

Chesapeake Bay Environmental Finance Symposium Final Report  
 Reviewer Comments and EFC Response  
 Environmental Finance Center, University of Maryland  
 August 2016

Date Rec'd Comment

EFC Response

General	
	In reading this I cannot help but think of the more recent discussions at the CEQ sponsored White House Forum last month. It would make sense to me to coordinate what you are presenting here with what David Groves and Tim Male are trying to draft so that there is consensus in approach and needed next steps. The fact their focus was on the Chesapeake Bay Program initiatives and the meetings in DC having been sent as a result of the Presidential Memorandum dated November 2015 needs to be presented here. The Governors need to know that from the top down there is recognition that 25 years of experience in efficient wetland restoration/trading work has resulted in a billion or more dollars invested by the private sector to advance the balance between environmental quality and economic stability/growth. There is passing reference to this (using wetland trading criteria as a model) but I think the effort from the White House down needs to be emphasized.
8/16/2016	Generally Dan you and staff did a great job in harnessing all of this info.
8/16/2016	Two general themes of my comments -- 1) much of the discussion is very high level (general, especially in the first 2 parts). It makes it hard to link principle to on the ground programs 2) text sounds preachy at times... Private sector good...markets are a miracle...public sector bad and cumbersome. I don't think that is the intention but it sounds like it at times. Telling someone they aren't very effective will be turn off right from the start. They can't listen at that point. Regarding 2), the discussion might be more effective in convincing people if you can down play the dichotomy between private and public and focus on how the state and local governments can improve on the good things they are doing by more effective engagement with the private sector, and to incorporate market-like incentives when possible.
8/16/2016	I think the strength of the report is the last section. Concrete examples on things people are trying. It would be great if there is more specific links to the conceptual points made earlier. Might consider bringing them up in the text as illustrative text boxes... to avoid keeping the reader waiting.
8/16/2016	It might be also worth summarizing this point... the private sector isn't going to come riding in with a new pot of money. Sometimes I get the impression that's what some people somehow think is going to happen. Private public partnerships work because the public has the money and the private helps get results. The private sector isn't going to pay for restoration on any large scale. They expect a payback in the end. This isn't charity. The point, I think, is that we can buy more restoration with the money we have.... in that sense it creates "new money."
8/16/2016	I wanted to give you my feedback on the Chesapeake Bay Financing Symposium Report. First off, thank you for your hard work putting this report together. DNR appreciates EFC's hard work organizing the symposium and writing this report. I know all too well what a big undertaking this was for everyone. At the symposium, I recall that during the breakout sessions I participated in, most people were quite vocal about framing out the barriers, identifying the needs, and adding many clarifying points to the discussion. They seemed less forthcoming about providing innovative financing recommendations. That left a big job for EFC to work with the public and private stakeholders involved to develop innovative ideas we can use to create a successful path forward for us. It's was a brave and difficult role you took on but I know the state agencies, elected officials, and the private sector will certainly appreciate what you've delivered.
8/19/2016	The beauty of the symposium results is that they directly confront some that have been present in discussions about emerging environmental finance strategies. Most specifically, the report argues that P3 needs to be thought of more broadly: To wit, it does not mean just private operation by contract of public goods or even large privatization (all of which are important), but also any configuration of assets, mechanisms and roles that leverage private with public resources to act or that enhances the impact and reach of public resources with private inputs and financial participation. This distinction is vital to make sure that everyone recognizes the full spectrum of small-scale to large-scale innovations that are emerging and/or are possible in the future, so that local innovations are the focus (as the report's charge lays out). The summary report draft also rightly recognizes the important point that much of this public-private innovation work has to be tailored to place, needs and capacities: this gets overlooked in high level discussions where ONE approach is the only focus, and everybody shakes their head yes, excluding everything else (like citing Prince Georges Co. as the only example of P3 approaches).
8/22/2016	

