking some dramatic action, including land use controls and restrictions on fishing and all types of matters that were extremely controversial for the time.

We then went to the Federal Government, almost 20 years ago, and said, help us, be a partner. And the Federal Government said yes.

So I want to start by thanking you, thanking this Committee and thanking Congress and thanking the Federal Government for being a partner on the Chesapeake Bay Restoration. We could not have made the progress that we have made over the last 20 years without your help.

Now, there are many who will come up, including myself, saying that we have tremendous challenges ahead of us. The Chesapeake

Bay is in trouble. But if it were not for the Chesapeake Bay partnership that was started in the 1980s, the Chesapeake Bay could very well be totally gone today.

We have established a way in which we can deal with these problems. We need to strengthen it. And that is why Mr. Gilchrest's legislation is so important. We can not do it now without your help to take us to the next plateau.

And that is what his legislation does. The Chesapeake Bay is a national treasure, but it is also a national model. And we can work together to do a much better job on the Bay. The dead zones are frightening to all of us. We see the fish that have cancerous tumors and we know about the striped bass in this region. We know that we are the habitat for the striped bass, and we are worried that your granddaughters will not see striped bass in the future unless we take action today in order to deal with these issues.

So the Gilchrest legislation renews the commitment, expands the commitment and looks at new challenges that we face. And one of those challenges is to energize local governments. I am glad that Wayne mentioned that. I live in a county of 775,000 people. Wayne lives in a county of 20,000 people.

Mr. GILCHREST. It is 18,000.

Mr. CARDIN. You lost two?

[Laughter.]

Mr. CARDIN. Well, then, will have to adjust the lines a little bit in redistricting.

But we have the same challenges. This bill does not mandate local government action. It involves local government, tells them to be a partner and help us and gives them the resources. I couldn't agree more with Mr. Gilchrest about how much we get back from these grants, these small grants that we make, that energize school children and energize local government to be part of it.

We have a serious problem. The Bay is not flushing itself fast enough. We put too much pollution into the Bay with the nutrients and the sediments. We are falling behind. Despite all our efforts, we are falling behind. We need a new push on the program, and we really are looking to this Committee to give us that help. This legislation is vitally important if we are going to be able to win the Bay for future generations. We can do it, but we need your help, and I thank you very much for holding this hearing.

Mr. BOUSTANY. Let me just say that at the beginning, I complimented my colleague, Mr. Gilchrest, and I want to compliment the two of you for the passion and drive that you bring to this, and the long hours of work that you have put into it as well.

We appreciate your testimony and thank you, and we will submit the entire testimony into the record. Thank you.

Mr. GILCHREST. Mr. Chairman, if I could just make a very quick comment to Ms. Davis and Mr. Cardin. And Ben reminded me of this, and so did Jo Ann. More than 20 years ago, when both of you were working on these Bay issues, before there was a Bay program, what you did back then is a great model for what we can do right now. While the Bay is in trouble and there are dead zones and a number of other difficulties, there were portions of the Bay, because of what you did, especially in some of the tidal basins that

are blossoming, they are flowering, they are restoring themselves into nature's beautiful bounty.

An example is the Sassafras River. Because of what you did back then, and because of Critical Areas legislation, and because of what you did to create buffers, the bay grasses in much of that tidal basin and the restoration of the species is really wonderful. But that is specifically tied to what you did prior to the Bay program. The Bay program is trying to enhance that. But the foundation that you have built, that we need to build upon, is a blessing to us all.

Mr. CARDIN. Well, the Volvo races will restart, as you know, in the Bay. I think if we didn't do what we did 20 years ago, they may not have wanted to come into the Bay.

Mr. GILCHREST. Absolutely, Ben. Thank you very much.

Mr. BOUSTANY. Before the two of you leave, the Honorable Ranking Member of this Subcommittee would like to say a few words.

Ms. JOHNSON. I simply want to thank you for coming and to say thank you for coming back to the Committee. Twenty years ago, you were a member of this Committee and set some of this in motion. And we appreciate both of you.

Mr. BOUSTANY. Thank you both.

We will now call forth our second panel. Let me say thank you all for coming. We have a very distinguished second panel, as we continue to look at the Chesapeake Bay Program reauthorization. Welcome to all of you. We look forward to your testimony.

Our first witness will be the Honorable Benjamin Grumbles, with the U.S. EPA, Assistant Administrator for Water. Mr. Grumbles, thank you for joining us, and you may begin your testimony.

TESTIMONY OF BENJAMIN H. GRUMBLES, ASSISTANT ADMINISTRATOR FOR WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY; HONORABLE C. RON FRANKS, SECRETARY, MARYLAND DEPARTMENT OF NATURAL RESOURCES, CHESAPEAKE BAY EXECUTIVE COUNCIL; ANN PESIRI SWANSON, EXECUTIVE DIRECTOR, CHESAPEAKE BAY COMMISSION; PENELOPE A. GROSS, MASON DISTRICT SUPERVISOR, FAIRFAX COUNTY BOARD OF SUPERVISORS; ROY A. HOAGLAND, VICE PRESIDENT FOR ENVIRONMENTAL PROTECTION AND RESTORATION, CHESAPEAKE BAY FOUNDATION

Mr. GRUMBLES. Thank you, Mr. Chairman. It is always an honor to appear before the Subcommittee, particularly to talk about efforts to restore and protect the Chesapeake Bay. I am Ben Grumbles, Assistant Administrator for Water, at the U.S. EPA. Rebecca Hamner and Mike Burke of the Chesapeake Bay Program office are also with me, sitting behind me.

I was not disappointed by the level of the eloquent statements that have been made so far in terms of the members and the panelists. I am sure there will be more eloquence from the rest of this panel.

I am just reminded of the statement from Will Shakespeare that action is eloquence. I know that as you go through this important hearing and you have a lot of questions and follow-up questions, that the real measure will be the actions that are taken as a result of the hearing and the progress that is taken.

So in my moment of time here, what I would like to do is summarize very briefly activities of the U.S. EPA and the history of accomplishments that focus more on what we are doing now with our partners and what we need to be doing. The overarching goal and the directive from the President to the Administrator is to accelerate the pace of environmental protection. And the Chesapeake Bay is a national treasure, and as Congressman Cardin said, it is also a national model.

So far more is at stake, as you know with your strong interest in coastal Louisiana and elsewhere, there is far more at stake here than just the Chesapeake Bay, although it is truly a national treasure.

The history of the program, we have seen great accomplishments. And when we acknowledge that 1,800 miles of streams, migratory fish passageways have been opened, it is the highest number in the Nation in terms of opening up the streams and watersheds for migratory fish passage. That is an impressive accomplishment.

There are also impressive accomplishments in terms of the green infrastructure, forested buffers and wetlands that have been restored and protected. There are also measurable accomplishments in terms of recovering the populations, the numbers of striped bass or rockfish, although we still have important work to do in ensuring the quality of those important links in the ecosystem and the food chain.

The main message, though, is that there is much more work to do. As you know, we do have dead zones, or very low dissolved oxygen levels at certain times of the year. The oyster population is at great risk. There are tremendous challenges ahead and much work that we need to do, all of us together, to accelerate the pace of environmental protection.

I would like to emphasize some of the actions that we are currently undertaking. In the President's budget request, the agency is seeking for the Chesapeake Bay Program an increase of $4 million above the baseline from last year. So it is a $26 million total.

That is one piece, one very important piece, but it is a piece in a program that can provide scientific, cutting-edge information and stewardship and help to facilitate this grand collaboration that needs to occur to make progress in the Chesapeake Bay.

I would like to mention that the current activities for the agency are to focus on the core Clean Water Act regulatory programs, the water quality standards, the permitting, the pollution budgets, the collaborations that need to occur, and to use those and to continue to use those tools while also using innovations and collaborative efforts, cooperative conservation, which is a real priority for the Administration, bringing together USDA, EPA, Army Corps, DOT, other Federal agencies together to work with the critically important partners, the States and the local governments, and perhaps most importantly private citizens and real stewards that are going to make a difference. And we all want to make a difference.

The Chesapeake Bay Program has seen some significant success in terms of working with our State partners to establish our water quality standards, nutrient goals and requirements. That is a tremendous important effort. And it wouldn't happen without EPA's support for the States who are the primary leaders in that regard.

At the end of 2004, EPA, working with our State partners, all the way from New York to Virginia to West Virginia to the States within the 64,000 square mile watershed agreed to a collaborative, innovative approach for watershed based permitting. And we think that is going to lead to improved regulation of over 450 facilities throughout the watershed and an annual reduction of 17 million pounds of the nitrogen loadings. The nitrogen and phosphorus continue to be one of the greatest challenges facing the Bay. So we need innovative approaches like that.

Mr. Chairman, one of the key components of our approach, our strategy, is to build new partnerships and collaborations with different agencies across the Federal Government. We are committed to doing that. We are also committed to using tools under the Clean Air Act. The Clean Air Interstate Regulation, which was recently finalized, will help lead to a reduction of 10 million pounds of nitrogen over the course of its implementation.

Mr. Chairman, I appreciate the opportunity to highlight some of the priorities for the agency and the Chesapeake Bay Program and look forward to answering any questions members may have.

Mr. BOUSTANY. Thank you, Mr. Grumbles.

Our next witness is the Honorable Ron Franks, Secretary of the Maryland Department of Natural Resources. We appreciate your coming here today and look forward to your testimony. You may proceed, sir.

Mr. FRANKS. Thank you, Mr. Chairman. Good morning, I am Ron Franks, Secretary of the Maryland Department of Natural Resources. With me today is Frank Dawson, our Assistant Secretary for Chesapeake Bay Programs.

The restoration of the Bay is an unprecedented effort. It began with a set of untested assumptions and a steep learning curve for a complex, dynamic ecosystem. Pennsylvania, Virginia and Maryland have greatly increased funding for the Bay. Pennsylvania's Growing Greener II initiative will invest $625 million in environmental restoration programs and projects. Maryland's new Bay Restoration Fund will provide $75 million annually to upgrade sewage treatment plants and plant cover crops, greatly reducing the amount of nutrients entering the Bay.

Tributary strategies are now in place for almost all of the Bay jurisdictions. And implementation plans are under development. Maryland's draft implementation plan was released in February.

Washington, D.C., one of the Bay's largest urban pollution sources, has embarked on a long-term control plan that will reduce combined sewer overflows by 96 percent. Virginia recently committed to preserving 400,000 more acres, and Maryland has committed to spending $300 million for land conservation this year alone.

Just last month, Maryland's Governor Robert Ehrlich signed the Healthy Air Act, to reduce the atmospheric deposition of pollutants to the Bay. Combined, these and other ongoing measures may well bring us close to the tipping point at which we may see dramatic improvements in water quality and living resources. We agree with the findings and recommendations of the GAO evaluation of the Bay program, which we understand provided a foundation for the development of H.R. 4126. I want to compliment Congressman Gilchrest on his legislation.

We also agree that the bill's key element, bringing the Bay restoration effort closer to the local level, is what is most needed. My written statement discusses how the issues raised in the GAO report are being addressed and provide suggestions for further improvement through changes to H.R. 4126. Here are three key recommendations. First, shift the program's perspective to Bay-wide to local improvements. While the Bay program needs to continue to report on Bay-wide health, local progress will be far more telling than Bay-wide assessments in measuring the effectiveness of efforts.

The foundation for assessing progress at the local level is already included in the tributary strategies. The Bay program's planning and assistance should focus on how to accelerate tributary strategy implementation, shifting focus among priority watersheds over time.

Second, strategically employ the limited resources available for Bay restoration. Resources should be concentrated in communities that are engaged in leveraged partnerships for coordinated, large scale restoration efforts. Prior to the GAO evaluation, Maryland was already moving forward to utilize its resources more effectively. Beginning with the Corsica River initiative announced last year, we are targeting resources where there can be a clear showing of substantial improvement. This legislation will support and expand these efforts.

Finally, increase the Federal contribution to improving local capacity. A specific program should be established within the Bay program to improve local capacity for environmental planning and measurement. To initiate and sustain local protection and restoration efforts, a substantial increase in financial assistance to local governments as needed.

As a starting point, the Chesapeake Bay Program needs to be funded annually at the full authorized level, which is currently $40 million. We feel the current authorization should be increased to at least $50 million. Any increased funding should be dedicated to the State implementation grants and small watershed grants program.

I note that while the States have substantially increased spending on the Bay, the promised benefits of these increases will be canceled out if Federal spending for clean water programs continues to decline. That decline needs to be reversed.

In concluding, I ask for your perseverance. We are attempting to do what has not been done before. We are in this for the long haul and there will be a long haul. In spite of the challenges, we have been able to move forward and achieve substantive improvements in the Bay and its tributaries. With your support, the progress will continue.

Thank you.

Mr. BOUSTANY. Thank you, Mr. Franks.

Our next witness will be representing the Chesapeake Bay Commission, Ms. Ann Swanson, Executive Director. You may proceed.

Ms. SWANSON. Thank you very much.

I would like to thank each and every one of you here on the Committee, both Committee members and staff, for your attention to the Chesapeake Bay. Representative Cardin couldn't have said it better when he said thank you. Because in truth, the Federal in-

volvement in the Chesapeake Bay has been an extraordinarily catalyst for the region. You should never underestimate the power of that.

I work for three general assemblies, from Maryland, Pennsylvania and Virginia, representing the Chesapeake Bay. Your efforts to support the Bay essentially help to encourage them to do State level programs. And for every dollar that you ante up as cash, of course they do too. And then they call upon their citizens and local governments to do more. So this is truly an example of leveraging.

In my limited time here, I hope you will indulge me, I have decided to go a bit off script and instead to really talk about the basics of why this investment is so critically important. The first question that you have to ask yourself is why is the Bay so special. And I was delighted to hear Representative Johnson refer to it as a wonder of the world. I have only dared to call it a national treasure. So I am glad a Texan went higher.

To me, why is the Bay so special? It is one of the most productive places that this Country has to offer. Its diversity is extraordinary, with 3,600 species of plants and animals. The Chesapeake Bay is a protein factory, producing a lot of our Nation's fish, spawning most of our Nation's striped bass, still producing a huge portion of our blue crabs. In fact, many of the iconic American natural resources, whether those are waterfowl or fish, come from the Chesapeake Bay. They may come from other places, but if you were designing a Kix box or some cereal box, those icons would be very prominent in our region.

So why then are we floundering? Why is it so difficult to restore the Bay? And there are some fundamentals you must know, that essentially nature and God have dealt us. One is that it has the largest land to water ratio of any estuary on the planet. It is five times more than the next nearest estuary. What that means in layman's terms, what you do on the land, greatly affects the water and dilution cannot be counted on.

And the third fundamental thing that you need to know about why it is so important is there is an extremely narrow opening, which people like Jo Ann Davis and others know about. And so as a result, just counting on the ocean to carry that pollution away is very difficult.

Finally, confounding it, we have 16 million people spanning the Mason Dixon line. We have an enormous number of governments, 1,600 or more ruling local governments, and they all need to be coordinated.

So in my remaining time, let me focus on what has been accomplished. Extraordinary participation, some of the finest science in the world. It is why we are asked to go internationally and speak. We know more about this estuary than most other places. And I would only wish many other places in America and globally to know as much about their place.

So then what is wrong? If we know about it, we have also done more costing than almost any other natural place that I know of, certainly the other big estuarine and environmental programs of this Country. They call us to say, how have you done this, how have you costed it out? Where that gets you when you carefully de-

fine what you know about a place, what you need to do and how much it is going to cost, is it gets you to the implementation phase.

And that is what is wholly unique about the Chesapeake region. We are deep into that implementation phase, and quite honestly and candidly, and my mother might not like me to say this, but it is hard as hell. It is incredibly difficult.

So what do we need? What have we learned at this point? This legislation addresses several of those things. First, you must target, you must have the political guts to target. Because if you don't, with the limited dollars available, you can't go the distance. The idea of encouraging local governments to be more involved, the idea of small capacity grants for local governments is pivotal. Incentivize them. Get them having the guts to be innovative and proactive. They have the intellect. They have the compassion. They need support.

And the last thing that I would say in my remaining time is in terms of the Federal Government, yes, we need the Federal agencies working very closely together. This legislation calls for an interagency cross-cut budget. That is a good thing. We need to push for strong integration and strong cooperation so that the Departments of Agriculture and the Departments of Energy and the Departments of Environment, the EPA, et cetera, are working very closely together.

I commend this legislation. You are heading in the right direction, getting more money at the local level and in the small watershed grants, and calling on increased targeting. Thank you.

Mr. BOUSTANY. We thank you for your testimony. Next we will hear from the Honorable Penelope Gross, representing the Chesapeake Bay Local Government Advisory Committee. She also serves as Mason District Supervisor on the Fairfax County Board of Supervisors from Annandale, Virginia. Welcome, and we look forward to your testimony. You may proceed.

Ms. GROSS. Thank you and good morning, Mr. Chairman. I appreciate the opportunity to discuss Chesapeake Bay restoration activities and the vitally important role of local governments in those efforts.

Chesapeake Bay issues are of particular interest to me as a founding chairman of the Chesapeake Bay Policy Committee of the Metropolitan Washington Council of Governments, a member of the Chesapeake Bay Program's Blue Ribbon Financing Panel, and I recently was elected chair of the Bay Program's Local Government Advisory Committee, also known as LGAC.

I chair Virginia's Potomac Watershed Roundtable and as you mentioned, I represent Mason District on the Fairfax County Board of Supervisors. Fairfax County is one of the largest jurisdictions population-wise in the Chesapeake Bay watershed. Each of these responsibilities has helped shape my perspective on what is needed to keep our efforts to achieve a clean bay on track.

Of the 98 commitments in the Chesapeake 2000 Agreement, 22 specifically involve local governments and other commitments imply local government involvement. From a local government perspective, we know what to do to continue making progress. But we need more help from our State and Federal partners. The Bay program has successfully generated plans and documents that outline

what actions local governments should take to restore the Bay. However, I believe we are heavy on written plans. And we are struggling on the follow-through, that is technical and financial assistance to get more done.

This was the most common and strongly voiced concern among LGAC members from all jurisdictions at our most recent meeting held right here in this building. And I want to take this opportunity Congressman Gilchrest and his staff and Congressman Jim Moran's staff for engaging in substantive dialogue with LGAC members about this legislation.

Local governments throughout the watershed are spending millions of local dollars to do our part in cleaning up the Bay. However, there needs to be greater emphasis on developing mechanisms to capture those substantial implementation efforts by local governments and others, which are not funded through State or Federal Chesapeake Bay funds.

I understand that the States may be working on a tracking system for urban non-point sources, but to facilitate reporting by implementing entities, I would recommend that this system be web-based and simple to use. I am sure it is no surprise to you that the biggest help we could use is additional Federal and State funding. It is critical that the Federal and State governments in the watershed assume a major role in providing financial assistance for implementation at the local level.

I also need to mention our concern with deep cuts being proposed to the Clean Water State Revolving Fund. While local governments and our State partners are working to increase funding for clean water programs, the Federal SRF is being targeted for cuts totaling $199.2 million. Many local governments, especially in rural areas of the Bay watershed, depend on this Federal funding to pay for high priority water pollution control projects and the proposed budget cuts are exactly the opposite of what is needed to achieve our goal of a clean and healthy Bay.

But funding alone is not enough. We also need our State and Federal partners to work cooperatively with local governments on a watershed basis to one, clearly articulate measurable goals for local governments to achieve and couple these with appropriate levels of funding support. It is critical to have a detailed plan that explains who, what, when, where, why and how.

