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Chesapeake Bay Program
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RE: Charting a Course to 2025

To Whom This May Concern,

The undersigned members of the Choose Clean Water Coalition (Coalition) write to formally comment on the Chesapeake Bay Program's (CBP) *Charting a Course to 2025* report. Thank you for providing this opportunity for public input and feedback, as it is imperative to hear from a diverse cross-section of stakeholders if we are to reach our collective clean water goals to restore the Chesapeake Bay watershed.

Executive Summary

The Coalition is made up of more than 285 nonprofit organizations spanning the entire Chesapeake Bay watershed, which includes six states and the District of Columbia. Our members represent a variety of interests, including but not limited to land and wildlife conservation, climate change, environmental justice, sustainable agriculture, clean energy, recreation and public access, and urban/suburban stormwater runoff. What connects all of our members is our collective interest and goal in restoring clean water to all of the rivers and streams in the Chesapeake Bay watershed.

For over a decade, we have worked to support the CBP and advance the goals of the *2014 Chesapeake Bay Watershed Agreement (Watershed Agreement)*. The Coalition and our members have played a critical role within the CBP Partnership ensuring the public can be heard in key decision-making processes. Now, because we have arrived at this unfortunate inflection point in the history of the Chesapeake Bay restoration effort, one of the Coalition's top priorities is helping the Partnership plot a new course beyond 2025.

The Partnership has made progress to meet several of the *Watershed Agreement* goals by 2025, including fish passage and public access. And we are pleased that West Virginia and the District of Columbia have met their pollution reduction targets for nitrogen, phosphorus, and sediment. However, Delaware, New York, Virginia, Maryland, and Pennsylvania, are not expected to meet their nutrient reductions goals by 2025. In this letter, we highlight gaps in the *Charting a Course to 2025* report and suggest changes and more specificity to the **Chesapeake Bay Total Maximum Daily Load (TMDL) & Phase III Watershed Implementation Plans (WIPs); Climate Change and Diversity, Equity, Inclusion, and Justice (DEIJ); Forest Buffers & Wetlands; and Toxic Contaminants Outcomes**. Many of our recommendations echo what is included in both the Scientific and Technical Advisory Committee's (STAC) Comprehensive Evaluation of System Response (CESR) report and the Environmental Protection Agency (EPA) Office of the Inspector General (OIG) report from July 18, 2023 (Report No. 23-E-0023).

While *Charting a Course to 2025* does include elements of these reports, it is broad and vague in how the CBP plans to accelerate progress toward 2025 and includes no timeline or deadlines. What is needed at this late date

are specific short-term deliverables and actions that can occur between now and 2025 to accelerate our progress and actions that can continue beyond 2025.

We also included recommendations for the Beyond 2025 Steering Committee to consider as their work gets underway. The Steering Committee should utilize the recommendations from all reports on the status of the restoration effort to inform the revision of the *Watershed Agreement*. A new or revised/amended agreement should be created by all CBP stakeholders, both signatories and not, and include a new clear vision, approach, and goals for the Chesapeake Bay watershed.

While this report reference's EPA's important oversight role of the Program, it lacks any recommendations for changes to the Accountability Framework. The Coalition urges EPA to embrace their leadership role within the Program, as designated by Executive Order 13508, and lead the restoration effort forward. This should be done in collaboration with the partners of CBP and the broader clean water community, but this effort needs a captain as we chart this new course.

RECOMMENDATIONS

I. Chesapeake Bay TMDL & Phase III WIPs

Since 2010, CBP partners have worked together in good faith to advance our collective goals for clean water through the WIP process. The Bay watershed jurisdictions were expected to develop plans that would demonstrate their path to success, which meant reaching their pollution reduction goals. We know now that almost all of the jurisdictions are unable to achieve what was set out in their plans by 2025.

Given the status of these plans and the load reductions, we believe that any effort to plot a new course must begin with an honest self-assessment. Each of the Bay jurisdictions should discuss what could have been done differently in order to achieve the 2025 target allocations. The leaders of the Partnership owe it to their constituents and the broader Chesapeake restoration community, to thoroughly examine the root causes of the present deficiencies in our progress. Only after such candid assessments are made can we collectively make the course corrections needed to accelerate progress.

While much has been made of the CESR report's "response gap" and the changes necessary to address it, it is striking how little discussion there is about how to address the implementation gap, especially given the maxim that it is best to focus on what one can actually control. Once again, we call on each jurisdiction to acknowledge the insufficient progress that resulted in this implementation gap and provide a candid assessment of what will be needed to close it.

TMDL & WIP Recommendations:

- **Reinstate State-Sector Evaluation Matrix**

The Coalition is repeating its previous request to EPA to provide the state-sector matrix previously used by EPA Region 3 in evaluating progress toward WIP commitments in each state. The matrix was a simple, color-coded chart that was easy for the public to understand where progress was adequate ("ongoing oversight"), lagging ("enhanced oversight"), or significantly off-track ("backstop"). It would require minimal additional effort by EPA to post this information on its website again, with the oversight status being updated as EPA conducts its evaluations of milestone progress. This would provide clear messages to policymakers, and the public about where more resources or effort are needed to meet each state's commitments under the TMDL.

- **Enhance the Level of Detail Provided in EPA Assessments**

While the Coalition appreciates the thoroughness of EPA reviews of state WIPs and milestones, what is often missing is a concrete statement of what *specifically* EPA expects a state to do to change course, and what *specifically* EPA will do if those expectations are not met. Clear communication and predictable follow-through actions are critical if EPA is to maintain an Accountability Framework that motivates states to accelerate progress. It would also be helpful for the dozens of Coalition members who are most active at the state level, with legislative or administrative advocacy, for EPA to provide concrete

recommendations of policy actions that would help the states address their deficiencies. If EPA maintains that any “backstop actions” or “consequences” previously set forth are no longer viable or realistic, then we encourage EPA to acknowledge this clearly and publicly so we all know what to expect going forward.