- From my vantage point, the biggest points should be: 1) uniform procedural standards for all projects (whether a trade or not); 2) performance-based requirements tied to monitoring and maintenance (there is little inspection now so nobody realizes the risk of non-performance); 3) true-cost accounting of all BMP components, including monitoring and maintenance (costs are often understated and typically not inclusive of the true monies spent by governments, who now retain the risk); 4) adoption of all available procurement tools, such as turnkey delivery and P3s (this may already be allowed by many localities); 5) the adoption of a currency for each of the respective markets, such as a pound of nitrogen or phosphorus or impervious acres; and 6) streamlined permitting for restoration.
- 8/23/2016 First let me say, I think the report is a very well written and comprehensive review of the Symposium and all of the issues surrounding market-based water quality improvement strategies – nice work.
- 8/23/2016 First, on format, our advice would be to make the executive summary “punchier” with specific, concrete recommendations about pilot projects and procurement fixes rather than thematic ones. Basically bring the core recommendations from the body of the report up front and make them very specific. So instead of “facilitate the flow of restoration investment through innovative institutional structures” we say “start an RFP process for a pay for success pilot or enable states to procure restoration on a pay for success basis”. There should be deadlines and call outs to getting any of this done. This may be too aggressive for this group and politically untenable but it would be more impactful. Perhaps the Finance Advisory Board can be that forcing function.
- 8/23/2016 I think the term “financing” is used too often when “purchasing” is really what you mean. Financing connotes temporary use of capital (debt or equity) to capitalize a project that ultimately produces an output (e.g. pounds of N reduction). I don’t think financing is what is needed to make a program successful, rather we need the end users to be buyers (not financiers) of pounds. Case in point, in Recommendation 2b, instead of “performance financing”, how about “performance accounting” – ie the accounting for reduction credits is an accounting system that is verifiable and consistent.
- 8/23/2016 Fair point. We provided some clarification.
- 8/23/2016 Finally I would add and emphasize more verbiage of smart procurement and migrating government from a do-er to a buyer of restoration. Folks who are in or work closely with government (at any level) want credit for the significant investments those entities have made; they believe public funding is critical (as I know you do) and want that repeated early and often as they fight for it every day. I wonder if the entire discussion about private funding makes them nervous about the future of public funding...
- 8/26/2016 Folks don’t see that doing things watershed-wide is worth it. They see the inter-state bureaucracy and potential harm to local waters as outweighing any potential benefits from additional market activity gained. And they see a lot of work at the state level to date and think that it has yet to demonstrate real success, so why push even harder to go watershed-wide?
- 8/26/2016 With no offense to you or your staff, I thought the expectation by some that what was discussed at the symposium would form the recommendations wasn’t realistic. The symposium was attended by mostly those engaged in public financing of Bay restoration and it appeared that knowledge about how private investment works was limited, and the breakout sessions were somewhat chaotic (at least from my sample size) and not conducive to generating recommendations. One thing I learned was that knowledge exchange between the two groups (government folks and private market/equity folks) could yield some important progress in basic learning. In hindsight, I would be curious to see what would’ve happened if you sequestered <10 smart private investment folks to develop recommendations and then used the symposium to get reaction.
- 8/26/2016 We could not agree more that engaging a targeted group of financing experts, on a regular basis, is essential. In fact, that was the impetus for the Advisory Board recommendation.
- 8/26/2016 Need to make recommendations more specific to what an EC member can do. Do not let the EC off the hook. They asked for recommendations, so make them act, or not act. A VA Example - McAuliffe can instruct the VA Economic Development Partnership to recruit bay-related companies whose bottom line is dependent on clean water. I’m sure other states have similar agencies. Or the EC shall instruct the Finance Adv Board to...or
- 8/29/2016 the PSC shall construct xxx, and have a structure in place by xxx.....be as specific and inflexible as possible.
- 8/29/2016 I suggest the report focus more on standardizing parts of programs that make it easier for the private market to get involved. All recommendations should be weighed against the question – what needs to change improve to get the private sector engaged. i.e., a more streamlined program doesn’t do any good if the private sector still isn’t going to jump in.
- 8/29/2016 All recommendations should be specific and time-bound. You and I both know that “big picture” recommendations will wither and die unless the EC is asked to do something specific within a certain time frame. E.g. convene a summit of state and local leaders on market platforms and registries. - it should be clear when we want this happen and what we want them to come back with.