Second, increase the level of support for the Small Watershed Grants Program to the proposed authorized amount of $10 million. While far short of the estimated funding necessary, the Small Watershed Grants may be the most effective mechanism for engaging local governments in a common effort to achieve water quality and habitat goals. The current funding level of $2 million translates into just $1,212 for each of the 1,650 local governments in the Chesapeake Bay watershed.

In addition, I recommend increasing the cap on individual small watershed grants to as much as $1 million, a substantial increase over the present $50,000 limit. Let me give you an example. In Fairfax County, we sometimes do not apply for watershed grants, because the staff time involved in preparing the grant application actually costs more than the grant itself. The current $50,000 cap

effectively eliminates larger jurisdictions from participating in the Small Watershed Grants program.

Third, establish a measurable goals provision for soil conservation districts comparable to the provision for local governments. Fourth, enhance the tributary strategies and implementation plans to explicitly address nutrient and sediment cap management as growth continues.

Fifth, a one size fits all approach to local government coordination and C2K agreement implementation will not work. Differences in local government access to technology must be considered during the development of communication strategies. A strong, structured technical assistance program to local governments is needed, especially in smaller, more rural jurisdictions that lack staff expertise and stormwater management and watershed protection.

Sixth, we are concerned about the proposed language that requires tributary strategy goals, or BMPs, to be included in NPDES permits, both point and non-point source or MS4 permits. In Virginia, non-point source pollution standards should not be written into MS4 permits, because the Commonwealth does not yet have an effective mechanism to track urban non-point sources.

Each of these areas is of strong interest to LGAC. With appropriate staff and requisite resources, I can envision an activist role for LGAC as the tributary strategies are turned into action plans, including one, developing goals at the local level and helping ensure that localities live up to their responsibilities; two, partnering with State and local agencies to achieve an equitable allocation of funding; three, reaching out to other sectors, especially agriculture and private industry.

We need to open or continue dialogue with all our partners in the Chesapeake Bay watershed. We are all in this together, from those who labor under the Statue of Freedom atop the Capitol, dome to the Pennsylvania farmer, to the Maryland waterman, the Virginia technology worker, the long-time resident and the new American. Finger pointing won't clean up the Bay. Working together just might.

Mr. Chairman, thank you for the opportunity to appear today and for your leadership in helping keep the Bay restoration effort moving forward. LGAC is looking forward to working with you all to achieve our shared goals of a restored Chesapeake Bay watershed. Thank you.

Mr. BOUSTANY. Thank you, Ms. Gross.

Next we will hear from a representative from the Chesapeake Bay Foundation, Mr. Roy Hoagland, who is Vice President for Environmental Protection and Restoration, out of Annapolis, Maryland. Welcome, Mr. Hoagland, and you may proceed.

Mr. HOAGLAND. Thank you, Mr. Chairman, Congressman Gilchrest and members of the Committee. I am in fact the Vice President for the Policy and Advocacy Arm of the Chesapeake Bay Foundation, a non-profit organization of over 160,000 members across the Nation. Congresswoman Johnson, we are the Save the Bay bumper sticker people.

I am here also as a former member of the citizens advisory committee to the Chesapeake Bay Program. I have served as its chairman for two years and just have completed my term. So my history

is here as both an insider and an outsider when it comes to the Chesapeake Bay Program, both a critic and supporter.

You have heard an awful lot already about the successes and the challenges that face the Chesapeake Bay Program. In the time I have, I would like to focus on the bill itself, to urge you to act favorably on this legislation, this critical legislation, and in fact, consider three modifications to it.

The first modification is to strengthen the roles and responsibilities of the Federal Government in the Chesapeake Bay Program. We will not, we will not save the Bay absent more Federal dollars, more Federal enforcement and increased Federal commitment. You have heard about recent State commitments toward the Chesapeake Bay Program. We need a parallel Federal commitment. One provision in particular in the legislation does have us concerned where it actually reduces the Federal agencies' responsibilities to Bay restoration and the commitments of this Chesapeake 2000 agreement. We would respectfully suggest that provision be either removed or reworked.

The second modification, provide a separate $20 million authorization for the Chesapeake Bay Program State implementation grants. You have heard a lot today about the need for implementation. That is the stage we are at. These grants are fundamentally different from the core research communication, coordination elements of the Chesapeake Bay Program. We urge not only independent authorization language, but also language that makes the use of those funds specifically contingent on implementation on the ground, not staff support, not agency operation costs, but implementation, because implementations are the next key steps that we need in terms of moving forward to saving the Bay.

The third modification, create a new, separate $15 million authorization for a Chesapeake Bay targeted watershed grants program. The Chesapeake Bay has received targeted watershed grants in the past, and currently, as a result of EPA's national program, but only as a result of appropriation language earmarks. The Chesapeake Bay, as you have heard, is a national treasure. It is a resource of ecological, cultural, historic significance. And we would urge that you statutorily identify it as such through a targeted watershed grant funding.

Those are the three modifications we would urge that you consider as you move this legislation forward. Strengthen the roles and responsibilities of the Federal Government in the Chesapeake Bay Program efforts; provide a separate $20 million authorization for the Chesapeake Bay Program State implementation grants; and make those grants contingent on actual, on the ground implementation use; and create a new, separate $15 million authorization for the Chesapeake Bay targeted watershed grants program.

Congresswoman Davis stated that nearly 400 years ago, Captain John Smith wrote of the Chesapeake Bay that "Heaven and earth never agreed to better frame a place for man's habitation." The truth is that we have not treated that extraordinary gift of earth and heaven with the full stewardship it deserves. As you have heard, we know the problems. We have the solutions. What we need is to make the necessary investments and aggressively pursue the implementation of these solutions.

We urge you to perfect and pass this legislation so that the Bay Program, the Federal Government, all the partners to this restoration effort of this national treasure can move forward and more aggressively toward effective stewardship. We thank Congressman Gilchrest for his leadership not only on this bill, but for his historic leadership on Chesapeake Bay restoration efforts. And thank you for the time you have given us to participate today.

Mr. BOUSTANY. Thank you for your testimony, Mr. Hoagland.

Now we will proceed with questions for the panel. Because of time constraints, I am pleased to defer to the Ranking Member, Ms. Johnson, to begin questioning.

Ms. JOHNSON. Thank you very much.

Mr. Hoagland, according to the Chesapeake Bay Office, roughly 45 percent of all the nutrients and two-thirds of the sediment loads that are negatively impacting the Bay come from agricultural, non-point sources. And yet, EPA has limited authority to address these non-point sources of pollution, other than trying to reach voluntary agreements to implement these management practices.

Is that enough or is there a better way to address what appears to be the largest, most difficult source of impairment to the Bay?

Mr. HOAGLAND. Well, agricultural and controlling pollution from agriculture is an incredibly leaky system, by the nature of agriculture itself. The Bay Foundation has embarked on a very aggressive partnership with the agricultural community to get them to be the kind of colleagues that you have heard about. There have been great steps made toward agriculture, but we do in fact have to make great, great further strides.

The important thing to remember about regulating or treating agricultural pollution, which the Chesapeake Bay Commission has established is, we get a bigger bang for our buck from nutrient reduction if in fact we put it on agricultural lands than anywhere else. If we reduce sewage treatment plant pollution and manage agricultural pollution, we can get about 80 percent of the reductions that we need for about 20 percent of the projected cost of the entire restoration.

So one of the tools should be in fact taking a very hard look at the Farm Bill and how we can put more directed funds out of that program into the Bay restoration effort, recognizing the Bay is in fact a national treasure and that it should in fact receive a fairer share of those Farm Bill monies.

Ms. JOHNSON. Thank you very much.

This question is—sorry.

Mr. GRUMBLES. Congresswoman, if I could just add something to that, Secretary Johanns of USDA has had conversations with the leadership, the Chesapeake Bay Executive Council, with Administrator Steve Johnson, and is very enthused about being a very active partner in bringing to the table USDA programs and authorities.

I just want to underscore Roy's comment about the benefits of improved control of nutrients and sediments. That will be accomplished through a variety of measures, including water quality trading where we are seeing leadership in various States. And it is a high priority of the EPA as well to try to make progress, sig-

nificant progress for nutrients that often come off the agricultural lands. Thank you.

Ms. JOHNSON. Thank you.

I know that the Chesapeake Bay 2000 Agreement establishes a series of goals for the restoration and protection of the Bay by 2010, including correcting the nutrient and sediment related problems sufficient to remove the Bay from the list of impaired waters under the Clean Water Act. It is now 2006, and the authorization contained in the bill we are discussing today lasts through 2011.

Given the pace of the current restoration efforts, is the Bay likely to be removed from the impaired waters list by 2010? Anyone on the panel or all.

Mr. HOAGLAND. Congresswoman, given the current pace, no. No question. Given the current pace, we will not remove from the impaired waters list. That is precisely the problem, is that we need to step up that pace. We need to invest more, we need to be more aggressive.

I don't want to overstate it, but one of the successes of the Bay program is that it has taken these years of science, these years of studies, so that we do know the problem. We know nitrogen reduction, we know where the sources are. And we even have the solutions, upgrade the sewage treatment plants, put the practices on the farm land. It is not difficult in terms of what we have to do. It is difficult in implementation. We are at the stage where we need to ramp up that implementation if we are going to get the Bay off the impaired waters list.

Ms. GROSS. Congresswoman, I would agree with Roy. I was one of those elected officials who thought that we could meet the 2010 deadline. But that was back in 1998, 1999. When we needed the Federal Government to come in and tell us what the numbers should be, there was a great delay, 2000, the Chesapeake 2000 Agreement was signed, we thought we might have some of the numbers, 2001 went by, 2002 went by, 2003.

We finally got some of the numbers from EPA. That was a disappointment, and we will not meet the deadline by 2010. But we want to make sure that we are given credit, that the local governments are given credit for what they have been able to do. And it is does not absolve us of responsibility from continuing to try to reach a clean Bay.

But by 2010? No. I now have said publicly many times, we are not going to make that goal.

Mr. GRUMBLES. Your question is the question that everyone wants to ask. And it is a key question. I agree with the responses I have heard so far from an EPA perspective. At the current rate, we will not meet that goal. But we feel that it would be premature to officially remove that goal. There is a tremendous power of having a deadline out there to really emphasize action and acceleration of progress. So while our strategic plan recognizes that scientifically and realistically we need to have some additional milestones, we remain fully committed to that goal, and we think that we can make progress through innovative approaches that States and local governments and citizens and EPA are exploring aggressively right now.

But there is no doubt that the pace needs to be accelerated.

Ms. SWANSON. Congresswoman, I would just like to add one brief thing, which is, I think you can look at the Chesapeake Bay much like an overweight person. The Bay is essentially bulging with nutrients and sediments, both of which are not bad in the body system, unless they are in excess, similar to our own fat.

And so essentially what we have done with the Bay Agreement, and with the very specific numeric standards that now exist for those nutrients and sediment, is we have defined where the perfect weight is. Not John Smith's perfect weight, but rather where is the point at which you can have some nutrients and some sediment in the Bay, allowing for pollution essentially, and still de-list the Bay. And we have done that. And I don't know of other places around the Country that have gotten to that extreme.

So now the question is, how do we capture it? Mr. Hoagland mentioned a study that the Bay region did on cost effective strategies. Because the elected officials in our region knew they didn't have the money and that they had to invest it wisely. And what that study showed was that if you carefully target at the point sources and five very particular agricultural practices, you can capture 75 percent of that nitrogen goal. So 75 percent of the weight loss, 78 percent of the phosphorus, and 100 percent of the sediment.

Now of course, that assumes full implementation, which may never happen. But my point is, it is extraordinary and if that patient you were counseling on weight loss were to lose that level of poundage, you would be very close to your goal. And you would see a natural response in the body or the Bay to continue. At some point nature will help us recover as well. So I wouldn't be quick to give up. What I would be very quick to do is take your Federal dollars, take your Federal policy making and force the targeting and force the incentives to really go the distance. There is a lot that can be done.

And finally, let me say this, nitrogen has no memory. What that means is if U.S. politicians get it out of the Bay, within a year's time you see the recovery. It is a magical pollutant in that regard, from a political point of view. Because you can see the rapid response.

Thank you.

Mr. BOUSTANY. Mr. Gilchrest?

Mr. GILCHREST. Thank you, Mr. Chairman.

That was a wonderful analogy, somewhat overweight. And I think it is a perfect analogy. I will add one thing to that. It is not one person that has to lose that weight.

[Laughter.]

Mr. GILCHREST. It is a lot of people. If that one person was in this room today, they would understand what we are talking about. They would get the information direct from each of us.

One of the problems with the Chesapeake Bay watershed, though, is that there are a lot of overweight people out there that do not have access to the information about nitrogen and phosphorus and air deposition and sediment and sewer and buffers and critical areas and agriculture and all those things. The dissemination of the information, even in this age we are now in, is not quite what it is, what it could be or should be.

So these overweight people, sometimes they never even hear the word Chesapeake Bay Program or how to lose the nitrogen. So part of my question, and in just a minute I am going to ask how we can get to that point. Because what we are doing here, and we all want to work hard on the restoration of the Chesapeake Bay, and the Federal partners that we have here today with this Committee, I think in the last year or so, this Committee has been more, with the exception maybe of when Ben was on the Committee, but this Committee is extraordinarily helpful in this effort, to write this legislation. And I do want to compliment the Committee for doing that, and I want to compliment Edie Thompson, sitting behind me, for all the hours and hours of work that she has gone through on this effort.

I want to say something to Ms. Johnson's question about, and probably Mr. Hoagland, too, when you mentioned agriculture and nitrogen flow into the Chesapeake Bay. Agriculture for a long time, if we go back 500 years, it used to be the Indians. Then they started growing tobacco, then we came in and started growing commodity crops and all of those things. We put a fair share of nitrogen into the Chesapeake Bay.

But there is a whole range of programs out there. And the Chesapeake Bay Foundation, along with the EPA, are really beginning to work well with agriculture, to keep agriculture economically viable and change its practices, so they can be a part of the restoration efforts. And we see that all over the Chesapeake Bay. We see where ag has changed its practices. We see those buffers out there, whether they are grass buffers or forested buffers.

And you are right, Ann, that Bay comes back, within a few years, you have all kinds of bay grasses. And it is blossoming with American lotus blossoms late July, early August, if you want to come over and go canoeing and smell the sweet scent of that flower.

And Ben, you described a whole series of things that EPA is doing. I know I have been working with Mike Burke, Mike has been an annex to our staff, I think, since 1990. We are doing extraordinary things with the technology that we have. And the Federal Government has been a pretty good partner.

But can we keep pace with increasing populations in the watershed with what we are doing? Can we keep pace with those impervious services over the decades to come? Can we keep pace with the increasing amount of air deposition from the infrastructure of a human population?

So I think there are great challenges out there. We have great things in place. We need to get right down into the person that just gets appointed to a planning office, so they know. We need to get right down to someone who is just newly elected mayor or on a town council or a county council or a county commissioner or county administrator or county executive. They have land use responsibilities.

What I see in my district, not a small housing development of 60 houses being proposed, but 4,000 houses being proposed in small towns, 3,000 houses being proposed in small towns. And having no connection with that and the ecology of the Chesapeake Bay. So I guess my first question is, and I would like to see this done all over the watershed, I don't know to exactly go about doing it, but having

been in office for a few years, and I go to town meetings all the time, I go to county meetings all the time and I go to planning meetings. I go to agricultural meetings and things like this.

And I would guess, and I know it is not specifically in our legislation, but I would guess if the Chesapeake Bay Program coordinated with other agencies, maybe the Chesapeake Bay Foundation, certainly the Farm Bureau, and on a regular basis, you would visit in a year's time or two year's time every single, well, let's put it this way. You wouldn't have to go to every little single town in the watershed. You could have regular meetings bringing in one or two or three counties, depending on the population of those counties, and explain the bureaucracy of the Chesapeake Bay Program, and then explain the ecology of the Chesapeake Bay Program.

And I would say, Ann, if you were at those meetings and you described the problem like you have described it here, and the rest of you described that problem, the dissemination of information and the education that people would have would be extraordinary. They would have information. They could use their initiative and their ingenuity and their intellect.

Right now, the dissemination of this information is just not where it should be. So I have a couple of other questions, and I know I am out of time. With the indulgence of the Chairman, I will just ask a few of those questions.

But what I would like to do is work with you, so we could pilot this in the First District of Maryland and have meetings at Salisbury State, Chesapeake College, Cecil Community College, Hartford Community College, Anne Arundel Community College; market this specifically to local government people that are going to make land use decisions for that kind of information.

Ann, do you want to say something?

Ms. SWANSON. Yes. We have now been asking our own members to look forward and in the next, it is only five years, but in the next five years, what would you like to see on your accomplishment time line. These are all House and Senate members from Maryland, Pennsylvania and Virginia. And the only common thread the answer is to really see a technical assistance outreach program to local governments and really enhance technical assistance to the agricultural community.

What I would say is if you tackled both of those, and I was at USDA just yesterday with a conversation among high level USDA people about that critical importance of supporting technical assistance for agriculture. And then of course the BMPs that go with it. But really getting the message out there, we have nothing like that, really, for local governments. And if you combine the two, then you can get the current progress that would come with agriculture, almost immediate response, and the long-term investment as we change the land to a more urban population. It is right on the money.

Mr. GILCHREST. We don't want a more urban population, Ann.

Ms. GROSS. Congressman Gilchrest, it sounds to me like you are talking about one of the things that LGAC could be helpful in. One of the things that came up at our meeting that, you attended part of the meeting, but I think this happened before you were there, was one of our members, it was a Virginia member from down in

the Fredericksburg area, said, you know, local governments really don't have a clue.

Coming from a Fairfax perspective, that is a little hard for me to understand, but I am beginning to understand that not everybody is doing it the way we do in Fairfax. But there are an awful lot of small, local governments that simply do not have the ability, they do not have the staffing, they do not have the funding, they sometimes do not have the commitment. They don't understand, in many cases. And their constituents don't, either.

So it is a selling job for those of us who are in local government to be able to sell this idea to our constituents also. I think that there is definitely a role for LGAC to be, it is part of what the local government advisory committee should be doing.

One of the things I have noticed, ten years ago, when I was first elected, nobody was talking about the Chesapeake Bay. Now, some people were talking about it sort of on the periphery, those who were very involved in Bay issues. But generally, elected officials were not talking about the Chesapeake Bay.

We have made some changes there, at the Council of Governments, even in the General Assembly of Virginia. A few years ago, none of the delegates would know what you were talking about, and now they are starting to ask the questions. Instead of us asking them the questions, they are beginning to ask the questions.

So we are making some strides in educating elected officials about the Bay. We need to be able to do more of that, and I really like your suggestion about going around to various smaller localities and doing these sort of seminars for local government officials. Because you are absolutely right, we need to have that commitment, it starts at the local level.

Mr. GILCHREST. Thank you.

Mr. BOUSTANY. Mr. Grumbles?

Mr. GRUMBLES. I just wanted to—thank you, Mr. Chairman. I just wanted to say, Congressman, that while the Administration has not developed an official position yet on H.R. 4126, as I read through it, to me one of the very positive components of it, other than reauthorizing the building upon a very successful and proven statutory program, is the emphasis on local government and an increased role. As everyone is pointing out, given the challenge, the growth issues will always be a barrier, a potential barrier to accelerating the progress.

It is very positive, very good to emphasize that in legislation as well as outside legislation. EPA certainly through the Chesapeake Bay Program office, will want to work with you to follow up on your suggestions about outreach at the grass roots level.

