



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

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March 17, 2015

Mr. Shawn M. Garvin, Regional Administrator
US EPA Region III
1650 Arch Street – Mail Code: 3RA00
Philadelphia, PA 19103-2029

RE: Oyster Company of Virginia's In Situ Nutrient Remediation Program

Dear Mr. Garvin:

I would like to take this opportunity to bring you up to speed on the development of Virginia's nutrient trading program and one particular trading pilot program. Since 2007 the Virginia Department of Environmental Quality (DEQ) has designed and implemented a highly successful point source nutrient trading program under our watershed general permit for nutrient trading in the Chesapeake Bay watershed (9VAC25-820). Beginning in 2009, the trading program was expanded to allow nonpoint source offsets to be used to meet post construction phosphorus loading requirements for new development under the Virginia Stormwater Management Program (9VAC25-870). More recently, the state code has been amended to allow our MS4 jurisdictions to acquire DEQ-certified point and nonpoint source nutrient credits. We anticipate that the MS4 sector will generate a significant demand for credits moving forward and believe that nonpoint source credits will be a critical component of Virginia's nutrient trading program.

The success of the program has resulted in more requests for the certification of nutrient reductions from practices not previously included in Virginia's program (e.g. manure-to-energy, aquaculture and stream restoration projects). DEQ is currently accepting comments on a proposed regulation (9VAC25-900) governing the certification of nonpoint source credits. The Code of Virginia requires that prior to the adoption of these regulations credits generated from effective nutrient controls or removal practices be approved "on a case-by-case basis using the best available scientific and technical information." It is with this background that DEQ has approved an innovative credit generating proposal from the Oyster Company of Virginia (OCVA).

Enclosed for your information is a copy of OCVA's In Situ Nutrient Remediation Program proposal and our approval letter. DEQ has approved this proposal as a pilot program and intends to certify term credits annually for aquaculture oysters grown in cages based on the previous year's harvest records.

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The proposal makes use of nutrient uptake research recognized in the 2013 STAC report *Evaluation of the Use of Shellfish as a Method of Nutrient Reduction in the Chesapeake Bay* and the report on nutrient content of oysters prepared by Roger Mann and Roger Newell at the request of the Office of the Secretary of Natural Resources of Virginia in 2012. It is our understanding that the Chesapeake Bay Program will be forming an expert panel to follow up on the STAC report and address the crediting of nutrient reductions provided by shellfish in the Chesapeake Bay modeling effort. We hope that information gleaned from the OCVA project could be useful to that panel and will be following that effort closely.

If you have any questions about the proposal or Virginia's trading program in general, please feel free to contact me at (804) 698-4020.

Sincerely,



David K. Paylor

cc: Molly Ward, Secretary of Natural Resources
Toler Nolley, Oyster Company of Virginia
Henry R. Pollard, Williams Mullen
Jeff Corbin, USEPA