### Executive Summary

- Under “Key Findings” I think it would be appropriate to add a bullet point that achieving environmental quality comes at a large cost that is politically unsustainable. First achieving environmental quality is last in importance in terms of major budget items in any Federal, State or local effort to adopt a balanced budget. It also is the first to experience cuts. That means the involvement of the private sector and private capital must be recognized as one tool to help bridge the gap.
- 8/16/2016

	When talking about a foundation for financing success across the region if you are going to give credit to “examples of local and state governments effectively establishing the conditions necessary to catalyze market behavior” you need to also point out the government has to get serious about implementing guidance, rules and the metrics for implementing these tools. For instance why has the MDE assigned committee with the task of trying to advise MDE on urban trading rules taken a 4 month vacation? And that’s a year and a half after the last task force made recommendations in the prior administration.	This is an excellent point. The recommendation related to standards was included with these issues in mind.
8/16/2016	In short Dan we real don’t need more studies. MDE needs to authorize urban trading with the best practices they know and understand based on what other jurisdictions have been doing and then amend them to allow for best practices and standards to unfold. All they need to do is assign one person in the AG’s office for one month to spend full time drafting a document to get out for public notice. No matter what we will get to the legal challenges sooner than later. They will never appease or reach consensus amongst 35 different stakeholder groups. Why not acknowledge that and move into adoption of policy now.	
8/16/2016	[Re p. 3 “market diversity”] Perhaps, it would be helpful elucidate that the private sector includes, consultants, investors, operators and project developers. Currently, consultants are already playing an active role in the system, but others are not. Each group may have a unique interests and focus.	Excellent point. The market and the private sector includes a broad array of actors, interests, and associated skill sets.
8/23/2016	[Re p. 3] You should make clear that there may be different types of market solutions for different types of issues. For example, there are different market solutions for MS4 compliance, new or expanded wastewater discharges and offsets for new development. The concept of a market approach is to promote cost-effective loading reductions in a flexible manner based on a watershed-approach. Arguably, in a Bay TMDL, the market would include reductions anywhere in the Bay that provides the best solution. Nevertheless, in light of the sensitivities of political jurisdictions, the market may have to be applied within a state context and could ultimately allow for out-of- state trades if reciprocal standards are met.	
8/23/2016	[Re p. 4] Use of the term “basin-wide” seems to have elicited some strong sentiments. Perhaps, this could be tempered by reiterating that states have the primary authority to address standards and credit systems, but that efficiencies could be gained by promoting consistent standards and approaches. I agree that any suggestion about interstate trading now is too aggressive, particularly when not all of the states have not even set up their own programs. See bullet above for some thoughts.	
8/23/2016	[Re p. 4 uniform performance standards] Perhaps, you could make it clear with examples such as the 2008 Federal Mitigation Rule. Despite three options for mitigation, the new mitigation rule sets forth a 12-step procedural requirement that is applicable to all forms of mitigation. It allows for regional technical variation on the credit methodology but requires that 12 procedural steps be followed, such as site selection, baseline, land control, crediting methodology, financial assurances, monitoring and maintenance and stewardship. Similarly, uniform procedural requirements could be embraced that lay out the minimum standards but still allow for regional variation on the technical approach and crediting methodology. Obviously, the more consistent the approach in each state, the more scalable the opportunity throughout the Bay. Nevertheless, you still could allow for the state variation on the technical front. Also, what about highlighting the Presidential Memorandum and the focus on performance-based use of federal funds?	
8/23/2016	[Re p. 5] Permitting and procurement are absolutely big impediments. Perhaps, you could highlight more so the USEPA Region III event and paper on P3s for stormwater. The report has good examples and maybe the EPA could play a greater role in providing supporting information to the states and localities. There are some preexisting state laws that already allow for P3s and new forms of procurement. Each state should do a gap analysis to determine the necessity of any changes in policy/law to support P3, new procurement and streamlined permitting.	
8/23/2016	[Re: Advance a Chesapeake Bay restoration economic development effort.] Is there proof that these things can coexist? I’ve often found that when BMP projects are oriented around economic development activities, they are forced to make choices between functional water quality improvements and jobs, aesthetics, etc. This may be a false choice, but one we should all be aware of.	
8/26/2016	[Re: Create a credit-based financing system and market infrastructure, basin-wide.] Agreed, but I can see how people would chafe at this wording. First and foremost, we would need a spatial analysis (perhaps this has already been done?) to map those watersheds and determine when and under what conditions trading across watersheds could occur. This also may be mentioned in latter sections of this doc, but the heavy lift to get multiple jurisdictions to cooperate with a standardized credit system will be difficult. I would recommend a third-party certification standard (like VCS or Gold Standard in carbon) to eliminate complex local or state-by-state crediting standards.	
8/26/2016	[Re: Establish implementation and performance standards, basin-wide.] See above – 3 <sup>rd</sup> party administration of this standard might be useful. However, this may not be possible – and it’s worth going into detail about what constitutes a performance standard.	
8/26/2016	[Re: Reduce unnecessary transaction costs and Facilitate the flow of restoration investment through innovative institutional structures.] I know this doc goes into greater detail on these issues below, but these two sections are pretty vague. Why are the government processes inefficient? Simply talking about permitting and procurement in a general way doesn’t answer that question. Also, I’m not sure I understand the distinction between government inefficiency (implied to be bad) and institutional investment of public funds (implied to be good).	