And you mentioned the impervious surfaces and stormwater runoff. One of the things that we are really excited about at the Federal level is the new partnership with the Department of Transportation. It is called the Mid-Atlantic Green Highways Initiative. A couple of weeks ago, we announced a $1 million program targeted in the Anacostia, but it is about DOT and EPA working together and then translating that effort at the local level to have smarter practices to reduce the stormwater runoff, to increase the areas so that instead of runoff, you have sink-in and filter out the pollutants before they reach the Bay.

So we are very appreciative of your theme on greater local involvement and controlling stormwater.

Mr. GILCHREST. Thank you, Ben.

I don't know if the Chairman had any questions. I was going to—I am way over my time.

Mr. BOUSTANY. What we will do, I have a few questions I would like to ask, and then I will let you go with another round.

Mr. GILCHREST. Thank you.

Mr. BOUSTANY. Your testimony was great. I learned a lot. And I want to say that one of the common themes behind this all is, we are certainly dealing with a very complex ecosystem. Part of that complexity is sort of the human interaction with growth and development and other interactions with the ecosystem.

Specifically, for the panel, I would like the opinion of each of you. Certainly you are aware of the recent GAO report and recommendations that were issued there. Do you feel that H.R. 4126 addresses the issues raised in the GAO report? I would like each of you to maybe comment on that.

Mr. Grumbles, do you want to start?

Mr. GRUMBLES. I can start and make a few comments. I think one of the messages from the GAO report, which we are certainly taking to heart, and that we have included in our recent report, health of the ecosystem and also the restoration efforts of the ecosystem, is the added emphasis on data and information to ensure accountability and results.

So I see in the legislation, in my cursory review of it, because I need more expert review and opinion on it, but the legislation is clearly adding some reporting mechanisms to help steer future decisions and measure the progress and accountability. That clearly is the theme that comes out in the GAO reports and is reflected in the recent EPA reports on the health of the ecosystem and the restoration efforts we are taking.

Mr. BOUSTANY. Mr. Franks?

Mr. FRANKS. Yes, and I would concur with that. The reporting requirements, I think, are essential. And I think the bill does address that. I feel for all of us reports are essential. We need to measure where we are, where we start and where we wind up. I think the bill does do that.

Mr. BOUSTANY. Ms. Swanson?

Ms. SWANSON. I guess I would like to say two things. The GAO report was very, very helpful. And essentially what it did was amplify something we had already been struggling with, which was, how do you tell a complex story in simple terms when you rely both on monitoring and modeling. And one doesn't tell the full picture.

So the GAO report helped to kick us in the pants and basically say, you need to figure this out. And the new reports that the EPA Bay program recently put out are a real step in the right direction. Rebecca Hamner and others deserve a great deal of credit for the work they did trying to do that.

But the other thing that the GAO very clearly laid out is that your goals are not doable at your current cash flow. And it very clearly outlines that. It very clearly says, you have goals, but you don't have the implementation plans, which includes cash fall, for how to get there. And so I see the GAO report as yet another wake-

up call that, okay, everybody, round two, you have done the planning, you have gotten basic funding in place, but now let's go the distance.

And things like what Mr. Hoagland suggested, with very specific pots of money for local government implementation, the small watershed grants, the targeted watershed grants, they are phenomenal tools to get us to the next step.

Mr. BOUSTANY. Ms. Gross?

Ms. GROSS. From a local government perspective, I think those of us who are on the outside looking in and reading that report, I was very concerned that the report would cause EPA to refocus everything sort of internally and sort of slow down what we were trying to do at the local government level. I think that has, I have been assured that that is not going to happen. But that was an initial concern, that whoops, all this work that we are trying to move forward now would be stuck because they would have to be spending all their staff time working on a response to the GAO report.

I think that the reporting requirements, if this heightens our commitment, if the GAO report causes us to heighten our commitment and the reporting requirements, that is fine. I think that we really need to have projects on the ground, and I believe that this particular bill will help us to do that.

Mr. BOUSTANY. Thank you.

Mr. Hoagland?

Mr. HOAGLAND. Mr. Chairman, the GAO report highlighted, as you have heard, a need for increased reporting and accountability by the program. And there is no question that the legislation before you today addresses those reporting elements. And in fact, the Bay Program has in the recent past taken very responsible steps to address those concerns.

What I am not clear that the legislation contains is the recommendation for a comprehensive, coordinated implementation strategy. One of the things before the Bay Program right now that has been debated that the Bay Foundation has advocated for is a very conscious, deliberate transition from research communication and coordination to implementation. So I would suggest that if you are looking for having all of those recommendations incorporated in the statute, you should reexamine whether or not it does have that necessary mandate for a coordinated implementation strategy.

Mr. BOUSTANY. Thank you. And that gets sort of to the next issue I wanted to bring up. I mentioned the complexity of the ecosystem. But equally complex, and perhaps even more complex is the coordination, as you mentioned, of multiple States, local governments, various agencies. When I think of my home State of Louisiana, it seems fairly simple in how we coordinate our efforts with regard to our coastline in comparison to what you all are trying to accomplish. So it is truly a monumental effort.

Mr. Grumbles, from the Federal standpoint, do you feel that you have adequate coordination right now amongst the Federal agencies?

Mr. GRUMBLES. I think we have the mechanisms in place. We can always, always do a better job in coordination, recognizing the opportunities that are close to the surface or staring at us right in the face. There is always room for improvement. But I do feel that

there is a significant amount of leadership. EPA and its role with the Chesapeake Bay Program and the Administrator being on the Executive Council is important. We did just in October have a first of its kind meeting in Washington, D.C., where Federal agency heads or their deputies gathered among the 17 different agencies to talk specifically about implementation, improved coordination and cooperative conservation.

So we need to continue to work at it. I think we have the basics for the type of integration and coordination that is needed.

Mr. BOUSTANY. Okay. And one last thing I would like to mention, and that is, when you are trying to send funds down to the local level, you apparently are certainly dealing with a lot of competing requests. How do you prioritize? And who should head that effort?

Ms. GROSS. Mr. Chairman, let me take a crack at that from the standpoint of something that I do as part of LGAC. That is, I get an opportunity, I have been asked to review the Virginia grant applications for the watershed grants. What I always look for is projects on the ground. An awful lot of the time, the money is going to staffing, it is going to more planning, it is going to more reporting. And it is not going to the projects on the ground where we are actually maybe doing some digging, doing some planting, doing the kinds of things that we need to do.

I think that local governments certainly get a little frustrated. Yes, we do need funding as far as staffing and so forth. But if we are going to have things really show up, you get the biggest splash for the cash is planning riparian buffers, those kinds of things. So I look at prioritizing projects, not planning, necessary, but projects. We have had planning up to her.

Mr. BOUSTANY. Anybody else want to comment on that?

Mr. FRANKS. Yes, if you don't mind. I am going to agree wholeheartedly. Planning is wonderful, and we have been planning for a long time, and it is time to do it. When you send money down, I would look for programs that have a clear vision of where they want to go and a strategy for getting there. And the only thing that is holding them back is the dollars.

We have been talking here today about what steps were we moving forward and how it is moving forward in a positive way. The legislation that allows us to clean up our sewer treatment plants is very, very positive legislation. The initiative in the farm community to clean up their areas, not only clean up, but reduce their flow of nutrients into the Bay, is absolutely essential. We are talking here about a 75 percent to 80 percent gain, if it is done everywhere across the board. That is tremendous.

We also have another program in Maryland. That is, we are looking, through an EIS, at what do we do when it actually gets into the water. Our oyster population is decimated. And we are taking a look at a different way of putting another oyster in there. We don't know if it is going to be successful. But if our EIS is successful, we will begin a large scale oyster deployment.

If it is successful, then we have, we have tried to minimize the stuff getting into the water. And now we are going to remove it once it gets there. To me, putting your money into areas that are effective is the most critical area. Planning is good. We have to have some planning. But we really need action.

Mr. BOUSTANY. Thank you. Ms. Swanson?

Ms. SWANSON. I would like to share a recent observation that answers the question. There is a thing called the targeted watershed grants, and it is for very large grants, $750,000 to $1 million. We recently went through the first round of grant selection. I had the pleasure to be on that committee.

One of the things that this year was done that has never been done before on any of these types of grants is we asked for a quantification of the pounds of nitrogen, phosphorus and sediment that would be reduced based on the proposed project. And that ended up being one of the illustrative things in the grant that told you what you would get for your investment.

The other thing that happened is it made the people applying think differently. Because instead of thinking about a great process or a great plan, they thought about how am I going to capture pounds. And for us, in our region, that is what matters. I would suggest that kind of quantification should be applied nationwide, in Louisiana or Texas or wherever, so that if you are trying to get at a goal, make the grantees quantify it. And it worked beautifully.

Mr. BOUSTANY. Mr. Hoagland?

Mr. HOAGLAND. Yes, Mr. Chairman, let me add a couple additional comments. I do fear that too often we don't make the priority choices we have to, because in fact we want to keep everybody happy and everybody to have a small piece of this Chesapeake Bay Program funding. We go back to the fundamental issue of, we now that water quality is the underlying problem that we need to solve, so that should be the first criteria. The second criteria should be targeting those watersheds where it is needed.

I go back to what you said about knowing the science and knowing the problems. We know that from an agricultural basis, we have three hot spots: the Shenandoah Valley, it is the Lancaster area and it is the Eastern Shore. Those are the three hot spots where excess fertilizer, excess manure, must be managed, where we need reductions. There is no question that we should be investing more dollars there than some other places. Those are tough choices. But we have that information to make those decisions.

Mr. BOUSTANY. Thank you.

Mr. Gilchrest, another round of questions?

Mr. GILCHREST. Thank you, Mr. Chairman.

A number of you have talked about priorities. And to use Ann's phrase, the political guts to target, and Secretary Ron Franks talked about the Corsica River as a priority area and selecting priority areas where the dollars can be spent for much more substantive, comprehensive restoration projects could. I guess anybody on the panel, but Mr. Hoagland, you talked about that, and Ms. Swanson and Ron, you have talked about it.

Is this a direction that the Chesapeake Bay Program should take, looking at areas that are vulnerable, whether it is the Shenandoah Valley or Eastern Shore agriculture? And just say for the next five years, this is where most of the money is going to go for restoration? Could each of you comment on that?

Mr. HOAGLAND. Congressman, I often joke, I have had this new position with the Foundation now for slightly over a year. But I have been with the Foundation for 16 years. And when I got this

job, the Foundation had set a goal that by 2010 we are going to achieve that 110 million pound reduction goal. And my dream is that on December 31st, 2010, I am either smiling or I am frowning as to whether or not I have achieved that goal.

We cannot get to that goal. We cannot get to that goal unless we make those decisions that you are raising right now and invest in those key areas where we are going to make the biggest difference in bringing that nitrogen pollution loading down. That is sewage treatment plants, that is agriculture, when you get into agriculture that is in those targeted areas. There is just no question. We won't get there. We won't restore the Bay unless we make those hard choices.

So I would say yes, we have to be more deliberative, more specific and make harder choices in where we are going to use the money that we do get in order to get the biggest bang for the buck.

Ms. GROSS. But Congressman, I think that we need to also be aware of the policy changes that are necessary from the standpoint of local governments. If these areas are hot spots, there may be policy changes that can be put into place that don't cost a lot of money. If you can put the policy changes in and uphold those policies, as we are doing, for instance, in Fairfax County right now, where we now have the Chesapeake Bay, our new Chesapeake Bay ordinance is not allowing people to build within 100 feet of a stream, even if it is in their back yard.

And we are taking some heat for that. Because it means you can't do certain things or it is going to cost—

Mr. GILCHREST. Are there court challenges to that?

Ms. GROSS. No, there have been no court challenges to this particular one. The State told us we needed to do this, and so we are doing it.

Mr. GILCHREST. Good.

Ms. GROSS. And it is pinching a lot of people, because they are not able to build alongside the lake that they wanted to, or they are not able to do the kinds of things that they wanted to do. They are having to mitigate for all of that.

So I guess I would say that while targeting hot spots is a good idea, be careful about then taking the funding away from other places that may need it. Look at the policy changes at the local level that may be required that might also get us to where we need to be. It is not always throwing money at a solution, sometimes it is throwing ideas and policy.

Mr. GILCHREST. Thank you.

Mr. GRUMBLES. Congressman, I just wanted to comment briefly that there one of the reasons that the Administration included in EPA's budget, the 2007 budget request, the $6 million for the Corsica River pilot project is because rather than practicing random acts of kindness, there needs to be a practice of coordinated acts of conservation. If you look at certain areas, the goal is to work in a bipartisan, collaborative manner to truly remove from the list of impaired waters segments through an integrated, innovative approach. That is one good example of a way to make progress. No one argues with success, and it can be a good model throughout the watershed and throughout the Country.

But the important point is that while we target resources towards particular areas or opportunities, we all have to keep in mind what are the key challenges, what are the areas across the watershed that really need the most action. And that is where your points about the nutrients, the submerged aquatic vegetation, the runoff, either agricultural or stormwater in urban areas, we need to keep that in mind as we look to provide limited amounts of funding and resources to those overarching priorities and look for targets of opportunity where we can really make a difference and set a good model for others throughout the watershed.

Ms. SWANSON. One caution. And I don't mean to walk you into complexity. But I would say, I want to know what issue you are talking about. And the reason for that is, if you are talking about agriculture, and particularly manure, and you have to understand that for point sources in the Bay watershed, about 22 percent of the nitrogen comes from point sources. Manure contributes 20 percent or 19 percent.

And so manure alone is an enormous contributor. That is where those three hot spots are. And there is enormous opportunity there as a result, because it is very concentrated.

Now, if it was targeting for point sources, I might not say, oh, yes, do the Corsica, and I mean no disrespect, but when I start targeting, I want big flows, blue plains. And I want it to go the lowest it can possibly go. So there, I would target all of your sewage plants larger than 500,000 gallons. So I would target differently when it comes to point sources than non-point.

Thank you.

Mr. GILCHREST. Mr. Franks?

Mr. FRANKS. In targeting, you have to be both programmatic as well as geographic. You don't have a choice in that. You need both aspects of it. I want to talk just for a quick minute about the Corsica and about the watershed, just really very quickly. We have a lot of things that we believe will be effective in reducing pollutants to the Bay. What we tried to do in the Corsica was bring all those things together and do all of the things in all of the places to see whether or not we really know.

And if we do, after we have done this, and after it has been measured, because we are not doing anything without measurement, we will be able to say with honesty, yes, we do know what needs to be done and we have done it. If we find in doing this river system that some things work and some things don't, then we have that real experience which we can come back and say, we don't need to do these things, but we need to do more of this other.

Now, we picked the Corsica, and I will be perfectly frank here, and we are about to look at another watershed. We picked the Corsica because of our limitation of money. We did not have enormous funds. It is going to cost about $19.4 million to restore the Corsica, we believe, to a level which we can be able to apply and have it removed from the EPA's impaired waters list. That was the money we could cobble together. We thought we could cobble together, and with your help, we have been able to do that.

That is one watershed. We are looking at all those BMPs we need to do in that watershed. Now we are looking at a second watershed. This watershed will probably be a more urban watershed,

a watershed that has different needs to remove it from the list in order to make sure that our BMPs work in a more urban environment.

This is an experiment. It is one we think is well founded. We think it will be successful. But it is a learning effort on our part. And we feel very, very positive about it, and we feel very, very positive about the next one.

Mr. GILCHREST. Who is involved in that Corsica watershed restoration project, Ron?

Mr. FRANKS. When you say who is involved?

Mr. GILCHREST. Other than the Department of Natural Resources?

Mr. FRANKS. We tried to make it across the board. Most everybody is involved, from all the different State agencies to the town of Centerville to the county of Queen Anne's, all the non-profits. We have tried to make it across the board.

If everybody is not involved, if everybody doesn't know what is going on, if they don't have ownership, it doesn't work. We need to bring everybody together. We have differences, we discuss them, we work them out and then we move forward. When this is over with, we hope we have something that everybody will have bought into because they have been part of the process.

Mr. GILCHREST. Great. Mr. Chairman, I have one more question, if I might. This question, your comment about the Corsica and the integration of various agencies is a question I have for Mr. Grumbles. There is, the U.S. Institute for Environmental Conflict Resolution, do you see them playing a role, or are they playing a role in the Chesapeake Bay Program as far as, I would say, is there an entity within the Federal Government or Chesapeake Bay Program that coordinates activities between NRCS, EPA, Corps of Engineers, NOAA, Department of Transportation, where they have, and I see Rebecca nodding back there, where they see the watershed in various ways as far as their contribution to its restoration or their contribution to its degradation and how they can coordinate the dollars, the funding, the program, the plans for reduction of nitrogen and phosphorus and things like that?

Mr. GRUMBLES. Well, I certainly, and I know the agency and Rebecca and the Chesapeake Bay Program office, we recognize the good work, the important work that the Institute for Conflict Resolution has done in the past and continues to do. I am not sure that that organization or that particular entity is absolutely necessary.

I feel that we should always keep our eyes open and our minds open to collaborators and facilitators on multi-regional complexities with conflict resolution. I think we do have a good basic structure, and you certainly have the passion and the professionalism of the partners in the Chesapeake Bay to help make conflict resolution a way of the future. Congressman, I hesitate to say that that particular organization is the best approach.

Mr. GILCHREST. Well, if you put that organization aside, is there a structure within the Bay program so that these various organizations from Agriculture to the Corps of Engineers to Transportation to all the other Federal agencies that have some impact or input into the Bay's watershed, is there a collaborative effort, a structured collaborative effort for them to work toward the same goal?

Mr. GRUMBLES. Former Administrator Mike Leavitt used to say, when looking at regional collaborations and the challenges, that oftentimes the problem is not technology but sociology. That getting everybody together in a way to sort through the different perspectives and pursue common ground or if not common ground, middle ground. I feel just as an EPA official that we have the partnership, the Chesapeake Bay Program, the historic agreement, the Chesapeake Executive Council. We have the overall structure to do that.

To me, one of the best examples of the framework actually working was the end of 2004, when EPA and our partners were able to agree to a multi-State watershed based permitting strategy that stretches all the way up to New York and includes other States in the watershed. That wasn't done through a formal conflict resolution process. It was done using the existing framework we have and spending a lot of time person to person working out differences and different perspectives, geographic as well as policy.

Mr. GILCHREST. Thank you. I want to compliment all of you. We all are engaged in a lot of different activities. These are, I guess when you have, I don't want to say 16 million overweight people out there, but it might be a million, your efforts are well appreciated. I want to thank you for taking this time out of your life. For some of you it is decades, for some of you it is a little bit shorter, to accomplish these worthy goals.

But I would also like to continue to collaborate with you on this process, as we bring the legislation through to fine tune it with your recommendations even further. I guess if I could leave any message to each of you, as I see it from my perspective, traveling around Maryland, the watershed, is if we can develop a system to disseminate this information to a larger group of people in an organized fashion. Talk about the bang for the buck that we get from that. I think that would be a real positive thing.

Thank you all very, very much, and thank you, Mr. Chairman.

Mr. BOUSTANY. Thank you, Mr. Gilchrest.

I would like to recognize Ms. Norton, who joined us a few moments ago, and see if you have any questions.

Ms. NORTON. This is a matter of such great importance across five or six States, and I am very pleased to welcome all of you here. I am very pleased at the regional effort and understanding of the importance of the Bay and of the various programs. I must say that when I read and of course, the Bay is covered very substantially in our newspapers, about problems with rockfish and other problems. One wonders about our progress. Of course, this is nature, things will happen from time to time.