- **Acknowledge the Role of the Clean Water Act and Other Regulatory Frameworks**

A polluted Chesapeake Bay represents the cumulative impact of countless thousands of individual agency regulatory decisions (e.g., permitting, enforcement, regulatory development). While any one single action or decision may be comparatively small in the context of the Chesapeake Bay watershed, they still have potentially significant impacts to the nearest waterway or community, and will impact the new direction proposed by the CESR report to prioritize actions that protect shallow water habitat, for example. We call upon the jurisdictions’ regulatory agencies with a charge to protect and restore our waters and natural resources to acknowledge the role they could play in accelerating and enhancing those efforts. We must acknowledge these roles, including any tensions that accompany the fulfillment of them, in order to move forward under an Accountability Framework that was predicated on the full use of regulatory mechanisms. The Bay TMDL would not exist if not for the Clean Water Act, and the TMDL’s goals will not be met without a robust implementation and enforcement of the Clean Water Act.

- **Effective Planning to Address Nonpoint Source Pollution**

It should come as no surprise that both the OIG and CESR reports highlight the importance of curbing nonpoint source pollution throughout the Chesapeake Bay watershed in order to reach our clean water goals. The *Charting a Course to 2025* report agrees that reducing nonpoint source pollution continues to be the biggest challenge we face to meet our water quality goals and is “where future reduction efforts will need to be focused”. The report, however, failed to mention that the best available science shows we need to significantly reform existing conservation efforts to focus more on outcomes if the Bay goals are to be achieved. The report also contradicts the CESR report and suggests the lag in water quality improvement, especially in the deepest part of the Bay, can be fixed with increased funding alone. The CESR report specifically calls for “program change, innovation, and experimentation” in our work if we are to shift course, and that is at the core of our recommendations as well.

The EPA Office of Water’s April 5, 2022 memo “Accelerating Nutrient Pollution Reductions in the Nation’s Waters” provided specific strategies that could be adopted by CBP and other partners. Among the governing principles of this memo is “supporting innovation” by scaling outcomes-based and Pay for Success models. The Bay watershed is home to some of the most notable examples of this nascent policy solution, and increasing these was noted by the CESR report as a way to “encourage adoption of highly effective practices that land managers may not consider under standard cost-share programs”. A focus on quantifiable outcomes will also help CBP utilize other strategies in the memo, such as building partnerships between point sources and nonpoint sources, financing nonpoint source prevention projects with the Clean Water State Revolving Loan Fund, and increasing the effectiveness of the 319-grant program.

The Partnership should also:

- Quantify and develop a baseline understanding of where nonpoint source pollution derives from across the watershed;
- Assess which nonpoint source practices and policies have been most successful, both as documented in CAST, but also based on other evidence (e.g., focused monitoring by states, watershed organizations, or by farmers or other stakeholders);
- Focus conservation on what it means to address nutrient mass imbalances given that a prominent new study concluded that “recent research emphasizes the utility of input reductions over attempts to manage nutrient fate and transport at limiting nutrients in surface waters” (Ator et al., 2020).
- Building on the preceding assessment, create better incentives that effectively and efficiently distribute limited resources to maximize outcomes;

- Press for full implementation of “Pay for Success” programs such as MD and PA have across the watershed, so that conservation programs are purchasing quantifiable and verifiable nitrogen reduction results;
- Include incentives for best management practices (BMPs) that both prevent nutrient pollution and sequester carbon, such as vegetated streamside buffers and restored wetlands;
- Incentivize innovation and outcomes by creating a framework to accept alternative approaches to documenting performance (beyond CAST) while ensuring the integrity of these models;
- Build trust among farmers and businesses by rewarding or recognizing progress and success, while ensuring that bad actors are not rewarded for ignoring our laws; and
- Examine where point source programs have a role to play in reducing pollution that may have traditionally been considered nonpoint (e.g., manure transport, CAFO permitting, enhanced biosolid or industrial sludge land application regulations);

- **Accountability Framework**

The *Charting a Course to 2025* report does not address issues raised with the current Accountability Framework. The OIG report is explicit that without “implementation of a process to hold jurisdictions accountable for achieving nonpoint source pollution reductions, the EPA and Chesapeake Bay jurisdictions will not meet TMDL pollutant-reduction goals.” The Coalition understands that the EPA does not believe it has any authority over nonpoint sources, however, that should not end the conversation, but rather create an opportunity to think creatively and be innovative in the Partnership’s approach to accountability and oversight.

We agree about the need to “[d]efine the vision for what represents an acceleration of progress above present rates”, however, we had hoped this would be accomplished in the *Charting a Course to 2025* report. While it may be too late to create and implement robust new policies or programs needed to catalyze pollutant reductions before 2025, it is not too late to reboot the Accountability Framework. The report’s list of “challenges” that have “hindered progress” are almost entirely external. While we do not disagree that each of these are challenges, we do not believe this list is complete without a more candid assessment of internal deficiencies in the programs and policies maintained by each of the Partners. Again, the focus should be on aspects of Bay restoration that are *within our control*. A list of those challenges would be more meaningful as they would represent adaptive management opportunities.

Recommendations for near-term accountability actions:

- EPA must immediately begin sending the message to Bay jurisdictions and state partners that existing progress is insufficient and that lagging progress or outright default on various WIP commitments will not be permitted to continue indefinitely.
- Milestone and WIP assessments have often included detailed assessments of state activities and EPA expectations, but rarely have they actually included warnings about which consequences may be implemented when a jurisdiction fails to adhere to EPA expectations or the state’s own pledges. We urge EPA to send a clear message to the entire Partnership about what specifically it expects to happen by when, and what consequences will follow. If EPA has changed its approach to oversight, it must announce this reversal so the public, policymakers, and Coalition members are all keenly aware of the status of the Accountability Framework in 2023 and moving forward beyond 2025.
- EPA has previously produced several documents establishing the various authorities it holds to keep Partner jurisdictions on track, but it needs to act, when necessary. Nationally, EPA takes many of these actions in jurisdictions that do not even have the heightened obligation associated with the Bay TMDL and *Watershed Agreement*.

