

PENNSYLVANIA CAMPAIGN FOR CLEAN WATER
STORMWATER WORKGROUP

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Mr. Nicholas DiPasquale, Chair
Chesapeake Bay Program Management Board
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Dear Mr. DiPasquale,

Pennsylvania's Campaign for Clean Water Stormwater Workgroup (Workgroup) is a coalition of the state's environmental, conservation, sporting, and religious groups supporting federal and state policies to ensure clean water through effective and sound management of stormwater. The Chesapeake Bay Watershed Agreement (Agreement) is an opportunity to ensure the resources of the Chesapeake Bay Program address one of Pennsylvania's most significant sources of water pollution, stormwater runoff, and clean the water that is essential to habitats, citizens and livelihoods throughout central Pennsylvania and downstream in Maryland and the bay. The Workgroup is pleased to submit the following comments in response to the January 29, 2014, final draft Agreement.

The Agreement is framed by a thoughtful vision statement and many strong principles. But, the goals and outcomes generally fail to address land use activity that, if controlled, could manage polluted stormwater runoff and reduce and prevent one of the greatest sources of impairment to the Chesapeake Bay's waterways, the health of the bay and its enjoyment. Untreated or uncontrolled stormwater runoff is a top source of impairment in Pennsylvania's waterways that feed the Chesapeake Bay.

Stormwater can be controlled through practices prescribed in National Pollutant Discharge Elimination System (NPDES) permits and programs designed to manage water pollution including the Municipal Separate Storm Sewer System (MS4), Long Term Control Plans (LTCP) to control Combined Sewer Overflows (CSO) and a range of agricultural programs that promote Best Management Practices (BMPs) to reduce pollution and sediment runoff. The U.S. Environmental Protection Agency (EPA) specifically recommends NPDES permits use green infrastructure practicesⁱ that restore or replicate natural hydrologic functions where land has been disturbed or transformed to impervious cover. EPA has supported studyⁱⁱ within the bay that shows stormwater controlled by green infrastructure can be cost effective and deliver a multitude of benefits in addition to cleaner water. In fact, Chesapeake Bay states have prescribed this type of resilient land use control to ensure community benefits in the long-term and under changing climate conditionsⁱⁱⁱ. Green infrastructure was identified as a cross cutting solution in Pennsylvania's climate change adaptation plan^{iv} for water and other infrastructure resiliency, to ensure the long-term

health of human and natural communities and support the Commonwealth's vibrant recreational activity economy in the long-term.

So that the Chesapeake Bay Program will achieve its long-term goal for a healthy bay, the Agreement must address the critical need to control land activities to reduce the amount of, and impact from, disturbed or impervious lands in addition to minimizing the conversion of natural land with healthy hydrologic function to land uses that contribute pollutants and sediment to rivers and the bay. While a couple outcomes within the Agreement address this need, the Workgroup has identified flawed outcomes that lack adequate attention to stormwater runoff and activities that are not addressed through any outcome. The effective, flawed and omitted outcomes are outlined as follows:

- Effective: Outcomes to increase wetlands, tree canopies in urban areas and forested buffers represent some of the most fundamental best management or green infrastructure practices to stabilize soil, reduce peak flows and provide additional benefits for natural and human habitats. These practices are simple and efficient to implement and maintain. The Chesapeake Bay program and its member states should embrace these practices, encourage and facilitate with resources, technical assistance and/or incentive tactics municipal and citizen-based group implementation and maintenance of local wetland, buffer and tree canopy projects.

For example, new forested riparian buffer model ordinances exist that require restoration of forested buffers as part of the redevelopment process, resulting in water quality improvement even as additional development occurs.