The report card notion that Mr. Gilchrest has led, the way in which local governments have taken responsibility is admirable. I cannot say that I have a sense of the overall health of the Bay, as difficult as that is. In the Anacostia, this Committee, and this is the real stepchild here, and of course all this water flows you know where ultimately. But this Committee, and I think Congress has approved a part of a plan for the Anacostia that says that the Corps of Engineers is to get the jurisdictions involved, there are three jurisdictions involved, to develop a 10 year plan for the Anacostia. This is one river.

But this is a part of a bill that I sponsored. What was important to me was that everybody was working on the Anacostia while it was still a very polluted river. We know what needs to be done. It has a huge problem from stormwater overflow. We know it has to be done.

But the whole notion of these periodic meetings where everyone pledges and signs on to support cleanup didn't seem to me to tell me anything in the long run. I am sure they did it, and I am sure that of the commitment. What my bill did was to put responsibility some place. Now, again, we are talking about the Bay, which is a much more complicated matter.

But what it did was, we said, look, Corps of Engineers, you get these jurisdictions together, you make them agree, you have them agree on a plan. So in the end, the kind of collaboration that it takes to clean up any body of water has got to occur, because everybody has to agree to the plan. And there is somebody in charge of getting the plan together.

Now, the Corps of Engineers is not going to do the plan. The Corps of Engineers can't make individual jurisdictions do anything. But at least we have placed responsibility somewhere, other than in the jurisdictions involved to integrate and to come forward with a coherent plan.

I would simply like to ask if anything of the kind exists with respect to the Chesapeake Bay or whether it would be useful at all.

Mr. GRUMBLES. Congresswoman, the first thing I wanted to do in response to your question was to say EPA appreciates and acknowledges your leadership on the Anacostia River. I remember us working with Ken and other members of the Staff on the Subcommittee many years ago, where you had a field hearing to specifically draw national attention to the urban stormwater challenge in the Anacostia. EPA wants to be a full partner in that effort. We are taking important steps. Because it is a very polluted but important asset in this whole region. It is also connected to the Chesapeake Bay.

We do have a tributary strategy. For the Chesapeake Bay, your question, there is a framework. There are action plans. And they are translated into tributary strategies. There are 36 tributary strategies, and they essentially encompass watershed plans for what brings the lifeblood into the Chesapeake Bay.

Ms. NORTON. Do you integrate all those together so that you know, does the EPA do that?

Mr. GRUMBLES. Well, the Chesapeake Bay program office, which EPA does integrate, does look at them. Of course, as you know, the key to the success and sustainability of each of those 36 tributary strategies is based on the local and State level and citizen level partnership in putting those together. But yes, we do have an important role in that overall effort. All the Bay partners have agreed years ago that the tributary strategies are part of the salvation, the way to really make on the ground, in the watershed progress toward the Chesapeake Bay.

Mr. HOAGLAND. Congresswoman, I would answer the question a little differently. I would say no, there is no one with ultimate responsibility under this cooperative partnership. And in fact, I think

there is a need, and the Foundation has argued for a greater involvement by the Federal Government.

We do have a resource that is multi-jurisdictional. It is one of national significance. There is a key role that needs to be played at a greater leadership level from the Federal Government, not unlike the one that you described that you had to address with the Anacostia.

Ms. NORTON. Does anyone else have a view on that matter?

Mr. FRANKS. When you look at a watershed, and you ask, have you considered all the different parts to it, that is what we did with the Corsica. The Anacostia is more of an urban watershed, and a much larger watershed. We took a small watershed because that is what we thought we may be able to arrive to acquire the funding to do all of the things in all of the places all of the time to make it a working project.

So we have looked at a watershed-wide plan. The Anacostia is a much more complex and much, much, much more costly undertaking.

Ms. SWANSON. I would like to respond. When I think about the Chesapeake Bay Program, the leadership in the Chesapeake Bay Program I would describe as a Rubik's cube, where there are certain leaders who know they are a part of the cube. But essentially as issues change, geographic priorities change, dollars available or even political will, when the right opportunities align, different leaders emerge, the same way different pieces on the cube lead you to putting it together.

So I would say that the strength of the Bay Program is multiple leaders. But I would also say that for some of the other Federal agencies, all the Federal agencies in the Bay watershed, the more they get clear direction from you as to the priorities in the Bay watershed and their activities, the more they will be a very prominent piece on that Rubik's cube.

And make no mistake, the Federal agencies' involvement is vital and pivotal and keeps all of us as States and general assemblies together. But I would say, you need to amplify that leadership among many of the Federal agencies.

Ms. GROSS. From a local, local government perspective, we wonder sometimes about the coordination. But when you look at an org chart, you can sort of see where some of that goes.

I would also say, though, that it is important that local governments be fully participatory in the effort. You mentioned, Congresswoman, the Anacostia River. In my prepared remarks, I do mention the restoration of the Anacostia as an example for maybe prioritizing grants within watersheds or metropolitan areas. Because that is a very important one for those of us in this particular region.

However, sometimes the participation of even our larger governments within the metropolitan region is not what it should be. I am very pleased to see especially at the District of Columbia Government level, that there is a new environmental department, a department of the environment being put together, which is going to help coordinate their efforts.

Because quite frankly, it has been a little frustrating sometimes that the level of participation in the region, and I am not speaking

for the complete watershed right now, we can get into that another time. But for just the metropolitan region, it has been spotty in some regards. So trying to be cohesive at the local level, and then I don't know whether it should flow downhill from the Feds or try to go up here.

But there needs to be coordination at all the levels. If we can coordinate regionally or locally among ourselves while the Federal and State governments try and figure out what to do, we shouldn't just not do that until somebody else above us gets their act together.

Ms. NORTON. It is interesting to hear your responses. I think the Bay is one of the seven wonders of the United States. There is just nothing else like it. And of course, its complexity is awesome as well, and in many jurisdictions.

This is a Federal republic. And when you have independent local jurisdictions involved, you have a major issue about how—every jurisdiction is supposed to deal with their own thing. And that is the way the Federal republic is organized. We would not want it any differently. I am not one for easy analogies. But I do want to suggest that in this region, we have had great difficulty despite enormous regional cooperation on things that the region cannot do without. I give Metro as perhaps the preeminent example. You take that away and the whole region falls apart.

Of course right now, in one of my other committees, I am cosponsor of a bill where we are trying to get each part of the region to sign on to a dedicated annual payment for Metro, because here is this wonderful thing that the Federal Government disproportionately contributes to, and it is, and people love it now. They are loving it to death, they are getting on. And we have hung out this kind of, let's call it an incentive. We have not yet gotten everybody to take to it. But we sit together a lot. We sit together a lot.

There is, I spoke about the Anacostia River analogy, because you can, I think, see that the word coordinator is all we are talking about. The Federal Government is empowered here. It is not a new structure. It is not some new office in the Corps. But it is responsibility, so that Congress can have a hearing for our bill and say to the Corps, all right, what have you done.

To give you another analogy, again, analogies are the way in which lawyers operate. But their opponents operate in tearing apart their analogies. So I offer them simply for what they are worth.

But when the Homeland Security bill came through here, I sat on one of my committees and recognized how central this region was with the entire Federal presence located here. I sponsored an amendment that ultimately the whole region sponsored and we got through for a coordinator for this region. Now, that could have been somebody who had some other role in the Department of Homeland Security. But the fact is that Congress said we would pay for a coordinator. So that person sits with the counties that are involved, Fairfax, Montgomery, out to some distance, D.C., and coordinates security, including grants.

Now, he doesn't say you get one, you get one. But somehow it is interesting how they have developed a way of prioritizing security concerns within this region. I have to tell you, I would be the first

to hear it, I will be through in a minute, and thank you, Mr. Chairman, particularly since I am on the Homeland Security Committee, there have not developed issues. If anything, we are on the coordinator, because they have not come up with the final plan we want.

So my only point is, I am not sure anyone is going to be able to tell us much about the Bay, the Bay that we love so much until somehow somebody who looks at the whole Bay is able to report. We do have a Federal Government and it is of course the overarching Government, and it does seem to me that the Federal Government has a role to play here. And we have to think through what that role should be.

But I am convinced just by talking with you and seeing that everybody is trying their darndest and still we have major questions out there. I do want to say this, I think that without that kind of coordination, when you hear about rockfish, we run to the rockfish issue. When you hear about whatever is the issue that makes the newspaper, that may become your priority. I wonder if that is the way to really take care of an extraordinary resource like the Chesapeake Bay.

I thank you for your indulgence, Mr. Chairman.

Mr. EHLERS. [Presiding.] The gentlewoman's time has expired.

I do apologize for arriving so late for this hearing. I was chairing my own subcommittee, also on the topic of water, or lack thereof, about developing a drought information system for this Nation, a rather dry subject, I must say. But we had a very good hearing and reported a bill out creating a national system of identifying and sharing data on the drought system. So I am inundated with water issues today.

I don't want to take your time, and I don't have questions, because I missed most of the testimony. But I do appreciate your being here.

What I do want to observe is that we have done two major things in the Congress in the past 15, 20 years. First is the Chesapeake Bay project. Second, the Everglades. We also had a small one on the Salton Sea.

But now the next big one is looming, and it is far bigger than these, and that is one I am involved in. I agree with everything Ms. Norton said about the problems of the Chesapeake Bay, the coordination, the need for it, how large the problem is. You multiply that probably 30-fold, and you get to the Great Lakes, which is the issue I am concerned about.

I am very pleased not only that we got my Legacy Act passed a few years ago, but that Mr. Grumbles and the EPA have been very supportive in recommending funding. The President has been even more supportive in granting the funding, and we have made substantial progress. But I have introduced a major bill which I hope we can get passed soon, which will do for the Great Lakes the same thing that is going on for Chesapeake Bay and the Everglades. And it is absolutely essential to do that, and I know, since water and water creatures are dear to all your hearts, that you will support that effort as well.

With that, I want to thank you for your presence here. Your testimony has been very valuable to this Committee as we continue to consider the reauthorization. And I certainly appreciate your

taking the time to come here and benefiting us with your knowledge. Of course, Mr. Grumbles has shared his knowledge with us for years. We still haven't begun to in any way plumb the depths of his intellect and his knowledge on this topic.

But we appreciate all of you coming here and sharing your information with us. It is the only way the Congress can operate, is through your help. So thank you for being here.

With that, I am pleased to bring the hearing to a conclusion. The hearing is adjourned.

[Whereupon, at 12:10 p.m., the committee was adjourned.]

Statement of Congressman Ben Cardin
Subcommittee on Water Resources Hearing on HR 4126
May 4, 2006

Thank you, Mr. Chairman. It is a privilege to testify before this subcommittee on a topic as important as Chesapeake Bay. I also want to thank my colleague from Maryland, Wayne Gilchrest, for introducing H.R. 4126, the Chesapeake Bay Restoration Enhancement Act. I joined every member of the Maryland Congressional Delegation as an original cosponsor of this critical legislation.

Chesapeake Bay is the geographic, cultural and economic center of this entire region. Next year will mark the 400th anniversary of Captain John Smith's sail up the Chesapeake, and the subsequent settlement and economic development that founded our nation. As a main artery for commerce and a resource for sustenance the Bay has continued to be the centerpiece of this region. Economists have estimated the value of the Bay to the nation's economy to be over one trillion dollars every year.

The Bay is a beautiful and vibrant resource that is used and enjoyed by millions. In just a few days the Bay will be the site of the restart of the around the world Volvo Ocean Race. This will be taking place while thousands of boats are out fishing for trophy rockfish, pleasure boats will fill the Bay with sails, and scores of commercial vessels will be plying the Bay to two of the East Coast's busiest ports – Baltimore and Norfolk. It will be one in a long list of conflicts on a Bay that is prized by an incredible diversity of users.

But this national treasure is in trouble. As everyone has been made aware over the past few years, the Bay is not doing very well. The "Dead Zone" – the areas of the Bay with little or no oxygen – has been a growing problem the past few years. My constituents on the South River have found many Brown Bullheads with new cancerous tumors this spring. And, increasing numbers of rockfish, or striped bass as they're known outside of Maryland, are appearing with lesions and a sometimes fatal disease.

The bay is not simply a local issue for the people of Maryland, Virginia or the District of Columbia. As one example, 80-90% of all the striped bass that swim along the Atlantic seaboard are born in Chesapeake Bay. The odds are that a diseased fish from Chesapeake Bay will be caught in a few months by an angler or a commercial fisherman in New Jersey or Long Island. Preservation of the Chesapeake Bay ecosystem presents a national challenge for us all.

Nutrient and sediment pollution that enters the Bay far exceeds the Bay's ability to absorb it, and progress is lagging on meeting the pollution reduction goals that have been set. The amount of underwater bay grasses are at less than half (39%) of the acreage that is needed to provide adequate habitat and filtering capacity for the long-term health of the Bay. We have a native oyster population that is on the brink of extinction, and provides virtually no filtering benefits as it did even just twenty years ago.

But none of this is new to the Members of this Subcommittee, nor to those who are trying to help the Chesapeake. I am here today not to talk about what is wrong with the Bay, but what Congress can do to help make it better. Enacting H.R. 4126, the Chesapeake Bay Restoration Enhancement Act, will not be the silver bullet of Bay restoration – but it is a critical piece of the puzzle that we need to make progress in our ultimate goal of a clean and healthy Chesapeake Bay.

H.R. 4126 increases the authorization level for the EPA Chesapeake Bay Program to $50 million per year. This annual investment in a threatened resource worth over a trillion dollars seems like a wise financial strategy. The EPA's Bay Program, created by this Committee, plays the central role in coordinating and driving the intergovernmental Bay restoration effort. Its role and resources need to be enhanced.

At the same time we need to maximize all of our resources that go into Bay restoration – such as restoring funding to the Clean Water State Revolving Fund that the President's budget has cut nearly in half from only three years ago. There will be a number of

national reauthorization bills that Congress will be considering that will have the potential to provide much more money for Bay restoration than this bill – such as the Farm Bill, the Water Resources Development Act and even the Highway Bill. Those bills are for another day.

Today I'd like to focus on one specific, important part of H.R. 4126, and something that I think is vital to the future of this region for both the health of the Bay and for the well being of the 16 million people who live in its watershed. This bill, for the first time, recognizes the critical role that local governments play in the decisions and actions that will ultimately decide the fate of the Bay. And this bill does not try to put additional burdens on local governments – to the contrary, its intent is to provide local governments a greater role in the decisions that will impact them, and to provide additional resources.

There is a vast disparity on the types of local governments throughout this region – there are over 1,650 local governments in just the MD, PA, DC and VA portion of the Bay watershed. And there is a tremendous diversity on types and sizes of local governments – I live in Baltimore County which has a population of about 775,000 people. My colleague from Maryland, Mr. Gilchrest from Kennedyville in Kent County lives in a county that has about 20,000. But our local governments face a lot of the same problems and challenges. There is a lot of growth and development that these counties must manage, and the citizens of both counties want to do what is best for the Bay.

These problems exist throughout the Chesapeake Bay watershed. We have a region that over the past decade has seen its population grow by about 8 percent, but the increase in impervious surfaces (streets, parking lots, buildings, etc.) has gone up 41 percent during the same timeframe. H.R. 4126 was drafted with the intent of addressing some of the special problems and challenges facing local governments in the Bay watershed. The bill seeks to better integrate the needs and opportunities of local government into the Chesapeake Bay Program and to provide some increased funding and technical assistance to help those jurisdictions on the frontlines of Bay restoration.

A centerpiece of the proposed efforts to assist local governments is the separate authorization of $10 million specifically for the Chesapeake Bay Small Watershed Grants Program, and an assurance that at least 40% of that money goes directly to local governments for real, on-the-ground projects. This highly successful program, which was funded at $2 million for the past few years provides real and measurable results. From 1999 through 2005 this program awarded $15 million in Federal money as funds from NOAA, USDA and US Fish & Wildlife Service supplemented EPA dollars to support 443 projects throughout the watershed. These funds leveraged $43 million in ADDITIONAL non-Federal funds. The environmental results and benefits were direct. Collectively, these grants have protected 34,500 acres of wildlife habitat, restored 4,500 acres of wetlands, created or restored 104 acres of oyster reefs, restored or enhanced 269 miles of riparian buffers, and restored 162 miles of streams and rivers.

The program also serves to support and engage local community groups seeking ways to participate in the Bay restoration. I have helped school children plant underwater bay grasses grown in their classrooms, neighborhood groups clean-up riversides, and non-profits build alternative storm water control systems, among other projects. H.R. 4126 will increase these on-the-ground and in-the-water results by at least fivefold. That is progress worth supporting.

Even in communities far from the Bay -- in central Pennsylvania, in the Southern Tier of New York, the West Virginia Panhandle – local governments are facing increasingly difficult land use decisions about growth and development. And these decisions have the greatest impacts in those communities, on local water quality, on traffic congestion, on a host of quality of life matters for their citizens. These decisions ultimately affect the Bay, and that is something that I care about, but the biggest beneficiaries, or victims, of local government action or inaction, will be its citizens. H.R. 4126 takes a large step in the right direction and I urge my colleagues to support this bill.

Thank you Mr. Chairman.

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-03)
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
U.S. HOUSE OF REPRESENTATIVES

Hearing on "The Chesapeake Bay Restoration and Enhancement Act"

Thursday, May 4, 2006, 10:00am
2167 Rayburn House Office Building

Mr. Chairman and Mr. Ranking Member, thank you for holding this subcommittee hearing today.

I am pleased to welcome today's panelists that represent numerous federal, state, and local authorities. It is heartening to see different levels of government put aside intergovernmental competition and embrace a spirit of cooperation to address a pressing need for their shared constituents.

As a representative of a district that is located on the heart of one of America's major waterways, the mighty Mississippi, I find your work in restoring and preserving the Chesapeake Bay both timely and inspirational. Slowly, we are realizing more and more that our lives, health of the environment, and our economy are not independent phenomena. Thank you for your testimony and for the leadership you have taken on this issue. I truly hope that we can address the Chesapeake Bay Program's problems together and thereby create a valuable template for communities around the country.

I welcome the witnesses to our subcommittee today and look forward to hearing your testimony. Thank you.

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Prepared Remarks of Rep. Jo Ann Davis
May 4, 2006
House Committee on Transportation Subcommittee on Water Resources and Environment
Chesapeake Bay Program & "Chesapeake Bay Restoration & Enhancement Act"

Chairman Duncan, thank you for the opportunity to be with you today. I appreciate your efforts and thank you for allowing me to sit in on your committee this morning. To my colleague on the other side of the water, Rep. Gilchrest, I want to thank you for your efforts on behalf of the Chesapeake Bay. As a member of the Chesapeake Bay Watershed Task force I commend you for your leadership and dedication to the Bay.

The Chesapeake Bay is a national treasure. I'm proud and honored to represent Virginia's 1st Congressional District which spans most of the Bay's western boarder. The James, York and Rappahannock Rivers, three of the bays major tributaries, flow through my district. The Bay and the tributaries have shaped and continue to shape the lives of the residents of Virginia especially in my district.

I want to see the Chesapeake Bay restored and the environment improved. We as a nation have a special responsibility to act as stewards of our natural resources and environment.