- The recent EPA settlement regarding Pennsylvania's progress under the Bay TMDL provides at least a limited playbook for various short-term actions and activities that could be utilized to accelerate progress and should be consulted as a guide applicable to any state partner that is not on track to meet the 2025 allocations.
- **Stakeholder Engagement**
Given the solution to nonpoint source pollution may already exist in the Bay jurisdiction WIPs, we support the report's emphasis on beginning and expanding conversations with stakeholders. However, we believe that the report should include concrete recommendations that go beyond conversations. When planning these conversations, the CBP should seek consensus by working with a broad set of stakeholders, including new and previously unengaged interested parties to acknowledge existing challenges and to solicit feedback about actionable opportunities. These 40 years of work and collaboration have yielded some valuable lessons that the Partners and stakeholders can share that would improve upon our efforts and to lay the foundation for what comes beyond 2025.

The CBP should consider convening a variety of stakeholders based on different interests, needs, and the role they have in addressing nonpoint pollution. Working with farmers, restoration businesses, nonprofit conservation organizations, elected officials and other advocates, the CBP should reform or replace existing programs by focusing them onto accounted load reductions rather than practices. This will entail working with these groups to develop better mechanisms for them to more effectively plan new conservation projects. By not taking an active role in leading frank, productive conversations with advocates and experts who drive policy, the CBP program is missing an opportunity to ensure funds are being spent in the most effective ways.
- **Accelerating Progress through Restoration**
We are concerned about the CBP's long delay to release the Request for Applications (RFA) for the FY23 Chesapeake Small Watershed Grants and Innovative Nutrient and Sediment Reduction Grants. These competitive grant programs have contributed significantly to water quality improvements throughout the region. This setback unnecessarily delays the implementation of critical on-the-ground restoration work by up to a year; delays us from meeting our restoration goals; and causes confusion about the ability to access a regular stream of funding for states, local governments, nonprofits, communities, and a diverse array of stakeholders, including family farmers. We urge you to make this a priority and evaluate the responses to the RFA as quickly as possible and get these dollars working on-the-ground in the watershed.

II. Climate Change and Diversity, Equity, Inclusion, and Justice (DEIJ)

Climate change will continue to impede progress to meet our 2025 goals and beyond if we do not take critical steps to mitigate its impacts in the watershed. Simultaneously, frontline communities disproportionately face impacts from climate change. Each day, low-income and communities that are predominately Black, Indigenous, and People of Color (BIPOC) experience disproportionately more extreme flooding events, heat waves, and public health threats. We applaud the Chesapeake Executive Council for taking steps to address climate change and DEIJ in the Chesapeake Bay Agreement. We acknowledge the increased attention to address climate change and DEIJ in 2020 and 2021 and encourage CBP leadership to keep this momentum moving forward.

Since the Climate Resiliency and DEIJ outcomes are standalone outcomes, we discourage any recommendation to address these as one issue. Although communities of color are impacted by climate change at higher rates, the goals and outcomes written in the Chesapeake Bay Agreement are very different and have distinct needs. Therefore, they should be treated as separate issues with separate recommendations, just as the *Watershed Agreement* intended them to be. Moreover, we highly discourage the PSC from combining recommendations for other outcomes moving forward. The recommendations below are specifically for DEIJ. See our comments below on "Climate Adaptation" (p.13).

DEIJ Recommendations:

- **Evaluation**

We agree that the structure of the CBP is not sufficiently set up to address DEIJ, however, work is already underway to strategically evaluate how to support this work. From 2018-2020, Skeo Solutions worked closely with CBP staff to develop a [DEIJ Readiness Assessment & Strategy Guide](#) that characterized CBP's strengths and opportunities for growth and developed a DEIJ Strategy. This strategy was provided to the CBP with recommendations and best practices in DEI for environmental agencies to inform policy and operations at the CBP. In the final phase of the project, Skeo facilitated a series of DEI trainings to expand CBP staffs' capacity for advancing DEI through their environmental work. Skeo also developed a series of tools and resources that CBP can use long-term to advance the recommendations of the DEI Strategy. For example, Skeo developed a DEIJ Statement signed by the CBP's Executive Council, which includes the governors of all states in the Chesapeake Bay Watershed. Skeo also developed agendas and facilitation tips for staff focus groups on internal culture, hiring, retention, and promotion at CBP, and guidance on incorporating DEIJ into workgroup work plans. This work should be explicitly acknowledged in the recommendations of this report to the Chesapeake Executive Council. It is insufficient and inaccurate to suggest in this report that the CBP has yet to strategically evaluate how to support this distributed work. The CBP has taken great steps to identify gaps and challenges to implement this work, but lacks clear metrics and ownership from leadership to successfully carrying out its DEIJ goals.

- **Operationalizing DEIJ & Identifying Champions**

The Bay restoration community is not immune to the broader environmental movement's institutional, systemic, and cultural challenges around race and ethnicity. It is well documented that leadership at the top should be "identified as champions" who are responsible for taking ownership of this work. Successful DEIJ outcomes depend on embracing both the administrative changes to policies and metrics, along with cultural changes within the organization to embrace DEIJ as a value integral to the organizational mission. The CBP's Diversity Workgroup has continued to take ownership of this work under limited guidance, direction, and resources from leadership. The Coalition's comments in response to the Draft DEIJ Strategy Implementation Plan included concerns for the high turnover rate in the Diversity Workgroup staffer and coordinator positions. We specified recommendations in that comment letter with best practices to distribute this work in a more manageable manner across the CBP. As champions, leadership at the CBP should take ownership of this work. As DEIJ continues to be operationalized across programming, CBP leadership must work alongside staff, grantees, and the Diversity Workgroup to ensure staff feel supported and that the work load is spread equitably across the CBP and Partnership.

