

**Remarks to the House Joint Resolution 640 Committee**

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**General Assembly Building, House Room C**

Mr. Chairman and members of the Committee:

It is my pleasure to be with you today to offer my perspective on the issues raised by House Joint Resolution 640. I would like first to commend Delegate Callahan for introducing HJR 640 that raises important issues regarding the funding of our water quality programs and for each of your efforts during the recent General Assembly session. The work you have done and the work you will do over the coming months, and the recommendations you will make as a result of this study will determine whether we will have clean water and healthy habitat in this Commonwealth. You will choose and recommend the best method to meet both the commitments we have made under the Chesapeake 2000 Agreement and the legal obligations imposed by the Clean Water Act and under Virginia law.

Through scientific research, monitoring and modeling, we know what to do to restore water quality and in large measure, we know how to do it. All that we lack are the financial resources to get the job done. This is particularly true in the case of nonpoint source programs that are for the most part based on financial incentives. Without sufficient funding, we will not achieve the necessary water quality improvements and I would not be surprised if EPA moves to impose greater regulatory responsibilities on nonpoint sources if we fail to meet water quality standards.

I am particularly pleased that this committee is looking at water quality issues on a statewide basis. The problems facing the Chesapeake Bay are well known and my office and the agencies within my secretariat, in concert with EPA, the other 5 bay states and the District of Columbia have spent a good deal of time developing strategies to address these problems. Despite our collective efforts, we still have significant water quality problems throughout the state, as evidenced by the water body listings for which we are required to prepare TMDLs under section 303(d) of the Clean Water Act.

As you know, I have long advocated additional support for our natural resource programs. Our total budgetary support for all of the natural and historic resources agencies has historically hovered at or below 1% of the state budget. You also know that Virginia ranks at or near the bottom, depending which measure one uses, in natural resource spending among the states. In many ways, we are suffering now from our previous inaction and now we must work diligently to install agricultural and stormwater practices, upgrade sewage treatment plants, conserve land and undertake a variety of other activities that would have been done in the past if we had had the resources to do them.



HJR 640 directly recognizes our plight by stating that reliance on a portion of the surplus as the sole source of funding for the "Water Quality Improvement Fund" leads to allocations that are "inadequate and inconsistent". Although I would say that even with the funding shortcomings, we have made some progress since the adoption of the WQIA in 1997, particularly in the Potomac watershed.

It is clear to me that during the past year we have made substantial progress in meeting our water quality objectives. The recently concluded General Assembly session did much more than increase funding for our programs. With the adoption of the amendments to the Water Quality Improvement Act and the Nutrient Credit Trading bill, combined with the regulatory initiatives that have been adopted or are under development, we have built the foundation upon which we can construct an effective nutrient control program that will be second to none. In terms of funding, the "down payment" on the implementation of our tributary strategies made during the last session was an important step forward and I trust this positive momentum will continue in future bienniums.

Before I ask my Assistant Secretary Russ Baxter to give you an overview of the cost estimates that have been developed by our agencies for both the tributary strategies and for the other TDMLs we are obliged to complete, I would like to provide some perspective on the task at hand and review the work of this administration regarding funding needs and funding sources.

First, I will briefly review the water quality actions we have taken pursuant to the commitments contained in the Chesapeake 2000 Agreement.

Despite our efforts at nutrient reduction after 1987, in 1999 the Environmental Protection Agency added the Chesapeake Bay and its tidal tributaries to its list of "impaired waters" because excessive amounts of nitrogen and phosphorous were causing violations of water quality standards. In response to this action the signatories to the current bay agreement set forth a process to remove the Bay and its tidal tributaries from the EPA "impaired" waters list. EPA, with the advice and guidance of the states and the public, has established criteria for the development of new water quality standards for the Bay and its tidal tributaries. These criteria have been established for dissolved oxygen, chlorophyll "a", an indicator of the amount of algae in our waters, and water clarity. They set the stage for determining the nutrient and sediment reductions necessary to meet the new standards and thereby restore water quality with the result being more oxygen, more underwater grasses and more productive fisheries. The nutrient reduction goals, agreed to by the six watershed states and the District of Columbia in March of 2003, and endorsed by Governor Warner and his counterparts on the Chesapeake Executive Council, in December of 2003, have been allocated to the major river basins within the Chesapeake Bay watershed. In Virginia, these basins are the Potomac (which includes the Shenandoah), the Rappahannock, the York, the James and the bayside creeks of the Eastern Shore.



Since the allocations were made, we have undertaken the process of refining our tributary strategies to determine the extent of the nonpoint land-based practices and the levels of wastewater treatment that are necessary to achieve the Commonwealth's reduction goals.

When the Chesapeake Bay was placed on the impaired waters list, we entered a new era in the regulation and management of nutrients. The reductions we are now obliged to achieve establish the maximum amount of nitrogen, phosphorus and sediment that can be safely discharged into the Chesapeake Bay and its tidal tributaries from all sources. Once these reductions are made, we will need to maintain a cap in the face of an ever increasing population, additional treatment plant flows and a changing landscape.