In Virginia we are gearing up for the 400th Anniversary of America's founding at Jamestown. Part of the commemoration hopefully will include the designation of the Captain John Smith Chesapeake Bay National Historic Watertrail. John Smith explored most of the Chesapeake Bay and the tributaries in 1607 and 1608 what he found was an astonishing assortment of wildlife and beautiful scenery. He wrote in his journal, "Heaven and earth never agreed better to frame a place for man's habitation…" I along with about 16 million people agree, the Bay and its tributaries are a great place to live. They are also worth protecting and taking strides to improve the health of the region's waterways.

The Chesapeake Bay 2000 agreement focused on significantly reducing nutrient pollution and sediment deposits by 2010. That date is fast approaching with much still left to do. Improved water quality is and should remain the number one priority of the state, federal and local partners involved in Bay clean-up.

This is such a large undertaking and the complexities of understanding such a large estuary are daunting. The federal and state governments have already invested billions, and it's our responsibility to make sure that we are getting the most clean-up for our tax dollars.

I am encouraged by Rep. Gilchrest's vision to address these concerns by increasing the responsibilities and role of local governments in Bay restoration. Localities and

individuals are vital components of any action and plan to clean up the Bay. I want to take a minute or two to give a couple of concrete examples that exemplify a wide range of local efforts underway to improve water quality in the Bay region.

This morning the National Association of Counties recognized the efforts of community volunteers in Caroline County, Virginia. About a dozen volunteers were instrumental in assisting local officials with a critical wastewater project. Dawn is a small rural community without indoor plumbing. Poor drainage and heavy storms wash waste into the drainages threatening wells, groundwater, and public health. Seeing the need and recognizing the health and environmental impact, volunteers assisted local officials to collect easements and regulatory paperwork. Thanks in large part to volunteer efforts the community is slated to begin construction of wastewater facility early next year. This is just one example of local officials and communities working together to address health and environmental problems that ultimately impact the health of our waterways.

I want to give you one more example of the important role local governments are playing in Bay restoration. Fredericksburg, Virginia is reflective of many areas in the Bay watershed. Located just south of D.C. the whole region is feeling the pressures of growth and the strains associated with traffic, congestion and land-use. In Fredericksburg, along the banks of the Rappahannock the local government has just voted to place 31 miles of riverfront land under conservation easement—creating an important buffer against runoff and development. This is another example of concrete steps that local groups are making to preserve green spaces, protect Bay tributaries and enhance restoration efforts.

Finally, I want to remind the committee of the important role watermen, oystermen and commercial fishermen of Eastern Virginia have in the future health of the Bay. Generations of watermen have fished and lived off the water. Still, in my district commercial waterman, private companies and individuals are cultivating millions of oysters each year. Oyster aquaculture businesses add oysters that clean and filter bay waters, an important component to improving water quality. These men and women know better than most the status of the bay and their input is essential.

Residents of Northumberland County have relied on the health and bounty of the bay's fish stock for generations. Reedville, Virginia is the third largest fishing port in the United States. We need to ensure that when these issues are discussed that local communities and business that have the knowledge, investment and stake are consulted and involved in the process.

I believe that the Chesapeake Bay Program and the EPA should make it the top priority to meet mandated improvements to water quality, before embarking on efforts to manage fisheries, which may be best addressed under the existing structure at the National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission.

Thank you again for the opportunity to be here today and I'm looking forward to continuing to work to improve the water quality and health of the bay.

Testimony of Ron Franks
Secretary of the Maryland Department of Natural Resources

Before the House Water Resources and Environment Subcommittee
Committee on Transportation and Infrastructure

May 4, 2006 Hearing on the Reauthorization of the Chesapeake Bay Program

Good morning, I am Ron Franks, Secretary of the Maryland Department of Natural Resources. On behalf of Governor Ehrlich, your former colleague and the current Chair of the Chesapeake Executive Council, thank you for your interest in the progress and future of the Chesapeake Bay Program, and the opportunity to recommend improvements from the perspective of the Bay partners. I also want to thank Congressman Gilchrest for his commitment to restoring the Chesapeake Bay and for sponsoring the bill to reauthorize the Program.

The Chesapeake Bay Program

The Chesapeake Bay Program is a voluntary partnership of the States that comprise the Bay watershed and U.S. Environmental Protection Agency established in 1983 with the signing of the first Chesapeake Bay Agreement.

When the Bay Program was established, it was the first time that the Bay states and the federal government came together to set goals and responsibilities for restoring the Bay. This commitment was not only a first for the Bay States, it was an unprecedented attempt at restoring a large-scale estuarine ecosystem. In undertaking this enormous task there were and still are no "how to" books, levers or spigots that can restore what once was. What we have committed to do is something that no state or country has accomplished. We are leading the way for large-scale estuarine ecosystem restoration.

The Bay restoration effort started with a set of untested assumptions and a very steep learning curve. The scientists, managers and decision-makers who guide the Bay Program have had much to learn regarding the complexities of this dynamic ecosystem. This effort has required putting all of the interdependent pieces together, i.e., the scientific, technical, fiscal, legal and socio-political dimensions of the Bay restoration effort. Building the requisite expertise and infrastructure to attain and sustain the health of the Bay is one of the primary, yet most unrecognized, accomplishments of the Bay Program. In this sense, there have been enormous strides from where we started.

Since 1983, the Chesapeake Bay Program Partners have revisited, renewed and revised their commitments in subsequent agreements, most recently in the *Chesapeake 2000 Agreement.* This Agreement specifies 102 commitments. These include restoring and protecting the oyster, crab, and fisheries populations; restoring and protecting critical habitats such as wetlands, forests, and submerged aquatic vegetation; improving water quality by reducing nutrients, sediments and toxics; improving the management of lands within the Bay watershed to better control runoff; and instilling a greater sense of stewardship ethic within communities, at all levels of government, and among businesses, industries, and private citizens. The diversity of commitments which need to be met to restore the Chesapeake Bay reflects the enormity of the challenge that faces all of us.

Accomplishments to Date

Through the partnership of the Chesapeake Bay Program and resources that have been provided, major restoration efforts have been undertaken. The outcome of these efforts when viewed across the immensity of the Bay's 64,000 mile watershed so far has been mixed.

Overall, nutrients and sediments in the Bay have decreased despite tremendous population growth and rapid development although not to the target reduction levels. We are more than halfway in meeting the nitrogen pollution reduction targets from wastewater treatment plants, and in the case of reducing phosphorus from those plants we have achieved 80 percent of our target thresholds. For agricultural pollutants we are approaching the halfway mark.

We have developed watershed management plans for 9.7 million acres of watersheds within the Bay — 42 percent of our goal.

Bay grasses have increased by nearly 35,000 acres since the low point of 1984 to 73,000 acres which is 39 percent of the way towards our restoration goal of 185,000 acres. For wetlands, we have restored 9700 acres, created 338 acres, and enhanced over 49,000 acres, and have met 40 percent of the restoration goal. The Bay partners have more than doubled the original goal for restoring riparian forest buffers, and have set a new goal of 10,000 miles for restored buffers with over 4600 miles already restored.

The 2010 goal to conserve 20 percent of the Chesapeake watershed has been met.

The original migratory fish passage restoration goal of 1,357 miles has been surpassed by nearly 500 miles and a new goal of over 2,800 miles has been established.

There has been a dramatic recovery of rockfish in the Bay but the species is showing signs of stress with an increasing number of diseased fish. The bald eagle population has been restored. The blue crab population appears to be stabilizing after several years of decline. Despite millions of dollars in funding, the native oyster population has continued to decline due to disease. Currently, an independent and fastidious study is

underway to advise the States of Maryland and Virginia on the feasibility of replacing the lost filtering function of the native oysters with oysters which are not native to the Bay.

Numbers, percentages and letter grades do not tell the whole story on progress. For example, what might seem small in terms of Bay-wide percentage reductions in nutrients can be substantial in terms of the amount of nutrients reduced in local watersheds and the resulting water quality improvements. Sewage treatment upgrades have resulted in increases of submerged aquatic vegetation by as much as 1000 percent in some waterbodies providing additional water quality and habitat benefits. This type of progress has not been seen uniformly throughout the Bay and its tributaries but it does show that when the pieces are in place, the predicted benefits are likely to occur.

Further progress is on the way —

- Maryland has enacted the Bay Restoration Fund, also known as the flush fee, which will upgrade sewage treatment plants greatly reducing the introduction of nutrients to the Bay. The Fund was recently cited by Harvard's Kennedy School of Government as one of the Top 50 Government Innovations for 2006. The proposed biennial budget for Virginia includes $254 million for the installation of nutrient removal technologies at sewage treatment plants and $37 million for best management practices on agricultural lands. Pennsylvania's Act 218 provides $250 million in new bond money for sewer and water infrastructure construction and the installation of nutrient reduction technologies at wastewater treatment facilities. In addition, in 2005 voters approved Pennsylvania's Grower Greener II plan which will invest $625 million to clean up rivers and streams; protect natural areas, open spaces and working farms; and shore up key programs to revitalize and improve the quality of life of communities across the Commonwealth.

- Pennsylvania also adopted last year two mandatory measures specifically to meet the Chesapeake Bay requirements. The Agricultural, Communities and Rural Environment (ACRE) initiative significantly increases the number of farms that must comply with specific regulations for nutrient management and erosion and sediment control. Nutrient limits will also be included in operation permits for wastewater treatment facilities and industrial facilities as they come up for renewal. Pennsylvania is also developing a Nutrient Trading Program that will stimulate innovation and cost-effective approaches to reach and maintain its water quality goals.

- The District of Columbia has embarked on a long-term control plan that will reduce combined sewer overflows by 96 percent.

- All of the Bay jurisdictions have developed tributary strategies that identify the level of effort required to meet the nutrient loading reduction goals for their tributaries. Maryland and West Virginia have developed implementation plans providing pragmatic approaches to taking the actions identified as needed in their strategies. In Virginia, legislation was signed into law last month to

require the development of a master plan to clean up all of Virginia's polluted waters, focusing on measurable and attainable goals, the prioritization and phasing of projects, and funding needs.

- The Commonwealth of Virginia has recently committed to preserving at least 400,000 acres of land in the State by the end of this decade. For Fiscal Year 2007, Maryland has committed nearly $300 million for land conservation.

- To reduce atmospheric deposition, Maryland has just enacted the *Healthy Air Act* to reduce nitrogen, sulfur and mercury emissions from power plants.

The combination of these measures may well bring us closer to the tipping point at which the synergistic dynamics of improvements to the Bay ecosystem will further accelerate progress and realize a variety of water quality and living resource benefits.

The Need for Improvements – The GAO Recommendations

The recent review of the Chesapeake Bay Program by the U.S. General Accounting Office (GAO) found that while the Bay Program has over 100 measures to assess progress toward meeting restoration commitments, the Program has not developed an integrated approach that translates these individual measures into an assessment of overall progress. The GAO report criticized the over-reliance on modeling data in reporting conditions within the Bay that tended to overstate the nutrient and sediment reductions which have occurred. As for progress in the implementation of restoration measures, the GAO found that the Bay Program does not have a comprehensive, coordinated implementation strategy for meeting its objectives and managing its limited resources.

The GAO recommended that the Chesapeake Bay Program Office (1) develop an integrated assessment of conditions in the Bay; (2) revise its reporting on conditions to improve the effectiveness and credibility of its reports; and (3) develop a comprehensive, coordinated implementation strategy based on available resources.

We agree with the findings and recommendations of the GAO report.

Our understanding is that these findings and recommendations provided a foundation for the development of H.R. 4126. I want to compliment Congressman Gilchrest on his legislation which obviously reflects much thought and discussion. The key thematic element of H.R. 4126 is how to bring the Bay restoration effort to the local level. The bill proposes a variety of means to do so – improving the public's knowledge of the conditions of local waterbodies; placing greater priority on tributary strategy implementation; and building greater local capacity for environmental planning and management. We agree that improvements are needed in all of these areas.

In the remainder of my testimony, I will discuss how the issues raised in the GAO report are being addressed and provide suggestions for further improvements to the program through changes to H.R. 4126.

Improving Reporting on the Health of the Bay and Restoration Efforts

The deficiencies with reporting on the health and restoration of the Bay were apparent to the Chesapeake Bay Program partners before the GAO evaluation of the Chesapeake Bay Program. Efforts were already underway to correct these deficiencies prior to the GAO report. The new reporting formats have been released and are currently under review.

In measuring and reporting progress, the focus needs to shift from the Bay-wide perspective to local improvements through the implementation of on the ground management measures, and progress in filling the scientific, technical, and fiscal gaps that limit progress.

Future CBP reports on the restoration of the Bay will include information on the health of individual tributaries. H.R. 4126 proposes an annual requirement for the development of Tributary Health Report Cards. This is too frequent and redundant with reporting required every two years for the Integrated Impaired Waters List developed pursuant to Section 303(d) of the Clean Water Act. Annual reports are unlikely to show improvement from one year to the next that can be attributable to the implementation of management measures. Rather than requiring tributary report cards on an annual basis, it is suggested to make the 303(d) List serve both purposes. Separate reporting requirements are likely to result in waste, inefficiency and contradictory reports.

As we increase the resources dedicated to solving the problems of the Bay on a local scale, the scale of assessment may need to be refined to assess the effectiveness of local efforts. Increased water quality and habitat monitoring should be provided for in the legislation.[1]

H.R. 4126 would also require States to annually report on the nutrient and sediment load allocations of each basin; the principal sources by category; the technologies and practices used to achieve reductions; and funding used for implementation. Except for information on all funding used to implement best practices and technologies, this information is already being provided; however, because H.R. 4126 would require states to submit these reports for the previous fiscal year by November 30, this would allow only two months to collect the necessary data from numerous state and federal agencies. Currently, six months is provided to collect this information. Developing the information on funding used for best management practices will require substantially more time and resources. H.R. 4126 proposes to withhold state Chesapeake Bay Implementation Grants from those states that fail to submit this information within the prescribed timeframe. In regards to penalties, it should be noted that with the Clean Water Act programs in general, and the Chesapeake Bay Program in particular, responsibilities are interdependent regardless of to whom they are assigned. Ensuring that there is the

[1] Extrapolating the information required by the legislation on the conditions in individual tributaries is likely to exceed the current effective resolution of the Bay model. Also, while the legislation recognizes the role that weather plays in the condition of the Bay, it is currently not technically feasible within the Bay model to credibly account for weather fluctuations.

necessary intergovernmental cooperation in meeting the increased reporting requirements will require at least six months and adequate funding to staff this responsibility.

Bringing a More Strategic Focus to the Bay Program

Implicit in the recommendations of the GAO report is the need to adjust the scale of focus in both a geographical and chronological sense. As seen with the invariable results from the Chesapeake Bay Foundation's Annual Report Card, from a Bay-wide perspective, near-term improvements to the Bay's water quality on a broad scale are unlikely to be seen given the:

- Immensity of the 64,000 square mile watershed;
- Lag time between implementation and changes in water quality; and
- Significant gaps in understanding the affects of natural and human influences on the Bay ecosystem such as:
    - The technological limitations on modeling the Bay's dynamics,
    - Overcoming the diseases which plague the oyster population, and
    - Assessing and remedying inter-regional atmospheric deposition.

The GAO found that the allocation of Bay restoration resources needs a greater strategic focus. The foundation for this is already present within the tributary strategies. The Bay Program's planning and assistance activities should be concentrated on the implementation of tributary strategies with a targeted focus that shifts among priority watersheds over time. Maryland and the U.S Environmental Protection Agency (EPA) have recognized the need for this change in approach by targeting limited resources where there can be a clear showing of substantial and significant improvement such as with the Corsica River Initiative. It is important that this legislation supports and expands those efforts.

Increasing Local Responsibility and Assistance

H.R. 4126 attempts to further local responsibility for implementing management measures by having the Chesapeake Bay Program assign measurable goals to local governments to meet sediment and nutrient reduction goals.

The Bay Watershed Model currently is not sufficiently detailed to sub-allocate nutrient loads at the local government level, and not the appropriate means to assign nutrient loads to the numerous townships, boroughs and cities in the basin. Pennsylvania alone has more than 1,200 municipalities of different sizes and settings.

In Maryland, local governments are being asked to identify near term and far term actions to be taken to achieve the Tributary Strategy goals. While these local actions are not based on specific reduction targets, they should result in measurable progress towards the

basin reduction limits, and will be regularly revisited and adjusted to the extent necessary to further reductions to meet the basin goal.

The establishment of local goals by the Chesapeake Bay Program would have far-reaching impacts on development plans, comprehensive plans, water and sewer plans, capital and operating budgets, and employment levels. Local governments must have a direct role in the establishment of those goals. Their proposed representation through the Local Government Advisory Committee will be insufficient for this purpose, as will the 120 days provided in H.R. 4126 for establishing local goals.

Most local governments have inadequate resources and capacity to develop and sustain the environmental protection and restoration mechanisms that will be required to meet the Bay Program goals. For example, huge amounts of information are available in Geographic Information Systems and monitoring databases but localities are currently unable to make full use of that information in their planning decisions. Although technical assistance is provided through a variety of programs and means, the establishment of a technical and planning capacity building program through a strategic reorientation of the focus of the Small Watershed Grants Program is needed.

Funding to assist local communities should be provided through the states. Where it is most cost-effective, those funds should be strategically targeted to those communities where protection and restoration activities have the greatest potential benefits to the Bay.[2] Funding for the Small Watershed Grants Program should be strategically concentrated in those communities that are engaged in leveraged partnerships for large-scale coordinated restoration efforts rather than to funding isolated projects. Projects should further the implementation of tributary strategies and local watershed management plans, specify their nutrient and sediment reduction benefits, and be reviewed for their technical sufficiency and feasibility.

Local comprehensive planning should further the Bay water quality and habitat objectives by using local planning and regulatory tools that control stormwater runoff, minimize impervious surfaces, utilize nutrient reduction technology for on-site disposal systems, protect open space and forests and ensure that sprawl and densities do not overwhelm the natural resource amenities of communities such as groundwater and surface water drinking water supplies.

Broadening the Federal Commitment to the Restoration of the Bay

The reauthorization for the Chesapeake Bay Program should recognize that the role of the federal government in restoring the Bay extends beyond the activities of EPA. H.R. 4126 would amend the federal agency sub-watershed planning and compliance provision of the Clean Water Act section pertaining to the Chesapeake Bay Program. The section should be further amended to require that federal agencies develop tributary strategy

[2] It should be noted that urban stormwater practices can be some of the least cost-effective. The most cost-effective practices may be on agricultural lands. States should have the flexibility to direct cost-share dollars to county conservation districts to assist farmers directly.

implementation plans or, in the alternative, execute their activities to be consistent with the implementation of jurisdictional tributary strategies to the maximum extent practical; and that their activities should be reported to the appropriate jurisdictions in a timely manner.

As mentioned throughout these comments, substantially increased federal support is needed for the Bay restoration effort, particularly for on the ground implementation and the staff necessary to facilitate implementation. A level of support comparable to that dedicated to the restoration of the Everglades and proposed for the Louisiana coast has been documented and is justified. As a starting point with this legislation, the Chesapeake Bay Program should be authorized at an annual level of at least $50 million with the increase dedicated to implementation through state Chesapeake Bay Implementation Grants (CBIG).

I would like to note that throughout my testimony, I have mentioned how states have recently greatly increased their financial commitments to the Bay restoration. A continued decline in federal appropriations for Clean Water Act programs will likely cancel out the promised benefits of this increased state spending. Let us not forget, that clean water is not a luxury, it is a necessity for our health, economies and quality of life. Pursuant to its authority over interstate waters, the federal government has a basic responsibility for protecting these waters in partnership with the states. I ask that the federal government not forego its commitment to do so.