- Flawed: Conserving land is noble and highly effective at maintaining water quality but the Land Conservation outcomes and Healthy Watersheds outcome are insufficient.
 - Two of the three Land Conservation outcomes provide tools without proactively pointing those tools directly at conservation. Measuring natural land that is lost or disturbed and assessing local policy options may be helpful but is insufficient and ignores the innovative and effective practices already known to reduce sprawl, preserve farmland and prevent forest fragmentation.
 - Land conservation must go hand-in-hand with restoration of landscapes or retrofitting land uses that impact water quality, notably land cover that is impervious or where runoff is disturbed. Thus, for example, managing the rate of conversion of porous land to impervious land should be accompanied by an outcome to increase the rate of restoring impervious land or replicating natural function where impervious surfaces currently exist. This could be achieved logically within strengthened Land Conservation outcomes or within the outcome for Healthy Watersheds.

Land Conservation. Conservancies and land trusts in the Bay region are having great success with Save the Farm-Fix the Farm strategies - using agricultural preservation programs to implement a broad array of water quality-focused Best Management Practices in remarkably short periods of time. These expanded and enhanced conservation programs are an example of tools that should be broadly endorsed and implemented through the Agreement.

Healthy Watersheds. The Agreement acknowledges the connection between degraded waterways and local land uses and land cover yet expects to achieve an outcome of protection for all current healthy waterways (a fundamental expectation of existing antidegradation policies) without describing land use controls that will be essential to achieving that goal. Further, after decades of effort and investment in Chesapeake Bay clean-up and with a bay-based clean-up plan in effect we must accept that achieving a healthy watershed will require more than protecting the status quo. Thus, where land activity plays a role in the quality of water, control of land uses and improvement to land cover, especially where imperviousness contributes polluted stormwater runoff, the Agreement's outcomes must work to improve land activity.

- Omitted: In addition to the generally inadequate outcomes that address stormwater runoff, the largest source of increasing nutrient and sediment impacts to the waterways of the bay, two important omissions place the Agreement out-of-step with the future of the watershed:
 - *Fracking.* Natural gas extraction utilizing hydraulic fracturing is a rapidly expanding activity with impacts on the Chesapeake Bay watershed at drill sites and across the basin because of road and pipe networks to develop sites and transport the produced energy. Erosion and stormwater runoff at these disturbed sites and fragmented landscapes should be an urgent concern addressed in the Agreement. States must devote resources to address the cumulative impacts from site to production facility and market.
 - *Climate Change.* The final draft Agreement fails to acknowledge climate change despite the many Bay states and even coastal cities^v that have recognized risks and vulnerabilities and are planning to adapt to protect their water infrastructure and community health with strategies that include land based management such as stormwater control. The Agreement Preamble states “there is more to do—especially in the face of continued challenges such as... changing environmental conditions.” The Agreement must explicitly state that it will do something to protect the health of the bay, its human and natural communities—there are no outcomes to direct this essential preparedness.

In summary, the Workgroup applauds the shared vision for a healthy bay expressed in the Agreement and the cooperative spirit with which the signatories commit to the goals of the Agreement. But, we ask that the draftees improve the Agreement by adding explicit goals for stormwater management to help restore the natural hydrologic function within the watershed. Without sound stormwater practices, water management of the greatest portions of the watershed are effectively ignored and the goals of the Agreement will be insufficient to achieve the vision of a healthy bay, sustain clean water and adapt to changes in environment.

Sincerely,

On behalf of Pennsylvania's Campaign for Clean Water Stormwater Workgroup:

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John Hoekstra, Executive Director, Raymond Proffitt Foundation

Mike Helbing, Staff Attorney, Citizen's for Pennsylvania's Future (PennFuture)

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http://owpubauthor.epa.gov/infrastructure/greeninfrastructure/upload/gi_memo_enforce.pdf and
http://www.epa.gov/npdes/pubs/gi_memo_protecting_waterquality.pdf

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<http://owpubauthor.epa.gov/infrastructure/greeninfrastructure/upload/CNT-Lancaster-Report-508.pdf>

iii <http://www.nrdc.org/water/climate-smart/files/getting-climate-smart.pdf> and
http://dnr.maryland.gov/climatechange/pdfs/climatechange_phase2_adaptation_strategy.pdf

iv

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-92911/27000-RE-DEP4303%20%20Pennsylvania%20Climate%20Adaptation%20Planning%20Report.pdf>

v <http://www.wri.org/blog/coastal-communities-virginia-lead-way-local-climate-action>