## **Background**

- [Re p.7 "However, the range of public revenue sources and the mechanisms for deploying them are, for the most part, well-established..."] You suggest that are plentiful existing financial resources within the Bay. Can you suggest that someone catalogue and discuss the applicability of those funds to private sector involvement. Also, are those funds tied to performance? What about referencing EFC's own report on the financial resources for the Bay?
- 8/23/2016 [Re p. 7 "where this report touches on public rather than private sources of revenue..."] Not sure if it's within the scope of this report, but to the degree private developments are mandated to manage for water quality, those developments represent private sources of revenue.
- 8/26/2016 [Re p. 7 "However, the complexity of federal financing programs and the cumbersome process for shifting spending patterns and priorities would have made it difficult to identify recommendations that could affect change..."] I don't see it mentioned in this report, but using SRF dollars as forms of guarantees for private financing should absolutely be explored within this context. I get that SRF dollars are administered at the state level, but they are ultimately funded by Federal appropriations.

## **Enabling Conditions**

- [Re p. 9 risk mitigation] The point needs to be made throughout the document that risk is only relevant if there are performance standards tied monitoring and maintenance requirements. One of the biggest issues throughout the Bay is that there is very little enforcement of performance standards and limited inspection of preexisting projects. This is a very big issue to enable private sector involvement. If risk is not recognized now because there is no enforcement, then no one will appreciate the true risks of performance.
- 8/23/2016 [Re p. 10 market consistency paragraph] Turnkey, fixed price, lump sum contract with liability transfer should be fully authorized and unleashed.
- 8/23/2016 The focus should be on the all-in unit price and not the individual components of the project.
- [Re p. 10 "Finally, inconsistent regulations..."] Great point about the need for consistent application of well-defined regulations as the essence of private sector involvement!
- 8/23/2016 [Re p. 10 "Integrated standards and policies for the marketplace..."] Consistent with the point earlier, you could have consistent procedural standards throughout the Bay but with state variation on the technical metrics, so long as those metrics are reasonably tied to science.
- [Re demand] You make a good point about the inconsistent nature of year to year public appropriations being a risk factor for investors, but I think that is manageable and not an issue if the agencies responsible for enforcing MS4 and TMDL permits consistently and forcefully enforce the laws that require those jurisdictions to acquire reductions. If the enforcement is real, then the jurisdictions won't have any choice but to appropriate funds. Investors will use that as their reliability factor.
- 8/23/2016 [Re p. 10 "Another area where predictability tends to be lacking is in the public processes of permitting and procurement..."] I may be missing something here, but if you have the consistent demand and clear performance metrics, wouldn't you solve the procurement issue? In other words, if government agencies allocate capital to pay for delivery of services under a specific performance metric, can't private actors simply go out, develop projects at their risk, and then secure payback from those projects once the performance metrics are met and verified?
- 8/26/2016 [Re p. 10 "Finally, inconsistent regulations..."] I completely agree with this statement – well put. Though, it would be useful to document why there is inconsistent regulatory enforcement. What is the barrier: politics, administrative capacity at the local level to lobby for a better deal,
- 8/26/2016 [Re p. 10 "Integrated standards and policies for the marketplace..."] See my comment above on third-party verification and certification. We should be taking a page out of the carbon markets playbook to improve standards. I would suggest a literature review of offset certification in
- 8/26/2016 California's AB-32 guidelines.