- This report should also recognize that the CBP is actively taking steps to implement the DEIJ Strategy Implementation Plan, which includes hiring a contractor. It should also recognize the large amount of work that is currently underway to operationalize DEIJ through the Diversity Workgroup and include this in the Current Opportunities section. The CBP has laid the foundation to integrate equity and inclusion within the Program and we encourage the Beyond 2025 Steering Committee to further address how this priority will become integral to the Partnerships' culture and operations. The contractor and the Beyond 2025 Steering Committee should work together to clearly define what type of specific financial, technical, and capacity support is needed to implement this work moving forward.

- **Leadership Transition**

We recognize that the CBP is going through a period of leadership transition. We are concerned that efforts to properly implement principles of DEIJ with the staff will be lost if leadership does not step up and take responsibility for this work. The Director of the CBP and top leadership should be accountable for the needs of the directives that come up in the Beyond 2025 work related to DEIJ and other outcomes. See our comments below on "Visionary Leadership" (p.15).

- **Increased Resources**

While we agree there should be increased investments to advance the climate change and DEIJ outcomes, more often than not, the work to prioritize DEIJ simply requires behavior change. This supports our comments above to identify CBP leadership as champions for driving organizational change and operationalizing DEIJ across the CBP. In addition to the Coalition's comment letter on the Draft DEIJ Strategy Implementation Plan, we strongly support investigating network theory and other coordination

models to determine how to best structure this work. One additional resource that the CBP can utilize to institutionalize DEIJ is the [DEIJ In Action Guide](#), a 62-page document of recommendations for how organizations should develop and implement an internal and external DEIJ plan. The action guide includes many recommendations that do not require funding or dedicated resources to carry out. The DEIJ Action Guide is a customized guide and was the first effort of its kind created within the Chesapeake Bay watershed restoration community. It was created by the Coalition, in partnership with the Chesapeake Bay Funders Network, Chesapeake Bay Trust, and Skeo Solutions in recognition that the Chesapeake Bay movement lacks guidance on how to best support DEIJ efforts in the environmental community.

- **Funding Prioritization:** Oftentimes, restoration projects are prioritized in communities that have dedicated support, infrastructure, and resources to implement these projects. In order to meet clean water needs in low-income and BIPOC communities, it is imperative for the CBP to develop strategies and processes to prioritize restoration projects in those communities that promote climate resiliency, green infrastructure, and public health. These projects should be done with direct input from communities of color.
- **Project Prioritization:** CBP staff, GIT's, grantees, and workgroups should prioritize using tools such as the Chesapeake Bay [Environmental Justice and Equity Dashboard](#) as a means to identify opportunities to implement their work.
- We strongly agree that the CBP should fund critical projects outside of the GIT-funding process. And that providing a better accounting of federal and state resources contributing to the outcomes that could help address the funding shortfall by allowing partners to strategically align efforts and decrease inefficiencies. The Campbell Foundation recently shared an "[Overview of Recent Federal Funding & Opportunities for the Chesapeake Region](#)", a well-documented list of federal funding available to advance restoration and environmental justice goals. We encourage the CBP to utilize this resource as a starting point to provide better accounting of federal resources. In addition, the Coalition's comment letter on the "Draft Strategy Implementation Plan" outlines several examples of actions to leverage funding across the Bay Program.
- **Address DEIJ and Climate Resiliency as Standalone Outcomes**
Climate change and DEIJ should each be addressed as standalone outcomes. We discourage the PSC from combining recommendations for other outcomes moving forward.

III. Forest Buffers & Wetlands

Forest Buffers and Wetlands are rightfully noted as two "keystone outcomes" which aid in progressing the other 29 outcomes of the *Watershed Agreement*. As the first ecological line of defense in many of our Chesapeake communities, buffer and wetland outcomes should be prioritized as a focus on changes to programming, funding, partnerships, and implementation.

Forest Buffers & Wetlands Recommendations:

- The report mentions many opportunities to remove barriers to accelerate adaptation of forest buffer and wetland implementation across the watershed. With a host of opportunities around implementation, dedicated funding, organizational capacity, landowner outreach and engagement, tracking and verification, the CBP has an opportunity to better organize and streamline opportunities to re-define restoration systems. This change-making work starts with the Partnership, and will involve every sector and partner in creating the long-range vision for Forest Buffer and Wetland restoration, and how each sector is engaged in achieving these goals. An updated *Watershed Agreement* provides an opportunity for the CBP to align long-range visions with annualized implementation steps, and must include all of the sectors involved in the various pieces of this work.

