

HOUSE HEARING

A RENEWED COMMITMENT TO PROTECTING
THE CHESAPEAKE BAY:
REAUTHORIZING THE CHESAPEAKE BAY PROGRAM

U.S. HOUSE OF REPRESENTATIVES
Committee on Transportation & Infrastructure:
Subcommittee on Water Resources & the Environment

TESTIMONY OF GEORGE S. HAWKINS, ESQ.
DIRECTOR, DISTRICT DEPARTMENT OF THE ENVIRONMENT

TUESDAY SEPTEMBER 22, 2009, 2:00 P.M.
Room 2167 of the Rayburn House Office Building

Good afternoon, Chairwoman Johnson and members of the Subcommittee on Water Resources and the Environment. I am George Hawkins, Director of the District Department of the Environment (DDOE). Thank you for the opportunity to present testimony at this hearing on the reauthorization of the Chesapeake Bay Program.

I want to reaffirm the District's profound commitment to cleaning up the Chesapeake Bay, primarily by cleaning up the area's rivers that flow into the Bay, the Anacostia and Potomac.

The District is very supportive of the Senate's Bill entitled Chesapeake Bay Ecosystem Restoration Act of 2009 (the Bill). We appreciate the hard work involved to get the Bill this far, and it captures many critical activities that will be needed to accelerate restoration of the Bay. My remarks about the Bill on Chesapeake Bay reauthorization will address the following:

- areas of the Bill that the District supports
- areas in which the District seeks additional clarification
- additional provisions to strengthen the Bill

I am particularly happy to see incorporated into the Bill some of the actions I proposed in previous Senate testimony. In particular, I am glad to see the inclusion of Tributary Implementation Plans to be developed by each state (including headwater states). This is similar to the Clean Air Act's State Implementation Plan concept, which has worked quite well in giving states both a framework and flexibility in trying to achieve certain standards. I am also glad to see that some elements of a Bay-wide standard for stormwater control are included in the Bill.

I would like to point out that the District has not only met, but also exceeded the 1985 goal of reducing the levels of nitrogen and phosphorous discharged into our waters by 40%. The District accomplished this major achievement ahead of schedule, and is on track to continue making further pollutant reductions ahead of schedule. We feel we can meet the Bill's recommended 50% nutrient reductions by the second half of 2014, and meet the District's load allocations by 2020.

- The District is pleased that the Bill will codify President Obama's Chesapeake Bay Executive Order, a Baywide TMDL, and Tributary Implementation Plan requirements.
- Other aspects of the Bill that we favor are: the inclusion of Agriculture and CAFOs (animal feedlot operations) in a watershed wide permit approach; acknowledgement that air deposition contributes 1/3 of nitrogen to the Bay, which historically has not received the attention it deserves; and, the bill's ban on phosphates.
- The District is also thrilled that the Bill significantly expands federal grants – especially a new \$1.5 billion grants program to control urban stormwater; and also doubles the Bay implementation grant authorization to \$80 million.
- Finally, we support the Stewardship Grants for states, local governments, and academic institutions, as locally based protection and restoration programs or projects within a watershed will complement the

State tributary implementation plans.

While supporting the Bill, there are some areas that the District would suggest be clarified:

- The District would welcome additional clarification on what is normally a voluntary credit nitrogen and phosphorous (N+P) trading program; specifically whether the bill recommends the cap and trade program as mandatory or optional? We support the concept of prohibiting the purchase of credits from any entity that is in significant noncompliance.
- The District is glad that USGS and NOAA along with the various River Basin Commissions would be given roles in planning the monitoring programs. We wonder if this means there would be federal grant sources to implement state level monitoring? We agree that monitoring program should be divided into freshwater and estuarine, and wonder about a formula for the grants? We would like clarification on who performs the computer modeling to demonstrate the projected reductions in nitrogen, phosphorus, and sediment loads associated with each 2-year period. Currently, the District looks to EPA's Chesapeake Bay Program to conduct the very useful computer modeling.

In addition to the items the District supports and our clarifying questions, the District also believes that three provisions should be added to the current Bill to strengthen our cleanup of the Bay and the Anacostia River:

- First, the Bill should ensure adequate funding for Blue Plains Wastewater Treatment Plant. The District is faced with the obligation to maintain a vigorous program to reduce levels of nutrients in the area's waterways. This effort will require significant fiscal resources, and the \$2.2 billion price tag for the Long Term Control Plan (for CSOs) is far beyond the amount that can be borne by the District's ratepayers, alone. Since the federal government is a principal contributor to the combined sewer system, it might be prudent for them to contribute to the system by supporting implementation of the Long Term Control Plan. Because Blue Plains serves Maryland, Virginia and the federal government, there is a clear region-wide, multi-jurisdictional benefit to keeping Blue Plains fully funded wherein all states (and federal partners) benefit mutually.
- Second, with regard to the MS4 Permit terms in the Bill, the District applauds the approach of strengthening stormwater controls on development activity via existing MS4 permits, as this would go a long way toward standardizing these controls throughout the Chesapeake basin. However, we encourage you to go further by mandating that EPA develop basin-wide standards for all states that would apply proactively, rather than at a state's discretion (specifically, when a municipality fails to meet pollutant reductions). Bay states could be compelled to adopt these standards by making them a pre-condition of the state's Chesapeake Bay Implementation Grants.
- Third, the Bill should utilize this opportunity (reauthorizing CWA §117) to incorporate stormwater requirements/improvement for impervious federal roadways and highways. Recognizing that a high percentage of polluted runoff originates from roads and highways, DC is working to reduce this stormwater impact by undertaking a multi-faceted approach of using a variety of best management practices. The District is modifying roadway imperviousness on DC roads at every opportunity. It would be ideal if new federal roadway construction throughout the Bay watershed could also utilize similar types of alternative and corrective methods. I see this as an ideal opportunity to include stronger stormwater provisions (including calling for the use of standards and guidance from USDOT and EPA, to ensure that new construction and significant reconstruction of federal aid roadways mitigate the impacts of stormwater runoff).

Conclusion

Thank you for undertaking this critical task of reauthorizing the Bay Program and Section 117 overall – it will have far reaching impacts on the Bay's health and the rate of restoration. For our part, the District is fully committed to the Anacostia River and Chesapeake Bay restoration. Together with increased federal leadership, funding, and programmatic support, the Bay states will be better positioned to increase the rate of restoration and go beyond business as usual for the Anacostia and the Bay.

I thank you again for the opportunity to testify, and look forward to answering any questions the Subcommittee may have.