## **Core Recommendation 1: Economic Development**

- This doesn't seem to contain actionable items. Also, I'm not sure I am convinced that this is big win-win. Wouldn't a local govt that has clear benefit of linking restoration and development do so?
- 8/16/2016 [Re third paragraph] Can you cite the Restoration Economy report on potential job opportunities?
- 8/23/2016 What is a "restoration-based economic development initiative"? Does this mean expenditures on water quality improvement projects beyond just MS4 and TMDL regulatory requirements?
- 8/23/2016 You make good points that water quality projects are not just a cost to communities, but an investment in the economy, jobs, etc. I would add the term "green infrastructure" as an asset that's being invested in that has lasting value.

## **Core Recommendation 2: Credit System**

I like this. There is a lot of ideas to unpack in this discussion. In "next steps", the "transition to credit-based financing" is too vague and institutionally insensitive to be real meaningful. To me, better to link directly to the theme recommendation. Might help if the general principles of what you mean by credit based financing are laid out. Also, I think the text could be more explicit that being too prescriptive can work against buying more reduction per dollar. The Bay program is rife with picking favored practices and pouring money into those (Va- stream fencing, MD-cover crops, etc). Only quibble I have with this the lead sentence "creating a common financing and marketing system" a bit ambitious. There

8/16/2016 lots of state and local programs that can benefit from this without a grand plan. From diversity can lead to experimentation and innovation. The discussion in the Symposium Report of new and enhanced arrangements to bank, trade and especially aggregate stormwater management improvements (Recommendation 2) also, implicitly, is about creating arrangements for better groups of projects (e.g., BMPs) that have greater impact on water quality within a jurisdiction. There is a connection with the more speculative Recommendation 1 on Pay-for-Success approaches in that the principle "performance-based" cuts across these and other tools discussed in the symposium report. I think that message gets (necessarily) buried in the usual language we use concerning efficiency and effectiveness, the need for flexibility, the implied connectivity of actions in a market-trading approach, and so on. I know this comment may not be entirely clear (I'm wrestling with it) so let me try it this way: The symposium was charged with focusing on new mechanisms or better deployment of existing ones, and emphasizing leveraging private effort—all achieved. But there's also a message here about moving from piecemeal to higher impact, integrated (I hate to use the word coordinated) actions across a jurisdiction/watershed—we all know this, but I think it could be stressed in a very direct sentence or two

8/22/2016 somewhere in your framing in the report.  
[Re p. 15 generally] I fully support these statements and refer back to my earlier points on performance, standards and different types of

8/23/2016 markets.  
Have you all thought about simply using RIBITs as the platform for nutrient/sediment transaction tracking? It's a very robust system and I believe NC and VA use it for water quality trading and the USFWS uses it for species bank credit tracking. I don't see why they wouldn't accommodate

8/23/2016 MD transaction tracking.  
As we've discussed in the past, "trading" is another term that is often used and connotes something that may not be what you want (ie speculators in pounds of N trading between each other). What we really want is "purchasing and selling" or "procuring" systems to be in place

8/23/2016 between producers and users of reductions, not trading between un-defined parties.  
Financial assurances. A form of "assurance" you can highlight in addition to bonding or insurance is simply requiring reduction projects to be

8/23/2016 completed before credit is given to them. That way there is never a scenario of un-realized credits being used to offset real impacts.  
3<sup>rd</sup> party certification and verification, and management of a registry are all going to be critical components to streamlining markets. MDE, for

8/26/2016 example, does not have the expertise, administrative capacity, or technology development to manage those functions.  
Coordinating credit systems across jurisdictions. Be careful here. It sounds like interstate trading and it's too early for that...and I have heard of little/no support from the states at this point (except MD). I would stay away from the issue even if some parties voiced support at the workshop. Just because it's not in the report doesn't mean interstate trading can't be pursued...it just wouldn't be a recommendation of the report. Walk

8/29/2016 before we run.  
Criteria need to be built in other than cost. E.g., How permanent and guaranteed are the reductions, what are the maintenance requirements,

8/29/2016 what are the chances of losing those reductions in the future?