- **Dedicated Funding and Capacity** are two issues that need to be addressed at the same time, and as the first step toward accelerated implementation of Forest Buffers and Wetlands. There must be dedicated funding that is also accessible to build the capacity of organizations to do this work over the next 5+ years. Aligning federal and other dollars to achieve the goals of both upfront outreach and engagement with landowners and organizational capacity to administer these programs (from planning to planting to maintenance), is a critical first step for the CBP to take.
 - The Beyond 2025 Steering Committee should consider the current systems of Forest Buffer and Wetlands, and determine the gap areas to accelerate this work. This is a conversation, with immediate implementation opportunities, that should be addressed prior to 2025. The CBP has the opportunity to better align the intent of grants with long-range impact in regards to building organizational capacity.
 - **Outreach and Engagement** continues to be a critical priority for the efforts of the larger restoration movement, as we move toward goals of broadening the tent of constituents engaged and active in this work. It is noted in the report that long-lasting and trustworthy relationships with landowners is a challenge. Dedicated funding to build the capacity of organizations is essential to ensuring this happens consistently over time. This is also an opportunity to build the capacity of organizations that do not have a direct responsibility for on-the-ground implementation, but are representative of a community that could be a focus area for these restoration efforts. It is important to think beyond the groups doing on-the-ground work, and recognize the need to bring community-based groups into the effort to help accelerate this work. This could also help assist with engaging more diverse communities in this work.
 - **Dedicated Funding** must be allocated to the maintenance of Forest Buffer and Wetland restoration efforts, or we will not achieve the end goal. CBP jurisdictions should require a portion of any type of on-the-ground grant funding to be required to go toward maintenance for at least three years. It should be noted that Wetland restoration efforts often require federal permits, which come with mandatory maintenance and inspection requirements, the costs of which are not currently included in CBP and partner grants. This is an area of accountability that the CBP and funders can work toward immediately.
 - In Maryland alone, the Blackwater National Wildlife Refuge loses approximately 300 acres of tidal wetlands a year, more than 5,000 acres since its establishment in the 1930's. This staggering figure demands that we prioritize areas of restoration, pairing all types of restoration efforts in areas that have an upstream opportunity to function on an ecosystem level, improving downstream conditions. Wetlands are being lost daily through the land development process, and those areas serve as the first intervention during large rain storm events, and their restoration should be prioritized in urban and suburban areas. Wetlands can be enhanced during the development process, which provides an opportunity to leverage private capital into the restoration system in a new way. So much of the future of the health of the Chesapeake hangs in the balance of how and where we develop, and the next *Watershed Agreement* should aggressively provide recommendations for making larger systems-change at the local government level in regards to restoration opportunities.

XII. Toxic Contaminants Goal Outcome

We urge the Partnership to continue its focus on this important goal of ensuring the Bay and its rivers are free from the effects of toxic contamination and expand upon the associated outcomes to develop a more holistic approach. Toxic contamination is a whole system issue. From individual to institutional application of pesticides, herbicides, chemical fertilizers; extraction, transport, distribution and combustion of fossil fuels; overtaxed wastewater treatment systems and chemical leaks, spills, fires and even the firefighting foam all contain health harming and even carcinogenic compounds. The report acknowledges the significant challenges because of the limited data from monitoring and significant number of toxic compounds to research. However, because of the pervasive and bioaccumulative nature of (per-and polyfluoroalkyl substances) PFAS, (polychlorinated biphenyl) PCBs, mercury and many other well-studied contaminants like lead that went unnamed in the report, it should

spur action far beyond tracking. Our communities and waterways are plagued by toxic contaminants and these impacts warrant as strong a response from state and federal leaders as possible. Our streams, rivers, wells, groundwater, drinking water, and the entire Chesapeake Bay watershed ecosystem are in dire need of both mitigation and pollution prevention. Numerous additional *Watershed Agreement* goals and outcomes will also be elevated by taking a stronger and more active stance in addressing toxics.

Toxic Contaminants Policy and Prevention Recommendations:

- **Oversight:** We urge EPA to provide additional oversight of permits that contribute disproportionately to the public's exposure to toxic contaminants. States may not possess the research, analytical, or permitting expertise that EPA has and may be unaware of the ability, authority, or obligation to introduce permit limits or conditions designed to reduce the exposure of communities or waterways to toxic contaminants.
- **Regional Information Sharing:** Cross-jurisdiction coordination and knowledge sharing is essential. For each toxic contaminant of focus, there should be a mechanism for jurisdictions, municipalities, and other stakeholders to share policy approaches, lessons learned, and recommendations so programs can benefit from collective learning. We urge EPA to convene greater information sharing sessions regarding state monitoring for a variety of toxic contaminants, including certainly PFAS, but also other emerging public health threats found in wastewater, sewage and industrial sludge, stormwater from industrial, municipal, and transportation sources, and even in air, soil, and dust. We continue to be highly concerned about the persistent problem of PCBs, heavy metals, PAHs, oil, pesticides, and other organic chemicals. The public, policymakers, and regulators are starved for data to help elucidate the greatest sources of toxic loading to waters and exposure of pathways for humans.
- **Human Health:** The toxic contaminants goal specifies the elimination of toxic contaminants due to effects on both living resources and human health. However, there are no recommendations related to human health. More work is needed to identify communities disproportionately impacted by toxic contaminants through the consumption of contaminated organisms as well as proximity to known polluting sources like fossil fuel burning power plants and major highways. Furthermore, there should be coordinated educational workshops to increase public knowledge of the impacts of toxic contaminants on human health and the risks of consuming contaminated organisms.
- **Wildlife Health Recommendation:** Incorporate policy outcomes for population and health of indicator species of restoration such as Brook Trout, Black Ducks, and Blue Crabs as it relates to toxic contaminant bioaccumulation.

Toxic Contaminants Research Outcome and Recommendations:

- **Specific Measures to Assess Progress:** We applaud the increased focus on the emerging issue of PFAS and urge the Partnership to develop a more holistic approach that includes baselines, tangible goals, and metrics to evaluate PFAS, PCBs, mercury and other known but unnamed toxics, as well as metrics to measure progress and success.
- **Guidance for Local Jurisdictions:** We recognize the challenges enumerated about local jurisdictions having limited funds and may divert resources from PCB to PFAS research and mitigation. Toxic contamination and its long-term impact on both human and ecosystem food web health is so critical that guidance on the allocation of resources will be necessary to ensure that local jurisdictions are able to continue and even add to the number of contaminants that are being tested for at once for residents on municipal sewage and wastewater treatment, aquifer and private well testing.
- **Address Sources of Toxics Contamination:** Fossil fuel contamination is not acknowledged in this report and has already been widely researched, studied and documented. As an example, lead and mercury scrubbed from air in coal burning are discharged into water sources and the coal ash leaches into the soil in legacy pollution sites and runs off with uncapped landfills. Furthermore, monitoring for even the most stringent regulations is being done by the permit applicant. There is a need for

accountability for noncompliance and EPA enforcement for current permit holders as well as decommissioning plants.

