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December 19, 2011

Shawn Garvin  
U.S. EPA Region 3 Administrator  
1650 Arch Street  
Philadelphia, PA 19103

Dear Mr. Garvin,

On behalf of the Citizens Advisory Committee (CAC) please accept the following comments on the EPA review of the state trading programs. Thank you for the briefings that have been provided to us and other interested stakeholders and for the opportunity to comment. As we have stated in the past our paramount interest in the trading programs is to help ensure that water quality protection is the main goal of nutrient trading and that accountability and transparency in these programs are sufficient enough to assure the citizens that if trading occurs it will not result in degraded waterways.

Overall we believe the observations and recommendations EPA has provided are a good start and would benefit the jurisdictions' work to meet the Bay TMDL and Watershed Implementation Plans. However, we also believe that EPA should provide more detailed guidance in the final draft. In particular, specific direction for new nonpoint growth, related stormwater management offsets, BMP evaluations, trading in impaired waters, use of uncertainty ratios and dealing with nontraditional sources appear to be common concerns that would benefit from greater EPA guidance. Additionally, trading programs that were developed under the Tributary Strategies will need to be updated to meet the Bay TMDL.

Here are a few jurisdiction specific observations that we wish to highlight as examples of key components of accountability:

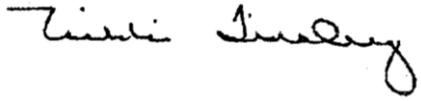
Maryland should describe how they will plan for new offsets associated with growth and provide accountability for nonpoint source trades.

Pennsylvania should revise their baseline and credit calculations and publicize the methodology used.

Virginia should develop provisions for net water quality improvements and a public registry in order to improve transparency.

We are hopeful that EPA will require the states to respond to the common recommendations as well as the state specific recommendations as we believe they are considered components of reasonable assurance in the Bay TMDL because the states rely on nutrient trading in their Watershed Implementation Plans. In that regard, we recommend that the final nutrient trading improvements issued in January be included as part of the Two-Year Milestones in order to ensure accountability. We also urge EPA to commit to a reevaluation of the trading programs in 2017 as part of the TMDL reassessment and to continue to monitor ongoing expansion of the Bay state trading programs.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikki Tinsley". The signature is written in a cursive style. To the right of the signature, there is a faint, dotted rectangular box, likely a placeholder for a stamp or seal.

Nikki L. Tinsley  
Chair, Citizens Advisory Committee

cc: Jeff Corbin, EPA Senior Advisor on Chesapeake Bay and Anacostia River  
Nick DiPasquale, Director, Chesapeake Bay Program  
Patricia Gleason, EPA