The programs that we are working hard to put in place recognize this new and very challenging environment. We must learn to live under a cap; however, I do not think that there is a full appreciation of the implications of this reality. To meet our obligations under the 2000 Agreement will mean that new and expanded efforts will be necessary. It means that the measures we put in place now, and in the future, must be operated and maintained so that we can achieve our reduction goals and thereafter remain under our cap loads.

As I said, our Tributary Strategies allocate the total caps on nitrogen and phosphorous between point sources and non-point sources that can flow into the Chesapeake Bay from all sources. In order to achieve our point source goals, the Department of Environmental Quality has prepared three separate regulations dealing with the establishment of new and expanded water quality standards, the placement of numerical limits on nutrient discharges in wastewater permits, and the allocation of the total point source cap among the Commonwealth's significant dischargers. The State Water Control Board has already approved substantially all of the standards regulation and the Board should act on the remaining proposals before the end of this year. The 2005 General Assembly adopted legislation that has been signed by the Governor that will authorize the issuance of a watershed general permit and provide for trading within watersheds. In an unprecedented move, the Environmental Protection Agency has appeared at several public hearings to support these regulatory initiatives prior to their adoption. It has also indicated its general support for the companion legislation that will take effect on July 1<sup>st</sup> of this year.

In order to assist localities in the implementation of these regulations, DEQ will receive approximately \$67 million in the next fiscal year to provide cost share grants to help offset the financial strain on localities.

On the non-point source side of the ledger, the Tributary Strategies set forth the nutrient management practices that when fully implemented on the ground, will achieve the reductions necessary to reach that portion of our total nutrient caps allocated to non-point programs. The Department of Conservation and Recreation will have about \$30 million in the second year of this biennium to make grants that will promote non-point reductions in both nutrients and sediments. Although this is a significant amount of money, much more will be needed in the years to come.



While we will spend time talking about how much things cost, we must also recognize that there is a cost associated with inaction.

When I am at home in the Northern Neck it deeply saddens me to ride by one abandoned oyster shucking house after another – by lifeless crab picking facilities that today stand empty – all monuments to a once thriving commercial seafood industry that no longer exists because we placed on that industry the cost of our failure to keep its workplace clean and healthy. The economic losses experienced in areas like the Northern Neck can be seen there every morning, simply by observing the number of sons and daughters of watermen who now commute to Northern Virginia and other urbanized communities to find work. They make these daily trips not as a matter of choice, but as a matter of necessity. They no longer have the option of fishing productive waters in their own backyard.

The seafood industry is but one example that supports the proposition that the economic health of this Commonwealth is dependent upon the health of its natural resources. Other examples are, quite obviously recreational fisheries, tourism, forestry, and agriculture. We must constantly challenge the notion that natural resource conservation is a luxury that we can only afford to support in good financial times.

In economic development circles, one often hears that “quality of life” is an important factor in economic growth; therefore, we must unfailingly press the case that healthy natural and cultural resources are at the heart of that illusive term. Each of us benefits from clean water, clean air, protected open space, and preserved historic sites and buildings, often in ways we do not fully recognize or appreciate. While I have never been an advocate of making strict dollar assessments of environmental action, it seems clear to me that we must better understand and account for the value of our natural resources in economic terms.

Let me now give you an overview of the work this administration has done regarding funding our natural resource conservation programs.

As you may recall, during the 2002 reconvened session, Governor Warner unsuccessfully proposed a tipping fee with the proceeds to benefit waste, land and water programs.

Addressing funding for natural resource programs continued in earnest with the convening of the Governor’s Natural Resources Leadership Summit in Williamsburg in April of 2003. Business leaders, conservationists, farmers, foresters, developers and government officials gathered to identify the key issues facing Virginia’s natural resources. The overwhelming consensus was that lack of funding was the single biggest obstacle that needed to be overcome.

As a result of the deliberations at the summit, the Governor created the Natural Resources Funding Commission that met over the summer of 2003 and presented it’s report on October 9, 2003. The commission was composed of a cross section of individuals who had participated in the summit. A copy of the report has been provided to each of you.



The commission was unequivocal in its conclusion that without additional funding, we would fall short in our constitutional obligation to conserve our natural resources. The report stated "the commission expressed unanimous support for increases in both general and non-general fund expenditures for natural resources, with an emphasis on improving funding for land conservation and water quality improvement in the Commonwealth."

Regarding non-general funds, the commission identified a series a non-general fund options and estimated the revenue that would be garnered by each. While the commission did not reach unanimous agreement on any single non general fund source, the majority of the members saw a need to provide a dedicated and reliable source of funding. I commend the report to you and your staff for further review and analysis over the course of this study.

I will now ask Russ Baxter to give an overview of the cost estimates that we have developed for the bay and other TMDLs and then I would be happy to answer any questions that you may have.