Lastly, I ask for your perseverance. The States of Maryland, Delaware, New York, West Virginia, Commonwealths of Pennsylvania and Virginia, and District of Columbia are in this for the long haul, and for all of the reasons that I have mentioned it will be a long haul. I am proud to be engaged in this effort to restore the Chesapeake. As a government official, it is as worthy a cause as one can be engaged in. I hope that you will agree that the program deserves your continued support.

I look forward to continuing to work with you on this legislation and other efforts to restore the Bay. Again, thank you for your invitation to testify.

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STATEMENT OF THE HONORABLE WAYNE T. GILCHREST BEFORE THE US HOUSE OF REPRESENATIVES COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT HEARING, MAY 4, 2006 ON HR 4126, THE CHESAPEAKE BAY RESTORATION ENHANCEMENT ACT.

Mr. Chairman, thank you for this hearing on HR 4126, the Chesapeake Bay Restoration Enhancement Act of 2006, which I introduced last fall and which now enjoys the support of 22 of my fellow Members of the Chesapeake Bay Watershed Task Force. I would like to request that you enter this statement from former Virginia Governor Baliles. Comprising parts of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, and New York and all of the District of Columbia, the 64,000 square mile watershed has the largest ratio of land to water area of any watershed in the nation. The shallow waters of the Chesapeake Bay—a flooded delta of the Susquehanna River—have a diversity of salinity, temperature, and chemical environment which naturally teems with coastal wildlife and fish and, for thousands of years, has enriched human lives.

For more than 20 years, the Chesapeake Bay Program and its many partners have been struggling to restore the Bay, since its listing as an impaired water body under the Clean Water Act, to meet goals of its Chesapeake 2000 agreement by 2010. However, troubling dead zones of anoxic waters, algae blooms, lesions on fish, and other signs are telling us that we may not accomplish our goals by our deadline. Much of this stems from the impact of over 100,000 people moving to the watershed each year. Slight modifications to the Chesapeake Bay Program's efforts could help the Chesapeake Bay Program and its partners achieve as much of our Bay restoration goals by 2010 as possible and to set a foundation for Chesapeake Bay restoration after 2010—that is the goal of HR 4126.

Late last year, the Government Accountability Office published its review of the Program, and made a series of recommendations to improve Program coordination, accounting for, and reporting on the health of the Chesapeake Bay. These are incorporated into HR 4126, which sets a stronger foundation for agency coordination by requiring agencies involved in Bay restoration to work with the Office of Management and Budget on an annual cross-cut budget for the Bay. To increase accountability for the Chesapeake Bay Program and to improve reporting on the status of the Bay, HR 4126 would require "Tributary Health Report Cards," specifying nutrient and sediment reductions in each of the major tributaries of the Bay. It would also require EPA to report each year on Bay restoration accomplishment and require all federal agencies acting within the watershed to ensure their activities support the Bay's restoration goals.

HR 4126 follows the current evolution of the Chesapeake Bay Program toward state and local management nutrients and sediments from each of its major tributaries, through Tributary Strategies—not only through the Tributary Health Report Cards, but also placing additional emphasis on the funding of projects that support Tributary Strategies through Small Watershed Grants. The Tributary Strategies, being crafted by the watershed states for 36 watershed basins under current Clean Water Act authority, rely on state and local implementation of measures to reduce nutrients and sediment flowing to the Bay. As we will hear in testimony from the Chesapeake Bay Program's Local Government Advisory Committee (LGAC), the routine decisions of local governments directly affect the Bay's health—from planning to protect open space and agriculture to determining when and how development will occur.

Based on testimony from hearings I held in the House Resources Subcommittee on Fisheries and Oceans; numerous conversations with federal, state, and local government and other stakeholders

involved; and my own experience in working with local governments in my district, I understand that local governments are key to the long-term success of the Bay restoration effort. (Penny Daulton testified before you in a December 2004 field hearing of the Subcommittee) Nothing illustrates this more than the frightening Chesapeake Bay Program statistic--that the watershed's human population grew by 8 percent in the 1990's, but its impervious surfaces increased by 41 percent. At this rate, the watershed would soon reach a point after which the amount of run off from impervious surfaces will overwhelm our ability to manage it. To specifically provide a regulatory marker for development between enactment and 2010, HR 4126 would require that waste water treatment permits include water quality standards and that storm water permits issued under the Clean Water Act include either water quality standards or best management practices as identified in the appropriate Tributary Strategy. This has, so far, generated the most discussion of all the bill's provisions, and I look forward to it continuing today.

HR 4126 increases the profile of local governments in the Chesapeake Bay Program, brining into its LGAC members from all watershed jurisdictions, requiring LGAC to develop goals toward Bay restoration in 2010, and giving the committee a more formal role in making recommendations for annual budget decisions. The bill would also formally involve LGAC in making recommendations on awarding Small Watershed Grants and provides that Small Watershed Grants be awarded on a priority basis to projects lead by or partnered with local governments. These grants are the only federal funds provided to local governments through the section of the Clean Water Act for Bay restoration.

The people dedicated to the Chesapeake Bay—our witnesses and thousands of citizens—are enthusiastic, well-informed, and eager to restore the functioning ecosystem of the Bay, including humans as a productive part of the landscape. I admire their fierce determination and hope to offer, in HR 4126, a tool to help them. Of course, I will continue to offer myself as a partner. As we consider reauthorization of the Chesapeake Bay Program, I advocate that we all accept the mantle of accountability and make commitments for one or two changes in our lives to improve the Bay—on the personal and community level. I thank you again, Mr. Chairman, and look forward to today's hearing.

Statement of Honorable Penelope A. Gross
Chair, Local Government Advisory Committee
Chesapeake Bay Program

Water Resources and Environment Subcommittee
House Transportation and Infrastructure Committee

May 4, 2006

Good morning, Mr. Chairman, and thank you for the opportunity to appear today to discuss Chesapeake Bay restoration activities and the vitally important role of local governments in those efforts. I am honored to be invited to provide testimony. Chesapeake Bay issues are of particular interest to me, which is why I serve on the Chesapeake Bay Policy Committee of the Metropolitan Washington Council of Governments, was a member of the Chesapeake Bay Program's Blue Ribbon Financing Panel and recently was elected Chair of the Bay Program's Local Government Advisory Committee, also known as LGAC. I also chair Virginia's Potomac Watershed Roundtable, and I represent the Mason District on the Fairfax County Board of Supervisors. As you may know, Fairfax County is one of the largest jurisdictions, population-wise, in the Chesapeake Bay watershed.

Each of these responsibilities has helped shape my perspective on what is needed to keep our efforts to achieve a clean Bay on track. I would like to share several themes that are the basis of my remarks today:

- Implementation and restoration happen primarily at the local level and we need more state and federal funding to get the job done;

- EPA and their state counterparts need to provide stronger leadership on regulatory issues that will drive much of the multi-billion dollar Bay cleanup effort; a more focused approach to enforcement of existing federal laws, regulations, and policies by EPA to the state would alone make significant strides to clean up the Bay.
- The Chesapeake Bay Program partners need to set clear implementation priorities, emphasizing those measures that offer the greatest pollution reduction return on investment;
- The implementation and funding burden must be shared equitably between and among sectors and levels of government.

Of the 98 commitments in the Chesapeake 2000 Agreement, 22 specifically involve local governments, and other commitments imply local government involvement. And I want to remind you that there are more than 1,650 local governments throughout the 64,000 square mile Chesapeake Bay Watershed. From a local government perspective, we know what to do to continue making progress, but we need more help from our state and federal partners. The Bay Program has successfully generated plans and documents that outline what actions local governments should take to help restore the Bay. However, I believe we're heavy on written plans, and we're struggling on the follow-through – i.e., technical and financial assistance to get more done. This was the most common and strongly voiced concern among LGAC members from all jurisdictions at our most recent meeting, held right here in this building. And I want to take this opportunity to thank Congressman Gilchrest and his staff for engaging in substantive dialogue with LGAC members about this legislation.

Local governments throughout the watershed are currently spending millions of local citizenry dollars to do our part in cleaning up the Bay. However, there needs to be a greater emphasis on developing mechanisms to capture those substantial implementation efforts by local governments and others which are not funded through state or federal Chesapeake Bay funds. For instance, the Commonwealth of Virginia still does not have an effective mechanism to track urban nonpoint source Best Management stormwater facilities. This could be accomplished through a direction to the Chesapeake Bay Program Office and the states to develop an enhanced tracking and reporting system. I understand that the states may already be working on such a system, but to facilitate reporting by implementing entities, I would recommend that this system be web-based and simple to use.

I'm sure it is no surprise to you that the biggest help we could use is additional federal and state funding. The "Cost of a Clean Bay" report prepared by the Chesapeake Bay Commission estimated that more than half of the cost for meeting C2K nutrient and sediment reduction goals would be borne by local governments. In some of the most expensive programmatic areas, such as stormwater management and urban nonpoint source pollution control, the local government share is closer to 100% since there are virtually no federal or state funds to help address the problem. While, sadly, the thoughtful recommendations of the Chesapeake Bay Blue Ribbon Finance Panel seem to have faded from memory, the needs that were identified there have not. It is critical that

the federal and state governments in the watershed assume a major role in providing financial assistance for implementation at the local level.

On the issue of funding, I also need to mention my concern with deep cuts being proposed to the Clean Water State Revolving Fund (CWSRF). While local governments and our State partners are working to increase funding for clean water programs, the federal SRF is being targeted for cuts totaling $199.2 million. Many local governments, especially in rural areas, in the Bay watershed depend on this federal funding to pay for high priority water pollution control projects, and the proposed budget cuts are exactly the opposite of what's needed to achieve our goal of a clean and healthy Bay.

But funding alone isn't enough. We also need our state and federal partners to work cooperatively with local governments on a watershed basis to:

1. **Clearly articulate measurable goals for local governments to achieve and couple these with appropriate levels of funding support.** I support the requirement for measurable goals for local governments under the Local Government Involvement section, with the provisions that this be woven into a realistic implementation plan that includes equitable levels of funding support. To guarantee success of the Tributary Strategies, it is critical to have a detailed plan for implementation that explains who, what, when, where, why, and how.
2. **Increase the level of support for the Small Watershed Grants Program to the proposed authorized amount of $10 million.** While far short of the estimated funding necessary to achieve the C2K goals, the Small Watershed Grants are

perhaps the most effective mechanism for engaging local governments in the common effort to achieve water quality and habitat goals. The current funding level of $2 million translates into just $1,212 for each of the 1,650 local governments in the Chesapeake Bay Watershed. In addition, I recommend increasing the cap on individual small watershed grants to as much as one million dollars, a substantial increase over the present $50,000 limit. Let me give you an example: in Fairfax County, we often do not apply for small watershed grants because the staff time involved in preparing the grant application actually costs more than the grant itself. The current $50,000 cap effectively eliminates larger jurisdictions from participating in the Small Watershed Grants Program. In addition to the review and prioritization of grant proposals by the Chesapeake Bay Local Government Advisory Committee, there also should be a mechanism for prioritizing grants within watersheds or metropolitan areas to ensure that grants address priority local or tributary-specific issues. A good example of a priority might be the ongoing efforts to restore the Anacostia River which flows into the Potomac River just a few blocks from here.

3. **Establish a "Measurable Goals" provision for Soil Conservation Districts comparable to the provision for local governments.** As the level of accountability and responsibility for local governments is increased, equity suggests that there be a comparable provision for "Measurable Goals" for the agricultural sector. A logical geographic unit would be the soil conservation district. As above, implementation should be coupled with equitable levels of funding support.

4. **Enhance the Tributary Strategies and Implementation Plans to explicitly address nutrient and sediment "Cap Management" as growth continues.** Cap management is clearly required by the Chesapeake 2000 Agreement, and the population of the watershed is projected to increase by upwards of 2 million between now and 2030. If not explicitly addressed at the State level in Tributary Strategies and related implementation plans, there is a very real risk of losing ground, literally, as new development occurs.

5. **A one-size-fits-all approach to local government coordination and C2K Agreement implementation will not work.** Outreach and implementation must be tailored to the abilities of large and small jurisdictions to undertake those efforts. Differences in local government access to technology must be considered during the development of communications strategies. A strong, structured technical assistance program to local governments is needed, especially in smaller, more rural jurisdictions that lack staff expertise in stormwater management and watershed protection. In many localities, watershed management still is not reflected in land use planning. As a result, development patterns and practices ignore the many values that riparian buffers, protected floodplains and protected natural resource lands offer for water quality, water supply, and wildlife habitat. More importantly, as a local elected official, I know that local government officials need to understand the local benefits that would result from changes in land use policies. Otherwise, they won't be persuaded to defend these changes before their constituencies.

6. **We are concerned about the proposed language that requires tributary strategy goals or BMPs to be included in NPDES permits, both point and nonpoint source, or MS4 permits.** In Virginia, nonpoint source pollution standards should not be written into MS4 permits because, as mentioned earlier in my testimony, the Commonwealth does not yet have an effective mechanism to track urban nonpoint sources.

Each of these areas is of strong interest to LGAC. With appropriate staff and requisite resources, I can envision an activist role for LGAC, as the Tributary Strategies are turned in to action plans, including:

- Developing goals at the local level and helping to ensure that localities live up to their responsibilities;
- Partnering with state and local agencies to achieve an equitable allocation of funding;
- Reaching out to other sectors, especially agriculture and private industry. We need to open or continue dialogue with all our partners in the Chesapeake Bay Watershed. We are all in this together: from those who labor under the Statue of Freedom atop the Capitol dome to the Pennsylvania farmer, the Maryland waterman, the Virginia technology worker, the long-time resident, and the new Americans. Finger-pointing won't clean up the Bay; working together just might.

Mr. Chairman, thank you again for the opportunity to appear here today and for your leadership in helping to keep the Bay restoration effort moving forward. We are looking

forward to working with you, other members of Congress, and our State and federal partners to achieve our shared goals of a restored Chesapeake Bay watershed.

TESTIMONY OF BENJAMIN H. GRUMBLES
ASSISTANT ADMINISTRATOR FOR WATER
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

May 4, 2006

Mr. Chairman and Members of the Subcommittee, I am Benjamin H. Grumbles, Assistant Administrator for Water at the United States Environmental Protection Agency (EPA). Thank you for the opportunity to discuss the Chesapeake Bay Program and HR 4126 which reauthorizes the program.

The Chesapeake Bay is the largest estuarine ecosystem in North America, playing a vital role in the history, culture and commerce of six states and the District of Columbia. The Bay watershed is home to over 16 million people and provides millions more a place to enjoy its splendor and allows them to participate in recreational activities along the many miles of shoreline. The role of the federal, state, local, and private collaboration that is the Chesapeake Bay Program has never been more important than it is now, if we are to be successful in the restoration and conservation of this national treasure.

I. A History of Achievements

This committee's long-standing support of EPA's Chesapeake Bay Program office has enabled it to act as a catalyst for the collaborative effort to restore and protect this national treasure. In the face of dramatic growth, the

partnership has achieved a number of noteworthy accomplishments. More than 1,800 miles of migratory fish passage have been reopened, making it the most successful program of its kind in the nation. More than 4,000 miles of riparian forest buffers have been planted, making the Chesapeake region a national leader in this development of "green infrastructure." Between 1998 and 2004, just over 10,000 acres of tidal and non-tidal wetlands were reestablished or established in Maryland, Virginia, Pennsylvania, and D.C. and nearly 50,000 acres of wetlands have been enhanced. These wetlands are helping increase habitat for plants and animals and the improve water quality in the Bay. We have helped make advanced nutrient removal technology at wastewater treatment plants affordable and have spread the technology broadly. Today we have more wastewater treatment facilities using these technologies than any other watershed, and our plans are to expand the practice to more than 450 facilities basin-wide. The extent of underwater bay grasses has nearly doubled since its low point in 1984.

We have coordinated our efforts with our partner federal agencies, state and local governments, the private sector and citizens that are a part of its watershed. There remain many challenges in the Chesapeake Bay. Dissolved oxygen levels dip dangerously low every summer and a number of key species such as native oysters are at very low levels. There is much more work to be done. We must act quickly to tackle some of the obstacles that impede our restoration efforts.

II. Current Efforts and Future Challenges

The President's FY 2007 Budget requests $26 million for the Chesapeake Bay Program, a $4 million increase over FY 2006. The Program will use these funds to implement restoration activities needed to help the Bay meet water quality standards. Planned activities include stormwater management, wetlands protection, and submerged aquatic vegetation restoration.

In order to accelerate the pace of water quality and aquatic habitat restoration, Bay Program partners are taking a number of steps to make the most cost-effective use of available regulatory, incentive and voluntary tools.

Core Clean Water Act programs provide a foundation of water pollution control and wetlands protection that is critical to conserving and restoring Chesapeake Bay tidal waters. I will focus on these programs in a moment.

Clean Air Act regulations controlling emissions of nitrogen compounds also contribute substantially to Bay restoration. This Administration proposed Clear Skies legislation and promulgated a similar rulemaking - the Clean Air Interstate Rule, or CAIR. This major initiative will provide important air quality benefits. We have estimated that when it is fully implemented, CAIR will cut nitrogen loads to the Chesapeake. Because air emissions of nitrogen compounds can precipitate out onto the landscape and eventually wash into local water bodies, air emissions can also be a source of water pollution in the

Chesapeake Bay. We have estimated that when it is fully implemented, CAIR will cut nitrogen loads to the Chesapeake by as much as 10 million pounds.

New Water Quality Standards and Pollution Reduction Goals

Through the scientific and collaborative processes that are the Program's hallmark, the EPA Bay Program led all seven watershed jurisdictions and stakeholders to establish new water quality goals for the Bay tidal waters – goals that better reflect historic conditions in the Bay and represent the best available science. These goals are now embodied in new state water quality standards. The partners -- including the states of Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia as well as the District of Columbia and EPA -- then used the EPA Bay Program's analytical tools to reach consensus on new pollution budgets for all parts of the watershed to serve as the basis for assigning cleanup responsibility in the Tributary Strategies. The Bay Program's extensive compilation of technology and cost information was used to assess the most cost-effective practices to emphasize.

In December 2004, EPA issued an innovative Chesapeake Bay basin-wide "permitting approach" for municipal and industrial wastewater NPDES point sources which shows that watershed partnerships can yield impressive environmental results. More than 450 wastewater facilities across all jurisdictions are covered by this approach, and we estimate that the net reduction in nitrogen loads to the Bay will be more than 17 million pounds annually when all the permits are implemented over the next several years. These pollution reductions

are impressive, and would not be occurring without the EPA Chesapeake Bay Program. Bay Program science justified the new nutrient permit limits, and also a cost-saving measure for wastewater treatment plants by justifying the use of annual (rather than weekly or monthly) limits in the permits.

ADDITIONAL REGULATORY TARGETS

With EPA support, all of the states in the watershed are setting stronger nutrient limits for wastewater facilities under the Chesapeake Bay permitting approach. New permit requirements are also being put in place for Concentrated Animal Feeding Operations. Finally, Bay Program partners are also taking steps to improve storm water pollution control requirements for both municipal storm sewers and construction permits.

NEW COST EFFECTIVENESS STRATEGIES

In Wastewater Treatment: We have already taken steps to increase the cost-effectiveness of nutrient controls in wastewater treatment, by supporting demonstrations of biological nitrogen removal and justifying use of annual load limits in permits.