### **Core Recommendation 3: Performance Standards**

I'm mixed on this one. On one hand, this is a prerequisite of a credit based system. On the other, I'm not convinced this is an issue. In other words I'm not convinced by the discussion that the lack of performance standards is a problem. We have tons of standards. The local and state governments spend a lot of time doing this type of stuff. They might sniff, "we already do this." As an illustration, the wetland mitigation bankers tell me that Virginia's permanent P credit process is light years simpler than the wetland IRT process. WQT in VA is an improvement over

8/16/2016 the wetland system. Specifics of how the existing system can be improved could help.  
[Re Trust Fund case study] We were awarded a grant and suggested a lump sum contract under the Trust Fund. Despite agreeing to a lump sum contract, they are now going back and requesting significant backup documentation. This is inconsistent with our contract and from what I hear, DNR wants to continue with time and materials contracts in the future, which takes us back to square one on efficiency. This is a cultural and

8/23/2016 procurement issue.  
[Re Maryland Nutrient Credit Trading.] The primary issue with the Maryland program is that there has been no clear path to enable demand.

8/23/2016 Buyers need to assured that they can use credits in their permits.  
[Re p.19. Work with NMBA.] I would suggest that working with the National Water Quality Trading Alliance and the National Water Quality Network would be more apropos then the NMBA. The Network is actually working on templates, metrics and science while the Alliance is more

8/23/2016 policy focused.

I love the performance standards recommendation, of course. Private markets do this by their nature. If we don't challenge ourselves to do better every year with our limited public resources, we're done for.

8/29/2016 Performance Financing - I had a feeling this would appear :) As you and I have discussed before, I support the concept, but not necessarily that all actions need to be the cheapest. Many things in the Bay restoration process are going to be costly and we can't ignore that. Shouldn't private money be targeted toward those practices? The private sector isn't afraid to spend money as long as there is a profit. While pounds reduced is important to the bean counters, it is not a priority from a strict investment perspective. Targeting where the reduction need to occur should be a focus (e.g. MD Trust Fund), but not necessarily what the reductions will cost.

8/29/2016 I understand why there is a MD focus, but with all their effort, they haven't moved a single credit. VA's program is simple, has created 50 banks and saved developers millions. VA is the example.

8/29/2016 p.20 talks about engaging the National Mitigation Banking Association. I recommend that instead the National Water Quality Trading Alliance should be the partner. They are getting ready (any day now) to release State Templates for trading programs. The Willamette Partnership is the lead for this effort... Troutman Sanders administers the Alliance work.

#### ***Core Recommendation 4: Reduce Unnecessary Transaction Costs***

I agree, but the discussion is general and tone is important. Also, local and state governments are hurting because elected officials have at time enacted deep cuts in agencies budgets. There aren't enough bodies. Without acknowledging this, recommendations to do things more efficiently will sound insensitive and/or naive the struggles of people in the trenches.

8/16/2016 Likewise, the report notes that permitting/regulatory delay is most-talked-about, but innovations are available and also permittees play a role in making efficient procedures more likely by having well-prepared projects. The report confronts the other end of delay issues noting that the requirements to spend money (e.g., dedicated revenue) in limited time frames works against having the best projects prepared for funding (thus multi-year spending authorities are needed for banking funds). The common denominator here is the need for well-prepared projects and financial frameworks that allow for such projects to be generated. The need for starting with well-founded project plans before worrying about the money is a point being stressed by the Rockefeller-funded REFOCUSPartners LLC group with respect to adaptation infrastructure, and I think the Symposium makes a case that financial mechanisms need to be supportive of that.

8/22/2016 [Re p. 19. Permitting.] Often it takes more time to obtain a restoration permit, than it would to get a permit for development.

8/23/2016 [Re p. 20 Procurement.] Turnkey should be promoted. This is a cultural as well as an administrative issue.

#### ***Core Recommendation 5: Facilitate the Flow of Capital Through Innovative Institutional Structures***

Similar to 3. I wonder how big of an issue this is. VA water quality improvement fund is a nonreverting fund. I am unclear why this wouldn't count like PENNVEST. I would imagine there are local funds out there as well. The risk is that the text comes off sounding naive because the reader might say, "we already do this".

8/16/2016 As stated earlier, I view PennVest's involvement as a market participant interferes and does not help private sector involvement.

