

Congress of the United States
Washington, DC 20515

December 5, 2011

Hon. Harold Rogers
Chairman
U.S. House of Representatives
Committee on Appropriations,
H-307 The Capitol
Washington, DC 20515

Hon. Norm Dicks
Ranking Member
U.S. House of Representatives
Committee on Appropriations
1016 Longworth HOB.
Washington, DC 20515

Hon. Daniel Inouye
Chairman
U.S. Senate
Committee on Appropriations
Room S128, The Capitol
Washington, DC 20510

Hon. Thad Cochran
Ranking Member
U.S. Senate
Committee on Appropriations
Room S128, The Capitol
Washington, DC 20510

Dear Chairman Rogers and Ranking Member Dicks:

Over the past two years, the Environmental Protection Agency (EPA) has undertaken an aggressive plan in the Chesapeake Bay Watershed. While we share the EPA's strong desire to restore the Chesapeake Bay we have concerns about the aggressive and unflexible nature of this plan.

The EPA's implementation of their Total Maximum Daily Load (TMDL) sets strict limits on the amount of nutrients discharged into the Bay and each of its tributaries by different types of sources. These limits will dramatically restrict land usages for everyone who lives and works in the Watershed. At the same time, the EPA is seeking to expand their regulatory authority by seizing authority granted to the states and converting the cleanup efforts to a process that is a top down approach with mandatory regulations through the Watershed Implementation Plans (WIPs).

While the EPA will say that Bay states developed the WIPs, the EPA compelled the states to write the WIPs in certain ways under the threat of "federal backstops" or consequences. The EPA has even extended the threats of federal backstops or consequences should the states fail to meet EPA imposed milestones or check-ins. While our states are working in good faith to implement these plans, we believe that the EPA fails to recognize the magnitude of these regulations. Nearly every state in the Watershed has estimated that it will cost, on average, \$10 billion per state to implement this plan. These costs could continue to rise, as some estimates of implementation in Virginia have risen from \$7 billion to \$15 billion. Plus, this does not even account for all the costs that localities, businesses, farms, and individuals will incur for the plan. Financially strained states and communities across the Chesapeake Bay Watershed are debating how to implement these costly regulations.

Equally troubling is that the tools that EPA is using to make these decisions have been called into question. Virtually every state in the Watershed has approached the EPA about concerns regarding the accuracy of the Watershed Model. The model is producing inconsistent results and making it difficult, if not impossible, for the states and localities to use it to complete their Phase II WIP. EPA officials have even acknowledged that there are problems with the model citing that the model is not effective on a smaller scale. However, this model is driving the decisions that the EPA is using to issue target load reductions for the WIPs as well as any possible backstop actions that the EPA may impose.

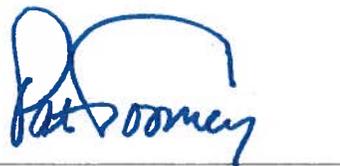
Given the enormous cost of these regulations as well as inconsistencies in the Bay Model, we have great concerns about EPA proceeding with their threat of backstop actions or consequences. As the Appropriations Committee considers a comprehensive appropriations bill for FY2012, we hope that the Committee will include language that would reaffirm and preserve the rights of the states to write their own water quality plans. We are not asking for language for the EPA to stop working cooperatively with the states to help restore the Bay. We think that states should be able to use any resources that EPA may have available to help restore the Chesapeake Bay. However, we believe it is necessary for the Committee to include language that would stop the ability of EPA to take over the decisions that have traditionally been reserved to the states.

Like most of those that live in the Watershed, we want to see the Chesapeake Bay restored. To make that an achievable goal we believe that EPA must be a partner in helping the states achieve their water quality goals, not mandating and micromanaging individual states. We urge the Committee to include language in your final bill that would preserve a cooperative relationship between the states and EPA.

We appreciate your attention to this request and we look forward to working with you.

Sincerely,












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Shelley Moore Capito

J. Padgughe

Tom Marino