- **Pollutant Co-removal:** While research related to the occurrence, concentrations, and effects of contaminants is fundamental, more pollutant co-removal research is needed. Specifically, more research is needed to identify strategies and best management practices that remove multiple toxins, including but not limited to PCBs, PFAS, and mercury. This approach will also optimize the limited funding to address a greater number of toxins.
- **Incorporate Indicator Species:** Choose indicator species for tracking health impacts from existing public health data. Measure toxics in indicator species of restoration health such as Brook Trout, Black Ducks, and Blue Crabs.
- **Science Communication:** There is a need to communicate the science to stakeholders with actionable policy steps. It is imperative that the occurrence, concentrations, sources and effects of contaminants are communicated to policymakers so state and local policies can be leveraged to reduce contaminant loading at the source.

XIII. Climate Adaptation Outcome

The climate is changing far more rapidly than our ability to adapt to it, including in the particular context of the Bay TMDL and the Partners' ability to develop adequate adaptation programs. As the Partnership is acutely aware, staffing capacity in the agencies has long been an issue even to simply meet the needs of the existing statutory obligations, most of which were born of an era where climate change was not widely recognized as a problem. Considering the amount of work required to update existing programs and policies or create new ones that are capable of integrating climate considerations into water quality and ecosystem restoration efforts, it is clear that each of the jurisdictional Partners will need a significant infusion of staff and resources.

Climate Adaptation Recommendations:

- Create a toolkit and provide training for state and local governments with existing resources to address climate change adaptation, including planning and assessment tools, climate adaptation and mitigation strategies, and a list of federal grant opportunities.
- Develop communication tools for state lawmakers, such as an educational factsheet, on the impacts of climate change to local water quality and restoration efforts that emphasizes the urgency to devise and implement the necessary adaptation resources and programs.
- Develop a baseline understanding of what climate change planning efforts and projects are currently in place. Identify current work and gaps to meet the outcome. Survey local governments on their perspectives, efforts, barriers, and needs in addressing climate change and sea level rise.
- Clearly define and create metrics for the jurisdictions as to what qualifies as climate adaptations. When appropriate, align metrics to the co-benefits of BMPs that count towards TMDL nutrient and sediment reductions.
- Emphasize and prioritize the need for greater investment in frontline communities using existing or new funding streams in order to address the disproportionate environmental, health, and climate risks faced by some communities (e.g., abundant and pervasive fossil fuel toxic contamination of air, water and soil, urban heat islands, flooding, increased exposure from greater amounts and intensities of runoff). The CBP has an existing mapping tool, [the Chesapeake Bay Environmental Justice and Equity Dashboard](#), to help in prioritizing resources and efforts. Training and use of this tool should be encouraged across the watershed.

RECOMMENDATIONS BEYOND 2025

Progress to improve the health of the Bay is happening at a much slower rate than anticipated. When the *Watershed Agreement* was signed, the goal was to “restore, enhance and protect a network of land and water habitats to support fish and wildlife, and to afford other public benefits, including water quality, recreational uses and scenic value across the watershed”. While this goal is still at the core of our work, the landscape of the watershed has already shifted. Between 1980 and 2017, the Bay watersheds’ population rose 43%, from 12.7 million people to 18.2 million people. In addition to population growth, ongoing threats from climate change, hazardous pollution from the fossil fuel industry, development, urban sprawl, plastic pollution, environmental racism, pollution from the Conowingo Dam, and nonpoint source pollution are becoming more prevalent. Additionally, the restoration effort has not been immune to impacts from the recent economic crisis and public health pandemic.

The CESR report made it very clear- the Bay we know now will not look like the past. It noted that climate change could be offsetting our nutrient reduction progress in a major way. Warmer water holds less oxygen, and rainfall has increased, washing more nutrients off the land and into the Bay. The report also concluded that it is unclear that achieving nutrient reduction by itself would improve aquatic life. Especially, in deeper parts of the Chesapeake Bay and without new technology. The report suggests that different approaches, new strategies and resource allocations are needed to address ongoing pressures from our changing world. We need creative thinking and a vision for the watershed that is modern and holistic. It must consider the many environmental, social, and economic challenges we will face in 2025 and beyond. In addition to these pressures, the Supreme Court’s *Sackett v. EPA* ruling poses serious ramifications to wetlands, groundwater, and surface waterways throughout the Chesapeake Bay watershed. Federal rollbacks on environmental laws and regulations undermine the progress we have made to restore the watershed, and place increased responsibility on each state to ensure adequate protection of wetlands and ephemeral water bodies that are no longer subject to federal jurisdiction.

VISIONARY LEADERSHIP

We recognize that the CBP and Partnership are experiencing a leadership transition. Several key senior positions are vacant and/or will be soon. These include the EPA CBP Director, EPA CBP Partnerships and Accountability Branch Chief, United States Geological Service CBP Coordinator, EPA Region 3 Deputy Administrator, and the National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office Director. We are especially concerned about the CBP Director vacancy and the soon to be vacant NOAA Chesapeake Bay Office Director. These positions are essential to effectively accelerate Bay restoration goals to 2025 and beyond in a timely manner.

