



Maryland

Department of the Environment

Wes Moore, Governor
Aruna Miller, Lt. Governor

Serena McIlwain, Secretary
Suzanne E. Dorsey, Deputy Secretary

March 24, 2023

Lucinda Power
U.S. Environmental Protection Agency, Region III
Chesapeake Bay Program Office
1750 Forest Drive, Suite 130
Annapolis, MD 21401

Dear Lucinda:

I am writing in response to the US Environmental Protection Agency's (EPA) draft "EPA Expectations: Implementation of the Conowingo Watershed Implementation Plan's Phased Approach" (CWIP Expectations) received on February 16, 2023. Maryland appreciates EPA's continued leadership and oversight of the collaborative and innovative Conowingo Watershed Implementation Plan to help restore Chesapeake Bay. EPA's approval of phased Conowingo WIP implementation is a bold approach to modernizing our restoration efforts and encouraging the innovative financing that can help accelerate Chesapeake Bay Restoration.

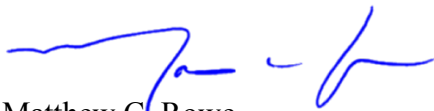
Maryland has been working effectively with our partners in Pennsylvania, New York and the Susquehanna River Basin Commission in building the institutional infrastructure to scale up CWIP implementation using a two-tiered framework of Susquehanna watershed scale pay-for-success financing and smaller subwatershed scale grant targeting. Details concerning this approach and related progress were communicated to EPA in our 2022 progress report (submitted January 17, 2023) addressing EPA's October 4, 2022 comments on our 2022/2023 CWIP milestones. This information is also available on the Chesapeake Bay Program Web site here - <https://www.chesapeakebay.net/who/group/conowingo-watershed-implementation-plan-steering-committee>. With this background in mind, Maryland respectfully submits the following comments on EPA's draft CWIP Expectations:

1. Receiving CWIP Expectations now with specific details that have not been communicated prior through the milestones and progress process does raise concerns about shifting expectations and timing. For example, EPA's expects that by 2025, sufficient programmatic and numeric progress has been made in meeting 100 percent of the necessary CWIP phosphorus target. This is a new requirement that has not been communicated previously or established in the partnership's 2022/2023 CWIP numeric milestones. As we move forward, we want to work more closely with EPA to improve partnership communications and timelines around Conowingo implementation;

2. In the background section of the CWIP Expectations, EPA continues to mention “lack of dedicated funding” despite Maryland’s \$25-million funding commitment, as well as the funding commitments expressed by PA, NY and SRBC. These combined commitments, relative to the overall estimated CWIP price tag, provide reasonable assurance that we can achieve our Conowingo milestone commitments; and,
3. EPA’s expectation that we “establish implementation targets for those BMPs that account for at least 60 percent of the nitrogen reductions in the CWIP at the beginning of each milestone period” is also a new expectation that did not come up during the milestones process. In addition, EPA indicates that “specific geographies and practices must be identified” as well as “BMP implementation levels... from each Susquehanna Basin jurisdiction”. When implementing a pay-for-success approach, the State does not pre-determine either the specific BMP/project types or where they are implemented. In pay-for-success, the private sector typically works with willing landowners in a watershed(s) to aggregate multiple BMP/project types that can be delivered at a fixed cost/pound of pollution reduction. The State then awards funding based upon the lowest cost proposals only after they have been implemented and verified. As such, jurisdictions implementing this approach should not be held to particular BMP targets and geographies outside their span of control. Further, in so doing, it places requirements on the private sector that can limit competition and increase costs, which works against the goals of a pay-for-success framework. We would like to schedule a meeting with EPA leadership or dedicate time on a future PSC meeting agenda to have in-depth conversations on pay-for-success and answer any related questions.

Together we are building the needed CWIP implementation capacity to help us achieve our pollution reduction goals. EPA’s leadership and contractual support have been critical during the CWIP planning phase and now that we have transitioned to an implementation phase, we want to continue working with EPA and the partnership to target federal dollars to implementation needs, like expert panels, contractor/technical assistance and grant writing. We look forward to our continued partnership and commitment to innovative water quality solutions.

Sincerely,



Matthew C. Rowe
Assistant Director, Water and Science Administration