With EPA's strong support, Virginia has drafted a watershed permit that provides for nutrient trading that will cover all 125 significant wastewater facilities in the Commonwealth by next January. A cost analysis conducted for the Bay Program estimated that nutrient trading could save $200 million in the Potomac River basin by 2011. Similarly, Pennsylvania has already approved nutrient

trades on a case-by-case basis. EPA is working closely with that state as it moves ahead with a broad nutrient trading policy that will capture the benefits of this innovative market-driven approach to pollution reduction.

In Agriculture: The cleanup plans called Tributary Strategies define specific approaches for reducing nutrient and sediment loads from agricultural operations, the largest category of nutrient sources. They emphasize agricultural Best Management Practices (BMPs) such as nutrient management, low/no-till cultivation, cover crops and forest buffer restoration. Using data provided by the EPA Chesapeake Bay Program, the tri-state legislative Chesapeake Bay Commission issued its Cost-Effective Strategies for the Bay report in December 2004. This publication points out that the agricultural BMPs now being incorporated into the state Tributary Strategies are among the most cost-effective of all measures for controlling nutrient-sediment pollution loads.

A prime example of this effective partnership in action was on display on April 24 in Elizabethtown, PA, when U.S. Department of Agriculture Secretary Mike Johanns hosted an event to honor the Pennsylvania no-till partnership's efforts to conserve our natural resources by increasing the use of no-till systems. For over a year, a diverse group of stakeholders worked together in this important part of the Chesapeake Bay watershed to help farmers conserve our natural resources by increasing the use of continuous no-till systems.

Similarly, working in close association with our partners at the USDA, the state agricultural agencies and industry, the EPA Bay Program has developed an animal manure management strategy which emphasizes innovative measures such as animal feed adjustment, and encourages markets for manure-based products, such as soil amendments on federal and state lands.

In Urban/Suburban Lands: In 2004 the Blue Ribbon Finance Panel established by the Chesapeake Bay Executive Council stressed that storm water pollution prevention, coupled with preservation of riparian forest buffers and wetlands, was by far the most cost-effective approach to controlling pollution from urban/suburban development. The Executive Council agreed, and now the partners are moving to strengthen these efforts.

The goal is to establish and implement a basin-wide consensus on principles for managing new development and redevelopment, linking federal, state and local programs and emphasizing "low impact development," preservation of natural streamside buffers, increased urban tree canopy and wetlands restoration, with watershed approaches including trading and restoration banking.

SPECIAL GRANTS PROGRAMS

The Targeted Watershed Grants program shows great promise. At the Administration's request, the Congress appropriated nearly $8 million in FY 2005 specifically targeted to the Chesapeake watershed. These funds are being used

to support ten large-scale projects designed to demonstrate the nutrient reduction effectiveness of a number of different BMPs, and they are expected to result in nitrogen reductions of over nine million pounds and phosphorus reductions of nearly seven million pounds.

In his FY 2007 budget, the President is also proposing another major initiative to help accelerate the restoration of the Chesapeake. The proposed $6 million Corsica Watershed Project is a pilot program that, along with a State match, will demonstrate how a comprehensive array of restoration activities, implemented in a coordinated fashion, can restore a vital subwatershed of the Chesapeake. We believe that this initiative will demonstrate the effectiveness of an integrated approach to watershed management that can be replicated across all seven states.

Wetlands provide critical environmental and ecosystem health benefits to regions such as the Chesapeake Bay watershed, including improving water quality and supplying habitat to hundreds of species. In order to substantially enhance wetland restoration nationwide, the FY 2007 Budget proposes $403 million -- a $153 million increase -- for the U.S. Department of Agriculture's Wetlands Reserve Program (WRP) to enroll and restore 250,000 acres. Through the Budget's increased support, WRP will restore 100,000 more wetland acres than authorized in FY 2006 across a broad range of ecosystems, such as floodplain forests, prairie potholes, and coastal marshes. The WRP provides grants to private landowners to purchase conservation easements and share the

cost of restoring wetland habitat on agricultural lands. The Department of Agriculture will target WRP's restoration efforts where they are most needed, such as to states with the greatest loss of their historic wetland acreage, to areas with impaired water quality, and to regions important for the protection and recovery of priority at-risk and migratory wildlife species.

LEVERAGING AND FOCUSING FEDERAL AND STATE FINANCES

The annual $20 million investment in the EPA Chesapeake Bay Program has been especially effective in leveraging and directing funds from an impressive list of Federal and State partners in the restoration effort. In the most complete accounting to date, GAO found that nearly $3.7 billion in direct spending and more than $1.9 billion in indirect funding was provided from 1995-2004 on the full range of restoration activities (constant FY2004 dollars).

Like EPA, our state partners have implemented a number of new funding programs in recent years, highlighted by Gov. Ehrlich's "flush fee" that captures a small monthly user fee used to fund restoration activities ranging from wastewater treatment plant upgrades to agricultural cover crop incentives.

With this range and depth of funding sources, it is vital that we provide effective coordination and leadership. Last October I chaired a meeting among the leadership of 17 Federal departments and agencies dedicated to Chesapeake Bay restoration. We signed a formal resolution to "Enhance Federal Cooperative Conservation in the Chesapeake Bay Program," and we are

actively pursuing a number of inter-agency initiatives now that are putting the President's vision into action.

The President has also launched a Federal government-wide Cooperative Conservation program to better develop and implement conservation programs across the Nation. At the White House Conference on Cooperative Conservation, held last August in St. Louis, the Chesapeake Bay Program was one of the national examples of successful efforts to put this comprehensive stewardship ethic into practice.

III. HR 4126 AND NEXT STEPS

The Chesapeake Bay Restoration Enhancement Act, HR 4126, reauthorizes the EPA Chesapeake Bay Program. The Administration has not adopted a formal position on the bill, but I want to close my testimony with some general comments on the legislation.

HR 4126 builds upon the existing authorization in Section 117 of the Federal Water Pollution Control Act. That is a sensible approach. The Program has a rich history, and it is effective to build upon the extensive collaboration and Program successes developed over the past twenty years.

The bill contains a number of new reporting requirements for both the states and the EPA. These reports are directly linked to the tributary strategies and are designed to provide the public and policy makers with useful information

in evaluating the success of restoration efforts. Those same data are essential to the adaptive management approach used by natural resource managers and pollution reduction officials in the restoration effort. EPA and the Chesapeake Bay Program in particular have been working diligently to better link restoration actions with environmental results. While the exact number of reports and their associated deadlines are certainly open to discussion, the recent Bay Program publications, Chesapeake Bay 2005 Health and Restoration Assessment Part One: Ecosystem Health and Part Two: Restoration Efforts, provide a template for the kind of reports envisioned in HR 4126.

The legislation also formally engages the "headwater" states of Delaware, New York and West Virginia, which builds upon the current work of the Program. Memoranda of Understanding were established several years ago so that all these jurisdictions are currently and actively involved in water quality restoration efforts. Therefore, these legislative provisions would codify existing and strong working relationships.

Similarly, the legislation recognizes the crucial role of local governments have in the restoration effort. Growth issues are among the most difficult facing the Program partners, and local governments are the decision makers in this arena. In conjunction with our state partners, we believe that engaging local governments more directly is certainly important.

IV. Conclusion

We have made a major investment in the restoration of the Chesapeake Bay and are seeing improvements, but more work remains to achieve the Program's long term goals. We will continue to work with this Committee and the many partners, stakeholders, and citizens who want to accelerate the pace of environmental protection and restoration. This concludes my prepared remarks; I would be happy to respond to any questions you may have.

* * *

CHESAPEAKE BAY FOUNDATION

Statement of Roy A. Hoagland
Vice President for Environmental Protection and Restoration
Chesapeake Bay Foundation
Before the Subcommittee on Water Resources
May 4, 2006

Chairman Duncan and members of the subcommittee, I am Roy Hoagland, vice president for Environmental Protection and Restoration at the Chesapeake Bay Foundation. I appreciate your invitation to come here today to comment on H.R. 4126, the Chesapeake Bay Restoration Enhancement Act of 2005, and on the needs of the Chesapeake Bay generally.

Next year, the nation will celebrate the 400th Anniversary of the founding of the Jamestown colony by the Virginia Company – the first successful European settlement in what became the original 13 American states. This anniversary also celebrates the first written detailed inventory of the Chesapeake Bay and its resources. The extensive journals kept by Captain John Smith during his explorations of the Bay and its tributary rivers provide us with the picture of an ecological system with abundant living resources, from oysters reefs so large they were navigation hazards to forests so dense you sunk several feet into the leaf mulch. Today the Bay is severely diminished from what it once was, with only a fraction of the quantity and diversity of life that it once supported. Intense pressures on the Bay continue unabated, with a hundred thousand people moving into the watershed every year, bringing more roads, more sewage, more urban storm water runoff—and more pollution. On the other side of the ledger, continue to lose acres and acres of forest land and farmland, both of which when well managed, contribute less

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nitrogen, phosphorous, and sediment pollution acre for acre than urban sprawl.

All this is why our latest annual State of the Bay report card gave the health of the Bay a D+. Despite all the efforts put into restoring the Bay, we are now just barely holding the line against the relentless pressures of more and more pollution. Every summer, we see a very large and growing "dead zone" in the Bay and its tributaries where there is not enough dissolved oxygen in the water to support healthy aquatic life. The dead zone is there for the same reason there is an even larger annual dead zone in the Gulf of Mexico: more nitrogen, phosphorus and sediment is entering our streams, rivers and the Bay than the system can ecologically sustain.

The Chesapeake Bay Foundation doesn't particularly relish being the constant bearer of bad news. So, let me focus for a minute on some good news. We have seen areas where oyster restoration is hugely successful. We have seen a great deal of positive change in public appreciation of the economic, recreational, biological and spiritual value of a clean and healthy Chesapeake Bay; no one disputes that that Bay is a national treasure. We have identified, scientifically, not only the problems facing the Bay, but have also defined the solutions. Recently, we have seen unprecedented investments at the state level by Virginia, Maryland, and Pennsylvania to reduce nitrogen pollution.

And, since 1983, we have seen the cooperative, multi-jurisdictional Chesapeake Bay Program play a critical role in increasing our understanding of the Chesapeake Bay and what we need to do, despite all the pressures, to restore it to health. It has also played a critical role in coordinating and helping direct various restoration efforts of the federal government, the state governments, local governments and non-governmental organizations like the Foundation. My knowledge of the Chesapeake Bay Program comes not only from my work with the Chesapeake Bay Foundation, but also from my years as a member of the Citizens Advisory Committee for the Program, two years as its Chairman.

The Chesapeake Bay Foundation does support the reauthorization of the Chesapeake Bay Program, and this legislation. The Foundation is not without its suggestions for changes, but in general we urge you perfect HR 4126 and move it through the legislative process before the end of this Congress.

With regard to specific provisions of HR 4126, we support the continuation of a $40 million authorization for the core program and the state implementation grants, as well as a separate $10 million authorization for the successful small watershed grants program. We also appreciate the recognition of the Tributary Strategies as roadmaps to the Bay's restoration. The planning, budgeting, and reporting provisions suggested by the bill, including cross-cutting budgets and the "tributary health report card," are worthwhile additions to existing law, as are the establishment of measurable goals and increased assistance for local governments. We are particularly supportive of provisions in the bill that would treat the Tributary Strategy load allocations as the functional equivalents of TMDLs for permitting purposes between now and May, 2010.

One provision of the bill does cause concern, however: the proposed dramatic lowering of federal agencies' responsibility to the restoration of the Bay. The current law reads:

> *[T]he head of each Federal agency that owns of occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement, the Federal Agencies Chesapeake Ecosystem Unified Plan, and any subsequent agreements and plans.*

The bill before you proposes to replace that language with a much weaker obligation by the federal government, stating

> *Federal agencies acting in the Chesapeake Bay watershed should plan and execute, to the maximum extent practicable, such activities to support the achievement of Chesapeake Bay Agreement goals.*

Exchanging a strong proactive obligation for federal agency compliance with the multi-jurisdictional commitments and goals of the Chesapeake Bay agreements with mild hortatory language is simply going in the wrong direction. We need the federal

government to step forward on Bay restoration, not backward. Many federal agencies own or occupy property in the Chesapeake Bay watershed – the Department of Defense alone has more than 50 installations and controls more than 400,000 acres. Management practices at these installations, as well as at the dozens of properties maintained by many other federal agencies, can have an enormously positive—or negative—effect on the Bay and the rivers that crisscross the Bay's 64,000 square mile watershed. It is simply unthinkable that with the restoration needs as great as they are, those decisions should now become optional. Thus, the Foundation urges the subcommittee to remove the proposed changes to section (f) of Section 117 of the Federal Water Pollution Control Act as contained in this bill.

Mr. Chairman, I now want to briefly discuss three elements which I believe are missing in H.R. 4126 and that I believe could significantly strengthen the legislation if added.

The first is a coordinated implementation plan. The General Accountability Office recommended that five changes key be made in the management of the Chesapeake Bay Program. Among them was that the Program "develop an overall, coordinated implementation strategy that unifies the program's various planning documents." While the various state-developed Tributary Strategies provide a good roadmap for restoration, they would constitute a much better roadmap if the Program integrated them into a truly comprehensive implementation plan which identified key responsibilities and goals that would thereby assure our reaching the commitments we have made in the Chesapeake Bay agreements. The federal role in implementation of the Tributary Strategies is essential and must become part of federal agency budget decisions as well as congressional authorization and appropriations actions.

The second and third missing elements are additional authorizations that better respond to the magnitude of the challenges facing us in restoring the Bay. Without minimizing the work of the Chesapeake Bay Program, there simply is not enough being done by the federal government to protect and restore the Chesapeake Bay. I understand that there is a statement for the hearing record making a similar point from former Virginia Governor

Gerald Baliles, who chaired the Blue Ribbon Finance Panel on the Chesapeake Bay that called for a $12 billion dollar federal investment in the Bay. The substantial increase needed was also acknowledged in the GAO report where it noted that "billions ... are almost certainly needed" to restore this national natural resource.

The Foundation is not suggesting that the subcommittee authorize billions of additional dollars in this bill. We are suggesting two specific ideas for you to consider, however. The first is that you separately authorize the Chesapeake Bay Program's state implementation grants at $20 million, reducing the current $40 authorization by a like amount. These grants are fundamentally different from the coordination, research, and communication elements that are the core function of the Program. They are the funds which go directly to the state partners. The Foundation urges you to consider this independent authorization language with the inclusion of conditions that use of the funds be restricted to programmatic activities that have a measurable impact on the improvement of the resource—and not for support of staff or other operational costs. While not a great deal of money is at stake, these federal dollars can be most effectively used for actual on-the-ground restoration actions; the states should be responsible for covering any operating or management costs.

The second idea for your consideration is new funds - the creation a new, separately authorized $15 million Chesapeake Bay targeted watershed program (in addition to the two authorizations suggested by the legislation). The Chesapeake Bay is currently receiving a share of EPA's national targeted watershed program, but only as a result of an appropriations earmark. As the nation's largest estuary, and one about to be celebrated for its link to the founding of the nation, the Chesapeake Bay should in fact be statutorily identified as a priority for the nation and a special target of its restoration efforts.

The Foundation would, of course, be happy to work with you as appropriate on crafting legislative language for these three recommendations.

Mr Chairman, some years ago, Congress officially "found" that the Chesapeake Bay was a national treasure as well as a resource of worldwide significance. The Chesapeake Bay Program has played a valuable scientific and coordinating role in the efforts to restore this national and international treasure. The Chesapeake Bay Foundation is grateful to Congressman Gilchrest and the other cosponsors for introducing H.R. 4126. We recognize and compliment the Congressman for the positive changes he has suggested in this legislation and elsewhere, and for his unwavering commitment to restoring the Chesapeake. However, we respectfully urge you to take an even more aggressive stance toward the restoration of the Bay by incorporating the changes we have suggested.

Nearly 400 years ago, Captain John Smith wrote of the Chesapeake Bay that "heaven and earth never agreed better to frame a place for man's habitation." We have not treated that extraordinary gift of heaven and earth with the full stewardship it deserves The Chesapeake Bay Foundation urges the subcommittee to take the necessary steps to perfect and pass this legislation so as to move the Bay Program, the federal government, and all the partners in the restoration of this national treasure towards greater and more effective stewardship. Thank you for your time and inviting our participation in this hearing.

Testimony of
Ann Pesiri Swanson
Executive Director
Chesapeake Bay Commission
before the
Subcommittee on Water Resources and the Environment
House Committee on Transportation and Infrastructure

Hearing on the Chesapeake Bay Program Reauthorization and H.R. 4126,
The Chesapeake Bay Restoration Enhancement Act of 2005
Washington, D.C.

May 4, 2006

Chairman Duncan, Congressman Gilchrest, members of the Committee, thank you for this opportunity to testify before you today. My name is Ann Pesiri Swanson. I have worked on Chesapeake Bay restoration for more than twenty years and have served for the last 18 years as Executive Director of the Chesapeake Bay Commission.

The Chesapeake Bay Commission is a tri-state legislative commission, established in 1980 prior to the creation of the Chesapeake Bay Program, to advise the members of the general assemblies of Maryland, Virginia and Pennsylvania on matters of Baywide concern. I have been asked to share with you the Commission's perspective on how the Chesapeake Bay Program can be improved, whether H.R. 4126 effectively addresses these issues, and if not, what revisions should be considered by this Subcommittee to ensure that it does.

First, let me address the broad question of the performance of the Chesapeake Bay Program and opportunities for improvement. I think it is important at the start to offer a few examples of the Program's achievements. First, let me underscore that the EPA Chesapeake Bay Program was designed as a partnership. A unique partnership that brought together three, and now parts of six states, the District of Columbia, more than a dozen Federal agencies, thousands of local governments, academic and scientific institutions, private and non-profit organizations, and citizens—all with their own particular interest and capacity in restoring the health and vitality of this 64,000 square mile watershed.

It has been the role of the Chesapeake Bay Program to coordinate that intricate partnership. Looking back over the past 23 years since its inception, I can say unequivocally that, in overseeing the advancement of scientific understanding about the Bay, the Chesapeake Bay Program is unparalleled in its accomplishments. Perhaps no where else on earth is the science of an estuary more advanced. This science has been solidified through both world class modeling and extensive monitoring. Is it perfect? No. Science by its nature is continually evolving and corrections should be encouraged as new techniques and new data become available.

Not only do we understand what is causing the Bay's decline, we also know how to restore it. The science, expertise, and crucial relationship-building among Bay Program partners led to the development of the *Chesapeake 2000* agreement, a blueprint for addressing watershed degradation that is considered a landmark nationwide. Since then, EPA's Bay Program has led an incredibly rigorous process to establish new water quality goals and standards and has embarked on an innovative basinwide permitting approach that will achieve major nutrient reductions from wastewater treatment facilities in our region.

These are but a few recent examples of Bay Program leadership; I know that Mr. Grumbles and Secretary Franks will provide more detail on the accomplishments of the Bay Program partnership and the major restoration efforts that have been undertaken and are now in place. But of course, the ultimate question remains: How have these commendable efforts improved the water quality of the Bay and the health of the watershed?

I presume there is widespread agreement among this Subcommittee and among all of us who care about the Chesapeake that progress has been excruciatingly slow. We are holding the line against tremendous population pressure and its attendant impact on natural resources and pollution loads. We are showing real improvements in local water bodies, but the broadbrush assessment of the Bay causes continued concern.

To quote the Bay Program's bottomline: "Improving trends have been identified in nutrient concentrations in tidal water in much of the Chesapeake Bay…however, water quality in most of the Bay remains at a degraded level which is inadequate to support the Bay's fish, crabs, oysters and underwater grasses."