- **CBP Director:** Without a permanent Director, the CBP suffers from lack of leadership, inadequate accountability, and a dearth of executive management. Therefore, it is essential that the next CBP Director be a strong and widely respected thought leader who is familiar with the unique nature of the Partnership and the complexities that impact Chesapeake restoration work.
- **Reaching 2025 Working Group:** The NOAA Chesapeake Bay Office Director is currently leading the Reaching 2025 Working Group that drafted this report. The CBP has yet to announce how this transition will be handled and who will direct this work in the absence of the NOAA Chesapeake Bay Office Director. Given the immediate urgency, limited resources, and time constraints to accelerate toward the 2025 deadline, we are very concerned about the Reaching 2025 Working Group’s capacity in the absence of the NOAA Chesapeake Bay Office Director. The CBP should reassess the capacity of this group and provide staff and the Partnership with the necessary resources to ensure the Reaching 2025 Working Group has sufficient support and resources to successfully carry out the remaining duties in the Chesapeake Executive Council’s charge on *Charting a Course to 2025*.

The next person leading the Reaching 2025 Working Group should have available capacity to ensure that public comments in response to this report are incorporated into the final recommendations to the Chesapeake Executive Council. This person should also have the capacity to ensure the final recommendations from this report are integrated and prioritized in the Beyond 2025 Steering Committee’s

work. This leadership position will play a critical role to help set the course and inform the best approaches and strategies needed to complete the remaining outcomes in the *Watershed Agreement*.

Recruiting visionary leaders for these vacancies should be a top priority of the CBP. As we continue to address challenges to restore the watershed, it is necessary to recruit leaders who can not only motivate and inspire the Partnership, but ones who have demonstrated experience driving strategic action, problem solving, leading a diversity of stakeholders, creating change, and addressing complex environmental challenges. As we look beyond 2025, we need thoughtful leaders who represent the future of clean water, embody principles of DEIJ, and embrace collaboration. They must be able to anticipate challenges to effectively support and empower staff and the Partnership. These leaders will be called upon by a large community of partners and the Chesapeake Executive Council to set the course and steer the direction of our clean water movement in face of environmental threats. We need individuals in all of the positions identified who are dedicated to Bay restoration and can hit the ground running.

CENTERING PARTNERSHIP

The Choose Clean Water Coalition staff was a member of the Reaching 2025 Working Group, and we were honored to represent the voices of the nonprofit Chesapeake Bay restoration and conservation community. As one of few members of the Partnership on the Working Group, the Coalition is made up of over 285 nonprofits and community groups who are actively implementing Chesapeake Small Watershed Grants and Innovative Nutrient and Sediment Reduction Grants in every jurisdiction across the watershed. Our members are the practitioners working on the ground implementing conservation practices that directly support the goals in the *Watershed Agreement*.

We and our members are a vital and critical resource who possess firsthand experience, knowledge, and expertise working with farmers, community groups, local governments, and stakeholders to advance our collective restoration goals. Stakeholder involvement has been a hallmark of the CBP Partnership for forty years and should not be abandoned or forgotten in its 40th year. Working together supports the Principles of the *Chesapeake Bay Agreement*, which states that the Partnership will seek collaboration, represent the interest of the people, operate with transparency, seek consensus, and engage the public. Actively involving stakeholders and members of the Coalition early and often in decision making is the best path forward to get stronger support and buy-in for policies developed together. Given this, the Coalition is very disappointed that the public was only given 30-days to provide public comment on this report.

The charge from the Chesapeake Executive Council was provided to the PSC on October 11, 2022, which was almost a year ago. As partners in this work, we do not want to delay progress to reach our 2025 goals. However, the CBP should be centering the Partnership in this work and provide meaningful opportunities to move our collective clean water goals forward. In undertaking the charge, the PSC was asked by the Chesapeake Executive Council to consider Partnership, and to “have systems of evaluation and decision-making to engage meaningful action”. A 30-day comment period is not a sufficient time frame for the public to “engage in meaningful action”. We urge the CBP to provide no less than 60-days to solicit public comment on matters related to *Charting a Course to 2025* and beyond. Moving forward, better planning is needed and should be prioritized to engage the public. After forty years of working to restore the Bay watershed, an additional 30-days should not impede our progress.

We are very concerned that the makeup of the Beyond 2025 Steering Committee is not representative of the organizations who make up the Partnership. Although the Beyond 2025 Steering Committee meetings are open to the public, it is imperative that the organizations who help to meet the goals in the Chesapeake Bay Agreement through on the ground restoration and community engagement across the watershed have a voice in the decision making. We urge the Partnership to provide for meaningful public participation and engagement by:

- Creating at least two voting, at-large advisory member positions on the Beyond 2025 Steering Committee. These positions should have equal representation and decision-making power as the other Beyond 2025 Steering Committee members. These seats should have the same authority, roles, opportunities, and expectations and should not be viewed as “lesser than” by the CBP and Partnership.

This approach is in-line with CBP's public commitment to creating not only a diverse, but equitable and inclusive partnership;

- And exploring additional opportunities outside of public meetings and comment periods to authentically engage and gather input from stakeholders who are directly involved with this work. This should include the hosting of intentional opportunities to solicit feedback from the public, targeting specific communities to solicit public input from, and physically hosting engagement opportunities outside of EPA and CBP offices.

REVISE THE CHESAPEAKE BAY AGREEMENT

As we approach the 2025 deadline and beyond, a clear pathway and tangible outcomes are needed to continue the extraordinary progress we have made to restore the rivers, streams, habitats, and landscapes throughout the Chesapeake Bay watershed. While EPA is required to have most of the activities in the *Chesapeake Bay Agreement* in place by December 31, 2025, the overall agreement will expire April 30, 2027. Time is of the essence, and all recent reports, feedback, and analysis point to a restructuring of the approach to the restoration effort. We urge the CBP and the Beyond 2025 Steering Committee to begin a process to revise the *Chesapeake Bay Agreement*. However, it cannot simply extend deadlines to the existing goals as presented in the *2014 Chesapeake Bay Agreement*, but rather should change the way we fundamentally approach our restoration and conservation work to focus on outcomes.

