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June 7, 2019

Benjamin H. Grumbles, Secretary  
Department of the Environment  
1800 Washington Blvd.  
Baltimore, Maryland 21230

Re: Comments on Maryland's Phase III WIP

Dear Secretary Grumbles:

On behalf of our member counties – Caroline, Carroll, Cecil, Dorchester, Kent and Queen Anne's – the Clean Chesapeake Coalition ("Coalition") offers the following comments and recommendations regarding Maryland's proposed Phase III WIP. Please note that these comments and recommendations are not intended to limit or supplant the direct participation of each Coalition county in the State's Phase III WIP development process. Indeed, each of our member counties are expected to separately provide information and suggestions to your Department about local programs, policies and practices in their respective jurisdictions intended to reduce pollution loading, improve water quality and meet Bay TMDL goals.

Coalition members have consistently advocated for concerted local coordination in the development of the State's WIP and we appreciate the obvious effort that State agencies have made to be more collaborative during the Phase III planning process (compared to the State's Phase II WIP development process). Given that the U.S. Environmental Protection Agency (EPA) delegates responsibility to the watershed states to implement key provisions of the Clean Water Act and meet Bay TMDL goals, we find it appropriate that the approach for this phase did not simply mandate onerous burdens on counties, but worked with various local government stakeholders to define goals that consider the practicalities and resources available locally.

Coalition counties are also pleased to see the State taking an interest in natural aquatic filterers as a long-term strategy for improved water quality and climate resiliency. We are disappointed, however, that the wild oyster population and a prudently managed oyster fishery have been ignored; the only mention of oysters as a strategy for water quality improvement is aquaculture (Appendix B; B-18). While it is true that farmed shellfish improve water quality around their cages during some portion of the limited time they are in the water, Coalition counties are more interested in the long-term rebounding of the Bay's oyster population for its filtration services as well as multiple other co-benefits. There is no difference between a wild oyster and an oyster in an aquaculture cage in terms of nutrient assimilation and filtering. We advocate for State investment in natural oyster bar replenishment, using native shell and natural diploid oysters that are capable of reproducing, rather than the sterile triploids preferred by the aquaculturists. Rotational harvests, which help to keep oyster bars free of sediment and clean for new spat recruitment, will ensure that reefs begin to thrive again, protecting shorelines from erosion and

providing habitat for abundant life, including other filter feeders, to breed, hunt and shelter. It is far less expensive to facilitate the natural reproduction and propagation of indigenous oysters per Mother Nature's designs than by way of laboratories, hatcheries, cages and non-indigenous "alternative" substrates.

As the scope of our mission includes drawing attention to the largest sources of pollution loading into the Maryland portion of the Bay, there is keen interest in the WIP portion dealing with municipal sewer system overflows and the Consent Decrees intended to address them. We are frankly astounded that the completion of the Headworks SSO project will only reduce nitrogen and phosphorus loading into the Bay by the amount reported, given that a cursory glance at the Maryland Reported Sewer Overflow data reveals that from January 1 through April 11 of this year, the discharge of 157,790,826 gallons of untreated sewage have been reported, with 59,360,638 gallons attributable to Baltimore City alone. As your Department well knows, the adverse impacts of untreated wastewater discharges on water quality and the ecology of the Bay are not limited to nitrogen and phosphorus impacts. We appreciate that the State is treating these violations of the Clean Water Act seriously and look forward to regular updates and an on-time completion of the goals set out in Appendix B of the Phase III WIP.

As the Coalition has stressed for years and was confirmed by the Lower Susquehanna River Watershed Assessment, the reservoir behind the Conowingo Dam has lost its trapping capacity and this condition results in significantly more pollution loading from the Susquehanna River into the Bay. We applaud the State for its holistic approach to addressing pollution impacts attributable to Conowingo Dam and the commitment to hold the Dam's owner, Exelon, accountable for the threat its operations pose to the fragile recovery of SAV and other aquatic life in the Upper Bay. As one of the first environmental groups to sound the alarm on this issue in the context of the 2010 Bay TMDL, we look forward to participating in the development of the Conowingo-specific WIP agreed to by the Bay States and EPA, and we stand ready to support the State as it pursues all avenues to enforce MDE's April 2018 water quality certification for Conowingo Dam relicensing. The defense of our right to protect the waters of the State is paramount. We are trusting the Administration to hold fast at this pivotal point on the Bay cleanup continuum.

Ours has never been an either/or proposition. While we have focused much attention on the Conowingo factor and upstream pollution, we acknowledge the importance of addressing localized pollution sources and the water quality in our tributaries, creeks and streams. We embrace an all-of-the-above strategy to improving and maintaining the health of the Chesapeake Bay, with concerted attention on the largest point sources of pollution loading to the Maryland portion of the Bay and priority given to the most cost-effective endeavors.

Sincerely,



Ronald H. Fithian,  
*Chairman and Kent County Commissioner*