This, from an agency that has been criticized for being overly optimistic in its assessments of Bay health. What is critical to the focus of today's hearing is to what extent the Bay Program is responsible for the slow rate of progress in restoring the Bay. To partially answer that question, let me quote again from the Program itself:

> "The partners are implementing a wide array of nutrient and sediment management practices and upgrading wastewater treatment technologies…but at rates that will likely yield achievement of our nutrient and sediment cap loads decades from now." (CBP, 2005)

And what is affecting those rates of implementation? There are simply inadequate resources to get the job done. Whether you work with the total sum of the states' tributary strategies or the Commission's Cost of a Clean Bay report or a host of other financial assessments, annual funding from all sources is at minimum one-quarter of the funding needed.

The Chesapeake Bay Program is managing a restoration effort that carries with it a price tag in the multiple billions of dollars, yet it is operating on $20 million per year. HR 4126 wisely increases this annual appropriation to $50 million. This, in turn, will enhance the program's ability to leverage and direct funds from its state and Federal

partners, which currently, according to the GAO, amounts to some $560 million in direct and indirect funding per year.

Are there opportunities for improving the Chesapeake Bay Program? Of course. The GAO paid particular attention to the Bay Program's reporting mechanisms and assessments of progress. HR 4126 effectively addresses these issues, and while the Commission generally supports the bill's provisions, certain reporting requirements and responsibilities, as I will address below, may be difficult to fulfill within the deadlines indicated.

These reports solidify the accountability necessary on the part of any organization that receives Federal funding. I would like to commend the Bay Program on its recent Chesapeake Bay Health and Restoration reports, which clearly link restoration efforts with environmental results and improve the communication of modeling and monitoring data.

But I must remind you: answering the question "How is the Bay doing?" brings you quickly into a quagmire of complexity. Based on what parameters? Water quality? Living resources? And at what level of detail? Main Bay or tributaries? Generalizations can work to either mask or over-state real indicators of progress.

Reports that dissect these conditions, as important as they may be, do not ensure additional nutrient reduction, growth of underwater grasses, or improved fish habitat. At the end of every day, month, or year, we must ask ourselves: Did we capture the pounds of pollution we need to trigger a response? Did we restore, protect or improve an acre of habitat?

With my remaining time, I would like to address improvements to the Bay Program that could accelerate our rate of progress.

1) We must do a better job of **targeting available resources**, so that the most cost effective pollution reduction measures are applied to those areas which can deliver the greatest reductions. HR 4126 acknowledges this need through addressing the important role of the Small Watersheds Grants Program. Additional criteria may be required for an expanded program to ensure that funds are furthering tributary strategy goals in the most cost effective and strategic manner possible. The new Targetted Watershed Grants program is another important vehicle for addressing non-point pollution control in critical areas of the watershed.

2) We must **educate, engage and incentivize local governments**. The impacts of poorly planned urban and suburban development will overwhelm restoration efforts unless Bay-friendly principles are incorporated into local land use and decision making. HR 4126 begins to address this issue, but falls short by investing too much responsibility in the Local Government Advisory Committee. In order to initiate widespread action by local governments, financial assistance must be increased for sustained local protection and restoration efforts. These

communities wrestle with an incredible number of competing demands on their limited resources, yet they are being asked to shoulder a substantial and costly portion of the Bay restoration burden. The Commission supports the comments offered by Secretary Franks on behalf of Governor Ehrlich which address the critical need for **local capacity building** through an expanded small watershed grants program.

3) HR 4126 calls for a report on the **role of each Federal agency** involved in the Bay restoration, as well as an interagency crosscut budget and accounting of Bay-related funds. The Commission supports these provisions. But I close by appealing to the members of this Subcommittee: Substantially increased Federal support is a prerequisite to improved rates of progress in restoring the Chesapeake Bay. Without it, you simply cannot have a Bay clean enough to remove it from the Federal Impaired Waters List by 2010.

The residents of the watershed have contributed to broad-based user fees such as the Maryland Restoration Fund, citizens have approved major bond initiatives such as the Pennsylvania Growing Greener program, and in Virginia the Governor and legislature are united in supporting unprecedented increases in dedicated funding for the Bay. But these contributions rely upon continued Federal funding for Clean Water Act programs, such as the State Revolving Loan Fund, and expanded Federal cost share support for the region's farmers through the Federal Farm Bill.

This estuary is at the forefront of ecosystem restoration as it moves forward on its next exciting but daunting challenge: to implement the 36 tributary-specific plans that, through a painstaking collaborative process, have been designed to cut nutrients and sediment loads, thereby improving local waters as well as the Bay. No other region of the country is at this point. We must lead by example and we must succeed. The talent, the commitment, the science, and the partnerships are in place. Our glass remains less than half full, but with the right resources invested, that can change. In fact, we can provide the residents of this watershed with fishable rivers, clean streams and drinking water, abundant wildlife, diverse recreation and jobs that flow from a thriving resource-based economy.

The Commission and its colleagues appreciate your commitment to improve the environmental results that flow from Federal, state and local investments in the Bay. With the improvements offered in HR 4126, comprehensive reporting and clear accounting of progress is at hand. For those reports to detail significant, measurable improvements in water quality and ecosystem health, I urge you to make every effort to enhance the Federal investment in the Bay. We still have an enormous task before us, and it can not be done without you.

Thank you. I am happy to answer any questions you may have.

Gerald L. Baliles

STATEMENT of
Hon. GERALD L. BALILES
On H.R. 4126

May 4, 2006

Mr. Chairman and Members of the Subcommittee:

I am Gerald L. Baliles, and while I am the Director of the Miller Center for Public Affairs at the University of Virginia, I am providing this statement as a former Governor of the Commonwealth of Virginia, former Chair of the Chesapeake Executive Council, author of a book about the Chesapeake Bay, and recently Chair of the Chesapeake Bay Watershed Blue Ribbon Finance Panel. My range of experience has given me a unique perspective on efforts to restore the Chesapeake Bay. It is only a long-standing commitment to attend a board meeting of The Nature Conservancy on the Chesapeake Bay's Eastern Shore that precludes my attending your hearing in person. Accordingly, I would like to have this statement entered into the Record as you discuss the Chesapeake Bay Program and pending reauthorization legislation.

Today's hearing affords a wonderful opportunity to assist in a critical national undertaking—the restoration of North America's largest estuary. The Chesapeake Bay Program reauthorization legislation that you are considering (HR 4126) is a fundamentally sound bill that will help strengthen the Bay Program partnership.

I want to commend Congressman Gilchrest for his exemplary leadership in Chesapeake Bay restoration issues. Along with my friend Senator Paul Sarbanes, who has introduced a companion reauthorization bill in the Senate, Congressman Gilchrest is part of an unbroken chain of outstanding legislators who have given life and direction to the Bay restoration effort. It is group that is bipartisan and bicameral and includes both Federal and State officials. It includes such luminaries as former Maryland United States Senator Charles "Mac" Mathias and former Virginia State Senator Joseph V. Gartland, Jr., as well as the former Secretaries of Natural Resources in Virginia, Hon. W. Tayloe Murphy, Jr. and John Daniel. We are fortunate to have Congressman Gilchrest's leadership during this critical time in the restoration effort.

Others today may testify about whether the new reporting requirements in the Congressman's reauthorization bill are too onerous or achieve the right balance of public accountability. Similarly, others may offer their views about the proper role of local governments in the restoration effort, including whether the new funding opportunities envisioned in the legislation are properly balanced with new clean-up requirements.

If you only look at the modest changes in the Bay Program envisioned in this bill, however, you will have missed a critical opportunity to advance the restoration effort.

Without the current restoration framework now in place, the Chesapeake would assuredly be in much worse shape. We live in one of America's fastest growing regions, and the relative shallowness of the Bay makes it especially vulnerable to the polluted runoff that accompanies such rapid population growth in the region.

But current efforts are barely keeping the restoration effort's proverbial head above water. Today we are funding a Chesapeake Bay Program that provides essential science and coordination functions. We are not, however, investing in large-scale, effective on-the-ground solutions.

And time is not on our side.

Every day the watershed loses 100 acres of forest. That's the equivalent of losing every tree in the entire National Arboretum in less than a single workweek. And the losses mount day after day, week in and week out, as the years bleed into decades.

Population in the watershed is growing by more than 100,000 people annually. We are adding more than 1 million residents every decade. Today more than 16 million people call this watershed their home.

And our development patterns are vastly outstripping our rapid population growth. The amount of impervious surface – the hardened landscape through which water cannot penetrate – is increasing five times faster than the population. In the 1990s population in the watershed grew by 8%, but impervious surface skyrocketed by 42%. That hardened landscape takes away the watershed's natural ability to absorb rainwater and the pollutants associated with modern life.

A one-acre parking lot produces 16 times the volume of polluted runoff that comes off a one-acre meadow. That same one-acre parking lot produces about 40 times the polluted runoff volume that comes off a one-acre lot of mature trees.

The Chesapeake Bay is not a static body of water, and the restoration effort is not trying to clean up pollution that is frozen in time. The burden grows every day, and the ability of the landscape to absorb that growing pollution burden is diminished with every acre of resource land that we lose to development. We need bold action, and we need it today if we are truly serious about Bay restoration.

The current EPA Chesapeake Bay Program performs an absolutely critical function. It provides the glue that holds this celebrated national effort together. Sound science is at the heart of an effective restoration effort, and the Chesapeake Bay Program's internationally recognized scientific community provides that vital service to the region and the nation. The Program also provides an essential coordination role among six states, the District, more than a dozen Federal agencies, the non-profit sector, businesses, academic institutions and average citizens. Certainly no other collaborative effort can rival it.

Many of us are frustrated with the slow pace of the restoration. Some critics in the last two years, however, have blamed the Chesapeake Bay Program for the fact that the Bay is not restored. Such criticisms are wildly off the mark. In fact, this modest $20 million a year effort is admirably doing what you have charged it to do. We need the Bay Program for the critical scientific, coordinating and leadership roles it plays. But the restoration of the Chesapeake requires much more. It demands an investment commensurate with its value.

In 2004 the Blue Ribbon Finance Panel found that the cost of restoring the Bay is on the order of $25 billion dollars. The Bay Program's budget is less than one-tenth of one percent of that amount. Put another way, it would take more than 1200 years for the Program alone to come up with the funds needed to restore the Bay, given its current funding levels.

The big challenge facing the subcommittee today is how to leverage that much more substantial investment. The Blue Ribbon Finance Panel that I chaired proposed something bold: a new Chesapeake Bay Financing Authority that is loosely modeled after the Clean Water Act State Revolving Loan Fund. Capitalized with billions of dollars from the Federal government and matched 80:20 by the states, this Authority would have the resources to fund cost-effective strategies that would actually get the job done. It would serve as the financing arm that would be guided and directed by the Bay Program.

I note with pleasure the recent record bi-partisan commitments being made by state governments in the Bay watershed. Maryland's Republican Governor Bob Ehrlich and the state's Democratic legislature combined to pass the so-called flush fee that is being used to leverage a billion dollar investment in the restoration effort. In Pennsylvania, the political lineup has been different, but the results are the same. Democratic Governor Ed Rendell worked with the Republican legislature there to enact a $650 million "Growing Greener" bond issue. And in my home state of Virginia, Democratic Governors Mark Warner and Tim Kaine have proposed to the Republican-controlled legislature a record investment in their biennial budget submission: $254 million for nutrient pollution reduction initiatives for both sewage treatment plant upgrades and new conservation practices on agricultural lands. With strong support in the legislature, they are poised to add the Commonwealth to the list of Bay states making substantial new investments in the restoration effort.

The cost of restoration is large, but the price of inaction is even larger. And the work will only become more expensive and difficult with every year of delay.

It was 399 years ago that Captain John Smith sailed the Bay, helping to establish the first permanent English-speaking colony at Jamestown in what would become America. Today the capitals of Pennsylvania, Maryland, Virginia and America sit alongside rivers that feed the Chesapeake Bay. It is no exaggeration to say that the Chesapeake region is the cradle of America, and today it is home to the government that is the most powerful in the world. The vital commerce of the region relies on the bounty

and beauty of the Chesapeake Bay. The ecological value of the Chesapeake is both unparalleled and priceless. It is truly a national treasure worthy of the highest protection.

So, by all means, give careful consideration to Congressman Gilchrest's legislation and the reforms it advances. But please don't lose sight of the true scope of the work facing this body. We need a financial commitment from the Federal government as well as the States that is equal to the scope of the work that needs to be done and the ultimate value of the resource we all want to protect.

Thank you for the opportunity to add my perspective to your deliberations. I appreciate the opportunity, and I wish you success in this important endeavor.

Gerald L. Baliles
Former Governor, Commonwealth of Virginia
Former Chair, Chesapeake Executive Council
Author, Preserving the Chesapeake Bay
Former Chair, Chesapeake Bay Watershed Blue Ribbon Finance Panel

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DENISE M. SHEEHAN
COMMISSIONER

JUN - 8 2006

Honorable John J. Duncan
Chairman
Subcommittee on Water Resources and Environment
United States House of Representatives
B-376 Rayburn House Office Building
Washington, D.C. 20515-6262

Via Facsimile: (202) 226-5435

Dear Congressman Duncan:

I am writing to you regarding the May 4, 2006 hearing on H.R. 4126, the Chesapeake Bay Restoration Enactment Act of 2005. As the headwaters of Chesapeake Bay are found in New York State, enactment of this legislation would have implications for the programs pursued by the New York State Department of Environmental Conservation (Department). Thus, the Department is submitting the comments that follow, and ask that they be included in the record. While the legislation in its current state has great potential for improving the health of Chesapeake Bay, an approach that provides for water quality improvements throughout the Basin, rather than only the central and southern portions, would be more effective and expedient in reaching water quality goals for this historic and picturesque water resource.

Chesapeake Bay's largest tributary is the Susquehanna River, which originates at Otsego Lake, near Cooperstown, New York. On an average day, the Susquehanna delivers 25 billion gallons of water to the Atlantic by way of Chesapeake Bay – enough to supply the needs of every household in the United States, with a billion gallons left over. This supply includes 90 percent of the fresh water in the upper half of the Bay, and 50 percent of the total fresh water in the estuary. If the quality of these water resources is not maintained, the health of the Bay will suffer dramatically. While a great deal of attention has been paid to the health of Chesapeake Bay, the Department believes that full restoration of the Bay can only be accomplished if we widen our focus to include the health of the entire watershed, beginning with the Bay's headwaters in Upstate New York.

Of the six states within the Chesapeake Bay basin, New York may be uniquely positioned because our local water quality objectives are largely attained. Unlike the more populated areas surrounding the Bay, the Department's water quality goals within New York State's portion of the Chesapeake Bay basin emphasize maintaining the already good water quality. Despite the comparatively good water quality of the Upper Susquehanna, the United States Environmental Protection Agency (EPA) has determined that extensive nonpoint source best management practices and wastewater treatment plant upgrades in New York are necessary to ensure the restoration of the Bay. Only by improving the quality of the waters flowing from the Bay's headwaters can Chesapeake Bay be fully restored.

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Thus, H.R. 4126 should promote actions to support the goals of EPA and New York, which will ensure the protection and improvement of Chesapeake Bay's water quality. The restoration of this important and historic waterbody, a national priority, requires a regional approach. Federal assistance should be directed to New York, as well as other Chesapeake Bay states, in amounts sufficient to support these federal goals.

The Chesapeake Bay Program, a unique regional partnership that directs and conducts the restoration of the Chesapeake Bay, was formed after the governors of Maryland, Virginia and Pennsylvania, the mayor of the District of Columbia, and the EPA administrator signed the Chesapeake Bay Agreement of 1983. As a partnership, the Chesapeake Bay Program brings together members of various state, federal, academic and local watershed organizations to develop and adopt policies that support Bay restoration. New York supports the Bay Program's role to coordinate the establishment of the scientific foundation, nurture understanding among a vast array of partners and facilitate the development of jurisdictional tributary strategies. The Bay Program's continued strong role is important to ensure that scientific advances, emerging technologies, Bay assessments and coordinated efforts for restoration and living resources remain intact. In 2000, New York Governor George E. Pataki signed a Memorandum of Understanding to agree to work cooperatively with EPA and other tributary/States and the District of Columbia to improve Chesapeake Bay water quality. This significant milestone cemented our formal partnership with the Bay Program, and our commitment to working towards achieving the Bay's water quality goals. In the past, most, if not all, federal funding for Chesapeake Bay programs has been allocated to states south of New York, hindering the State's role in the Bay restoration process. With sufficient funding, New York's cost-effective efforts to maintain the quality of the water at the headwaters of the Bay watershed could ensure continued improvements in the quality of Chesapeake Bay.

While the legislation in its current form will further Bay restoration efforts, the Department recommends the following amendments to facilitate a basin-wide approach, heightening the impact of efforts made on the Bay's behalf:

Implementation and Monitoring Grants

Section 3 of H.R. 4126, amending §117(e)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1287), does not reflect the need to provide federal funding support for wastewater treatment plant upgrades in New York State - an essential component to ensuring that local governments in the Susquehanna region of the State have the funds which they need to support Chesapeake Bay projects. Because New York has not yet signed the Chesapeake Bay Agreement, the bill would preclude New York State from receiving funds for implementation and monitoring grants. We hope that this language can be amended to allow the State access to these funds.

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Reporting Requirements

Section 4 of the bill would also add new reporting requirements for the states. Considering recent advances in the Bay Program to better account and report on Bay health and restoration progress, this new requirement to produce an annual "tributary health report card" appears unnecessary. Any new federal reporting requirements would also need to be accompanied by federal funds to pay for their costs.

Actions by States

Section 5 creates a new requirement for states to submit particular information to the program by a certain date and includes penalties for not reporting. Again, recent advances in data gathering and reporting within the current Bay Program framework suggest this component of the proposed bill is not necessary.

Chesapeake Bay Program

Section 7 of H.R. 4126 would direct EPA to establish measurable goals for local governments while giving local governments more say in funding decisions. Unfortunately, the Department believes that it would be difficult for local officials in New York State to participate in this effort because the State oversees the types of water quality programs which are necessary to improve Chesapeake Bay, which would put New York at a funding disadvantage. We urge the House to amend or delete this section so that local governments in New York State are put on an equal footing with their counterparts throughout the Chesapeake Bay system. This part also seeks to have the Bay Program establish measurable goals for local governments. Authorizing EPA to sub-allocate specific activities to local governments would remove New York State's regulatory flexibility – which the Department maintains is necessary given the current good state of water quality in the upper Susquehanna and requirements of the Bay restoration effort that we face.

Part (i)(4) is a new requirement to treat load allocations in tributary strategies for any National Pollutant Discharge Elimination System (NPDES) permitted activity as the functional equivalent of Total Maximum Daily Load (TMDL) wasteload allocations. From the Department's perspective, existing language in the Clean Water Act regarding TMDLs is sufficient to meet the water quality needs of Chesapeake Bay.

Thank you for this opportunity for the Department to submit comments regarding the Chesapeake Bay Restoration Enactment Act of 2005. By working together, the United States Congress and the Chesapeake Bay Basin states can return the Bay to a beautiful, high quality water resource. Please feel free to contact me at (518) 402-8540 should you have any questions.

Sincerely,

Denise M. Sheehan

cc: Honorable Sherwood L. Boehlert
Honorable Sue Kelly
Honorable Maurice D. Hinchey
Honorable Timothy Bishop
Honorable Brian M. Higgins

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