Public comments and final recommendations from this report should be used to inform the revision of a new Chesapeake Bay Agreement. This process should be led with inclusivity, transparency, and with partnership in mind. There should be clear and actionable steps that assign responsibility and leadership to specific members of the CBP and Partnership, with new accountability plans that ensure the Partners work together to hold each other accountable, especially as it relates to the additional challenges posed by climate change, development/land use, population growth, racial injustice, and more.

For too long, Bay restoration efforts have primarily focused on water quality indicators that are difficult to understand and grasp. We need to shift our focus to improving people's lives - identifying projects and practices that will advance the health of communities, local economies, and public recreation. We have an exciting and extraordinary opportunity to re-envision, craft, and implement the policies and practices that will allow us to leave a legacy of clean water to future generations. The CBP and the Partnership should capitalize on this moment to inspire and reinvigorate communities by prioritizing clean water projects and programs that provide investments and support into disadvantaged and marginalized communities. A revision of the Chesapeake Bay Agreement should look beyond restoration. The CESR report made it clear, the Bay of the future will not look like the past. Therefore, it should be created with, and for, people. Let us use this moment to enable communities to turn their vision of a future Chesapeake Bay into a reality.

SUMMARY

We appreciate the opportunity to comment on the report, *Charting a Course to 2025* and urge you to consider the recommendations we have provided. We request a written response to our letter that addresses its major themes and recommendations and ask that all comments submitted during this public comment period are shared publicly. We urge you to consider these recommendations and all public comments in the work leading up to 2025 and for the Beyond 2025 Steering Committee to consider our recommendations as the PSC prepares their final report to the Chesapeake Executive Council in 2024.

We applaud the CBP and efforts to best address and integrate new science and restoration strategies leading up to 2025. In doing so, there is a greater need to prioritize partnership in this work. The charge from the Chesapeake Executive Council identified partnership as priority to accelerate our 2025 goal. However, a 30-day comment period is not sufficient for the public to "engage in meaningful action" as the charge laid out. There needs to be greater transparency on how the CBP and Beyond 2025 Working Group will address gaps in this work. The wildlife who thrive and the livelihood of communities who call the watershed their home depend on it.

The Partnership includes many members of the Coalition who have contributed to the success of Bay restoration for more than forty years. We welcome the opportunity to collaborate and work together as we approach 2025 and beyond. Your leadership is imperative to meet the goals of the *Watershed Agreement*. The undersigned members of the Coalition thank you for your consideration of these recommendations to help guide the CBP and the Partnership in strengthening its roadmap to meet our collective watershed goals. With questions, please contact Kristin Reilly at 443-759-3409 or reillyk@nwf.org.

Sincerely,

Alice Ferguson Foundation
Alliance for the Chesapeake Bay
Alliance for the Shenandoah Valley
American Chestnut Land Trust
American Rivers
Annapolis Green
Audubon Mid-Atlantic
Audubon Society of Northern Virginia
Blue Water Baltimore
Canaan Valley Institute
Catoctin Land Trust
Chapman Forest Foundation
Chesapeake Bay Foundation
Chesapeake Conservancy
Chesapeake Legal Alliance
Clean Fairfax Council
Clean Water Action
Coalition for Smarter Growth
Conservation Voters of Pennsylvania
Corsica River Conservancy
Defensores de la Cuenca
Delaware Nature Society
Delaware-Otsego Audubon Society
The Downstream Project
Earth Force
Eastern Pennsylvania Coalition for Abandoned Mine Reclamation
Elks Run Watershed Group
Environmental Policy Innovation Center
Friends of Dyke Marsh
Friends of Nanticoke River
Friends of Quincy Run
Friends of Sligo Creek
Friends of St Clements Bay
Friends of the Chemung River Watershed
Friends of the Middle River
Friends of the Rappahannock
Friends of the Shenandoah River
Interfaith Partners for the Chesapeake
Izaak Walton League of America
James River Association
Lackawanna River Conservation Association
Lancaster Clean Water Partners
Lancaster County Conservancy
Lancaster Farmland Trust
Loudoun Wildlife Conservancy
Lower Susquehanna Riverkeeper Association
Lynnhaven River NOW

Maryland Conservation Council
Maryland League of Conservation Voters

Maryland Pesticide Education Network
Mattawoman Watershed Society
Mid-Atlantic Youth Anglers & Outdoors Partners
Mountain Lakes Preservation Alliance
National Aquarium
National Parks Conservation Association
National Wildlife Federation
Nature Forward
Otsego County Conservation Association
Pasa Sustainable Agriculture
PennFuture
Phillips Wharf Environmental Center
Piedmont Environmental Council
Potomac Conservancy
Potomac Riverkeeper Network
Potomac Valley Audubon Society
Rivanna Conservation Alliance
Rock Creek Conservancy
Rockbridge Area Conservation Council
Shenandoah Riverkeeper
ShoreRivers
Sierra Club - Virginia Chapter
Sleepy Creek Watershed Association
Southeast Rural Community Assistance Project
Southern Maryland Audubon Society
St. Mary's River Watershed Association
Surfrider Foundation – DC Chapter
Surfrider Foundation- Virginia Chapter
Sweet Springs Resort Park Foundation Inc.
Sweet Springs Watershed Association
The Wetland Trust, Inc.
Virginia Aquarium and Marine Science Center
Virginia Conservation Network
Virginia Interfaith Power and Light
Virginia League of Conservation Voters
Waterkeepers Chesapeake
West Virginia Highlands Conservancy
West Virginia Rivers Coalition
Wild Virginia