#### ***Theme-Specific Recommendations: General***

The recommendations that resonated with me are the theme-based recommendations. More concrete, more actionable. People can see how they are different from status quo, how gain might be made, and how they can partner with the private sector. The core recommendations sound more like principles to strive for.

8/16/2016

#### ***Theme Recommendation 2: Stormwater Banking***

Virginia's program should be noted as a successful program in this context. Banks are particularly applicable for offsets for new growth. This is consistent with the Presidential Memorandum and the concept of advanced mitigation.

8/23/2016 The transfer of risk is a transfer of "project delivery" risk from the buyer/user to the producer.

#### ***Theme Recommendation 3: P3***

There should be an evaluation of the current laws and needs to supplement to enable P3s. It should be noted that there is a wide spectrum of P3s, some which are wholesale (like PG County) while others allow for bulk delivery of products.

8/23/2016

#### ***Conclusion***

I would like to see you add a bullet point that specifically refers to 25 years worth of trading experience nationally in the other water quality arena and that's wetland banking under the CWA. There is no reason why many of the 10 principles that underlie those successful practices 8/16/2016 cannot be unilaterally applied to addressing Bay water quality issues whether MS4 permitting, TMDL compliance and stream restoration work.

#### **Appendix: Summary of Notes from Work Group Discussions**

A very common repetitive point throughout the report is lack of demand (impacting the market for trading) and lack of clarity and inconsistent practices in many existing forums. Obviously these are both controlled by the regulatory community. It's one thing to have a rule in place but lack of political will to enforce it destroys any market. Again it's about availability of money. Lack of enforcement is as a result of the agencies being told by someone above them "don't enforce"; by agencies with limited resources to enforce and by lack of accountability within the agencies even in the absence of the 2 prior conditions. Bringing private capital to the table will help provide the resources that will create better environmental results as well as address the shortfall in what the government can pay for. To justify that investment we in the private capital markets need:

- Clear policy and rulemaking, effective and consistent enforcement, clear methods of implementation,
- cooperation between federal and state agencies in implementing and education of field staff within those agencies. (We need accountability but it will never happen in the public sector.)

#### **Task Forces / Financing Advisory Board**

I think the division of labor and specific objectives of the Financial advisory board are not clear to me. Not clear how this group helps. maybe you could recast it as an "innovation board"... how private and public sector can work together to simulate innovative investments. Need to

8/16/2016 make a strong case that we really need to add another layer of admin to the Bay program!

First, this recommendation was developed by EFC in response to the nature of the conversations that were captured in the minutes from each of the 12 breakout groups. We recognize that it was not explicitly discussed. However, given the clear disconnect between the public and private sector on these issues (as is evident by the comments received related to this report) some type of formal engagement is essential. Second, we do not recommend an oversight function. The Board should be strictly advisory as its name suggests.

I must admit, the FAB was not discussed in my groups, so this is new to me. I get concerned about quasi- governmental intermediaries interfering with the market. For example, I am not sure PennVest has helped private sector involvement in Pennsylvania. The issue with that market was that there was not enough demand. Private sector would have been prepared to take the risk if there had been buyers at reasonable prices. My sense is that PennVest as a market participant was not necessary and has hurt, not helped private sector participation. With that in mind, I get

8/23/2016 concerned with creating a Finance Advisory Board even if the scope is limited at first.

#### **Copyediting, Formatting, Etc.**

While the symposium addresses the Chesapeake Bay's situation with specific recommendations for that purpose, the principles (as noted in its summary) are transferable anywhere. Although not asked to comment on the DRAFT's organization, here's one lone comment: An implementation matrix would be very helpful that summarizes (visually and synoptically) which of the identified barriers in each theme area and the possible solutions are ones that could be dealt with under localized authority (administrative and policy-wise) and which will likely or definitely require higher (state or in some cases federal) regulatory change or cooperation. The information on these matters is there, but in a lot of text and with some examples or emerging responses in footnotes. It would be nice to see it in a broad summary—there is a large agenda here of next steps, years of work. The purpose of such implementation matrices is largely to have a framework and a tool that facilitates discussing and prioritizing action—much more can be said about this (and the basis in OD, planning and consensus-building) but I'll leave it at that except to add something I have used in training or facilitative services for years: it's better to have a tool or boundary object to kick around than

8/22/2016 to kick each other around.