

**UNIVERSITY OF MARYLAND**  
**ENVIRONMENTAL FINANCE CENTER**

**REPORT FOR THE**

**US ENVIRONMENTAL PROTECTION AGENCY**  
**CHESAPEAKE BAY PROGRAM OFFICE**

**ON**

**ESTABLISHMENT OF A CHESAPEAKE FINANCE COMMISSION**

The Environmental Finance Center (EFC) at the University of Maryland has been asked by the Chesapeake Bay Program Office to develop a proposal for establishment of a Chesapeake Finance Commission to determine and regularly report on funding needs for the restoration of the Chesapeake Bay, as well as progress toward meeting them. This report is related to another EFC contract with the State of Maryland to produce an analysis of how to meet the funding gap for required actions called for in the State's tributary strategies, which were established to achieve the State's share of Chesapeake cleanup responsibilities. While the other study focuses on Maryland and a specific funding strategy, this report proposes institutional changes for the regional Bay Program to help all the participating states with ongoing information about funding needs and opportunities.

**BACKGROUND:**

In October, 2004, the Chesapeake Bay Watershed Blue Ribbon Finance Panel, established by the Chesapeake Executive Council in Directive 03-02 in December, 2003, issued its Final Report. The Panel, comprised of distinguished and knowledgeable citizens from throughout the watershed, provided a comprehensive analysis of the sources of impairments to the Bay's water quality and living resources, the costs to remove those impairments and a series of recommendations to finance those costs.

The principal recommendation was to establish a regional Chesapeake Bay Financing Authority to close an estimated \$15 billion gap in public funds for the cleanup. It was further recommended to seek a \$12 billion commitment from the federal government, to be funded over six years, with the remaining \$3 billion in new funds to come from the states.

The Report also included over twenty additional recommendations on potential funding sources and program actions to be taken by the Bay partners. Unfortunately, in the effort to respond to the primary recommendation for the Financing Authority, these additional recommendations, many of which are innovative and of great potential value to the states and the Bay Program, were overlooked by many.

Congressional response to the proposal of \$12 billion in federal funds could at best be described as lukewarm. At this point, there is little likelihood of substantial federal funding increases. In fact, budget constraints and limits on earmarks make it difficult to assure even level funding for federal agency budgets. Prospects are no better in the states. Maryland is looking at a structural deficit over \$1 billion next year, and Pennsylvania and Virginia face similar budget prospects. There does remain some optimism for Bay-focused funds in the 2007 Farm Bill.

This study assumes that a large influx of federal funds to the Bay is not forthcoming, but that there may be ways to restructure the Bay Program to help address the region-wide shortfall through innovative measures such as those contained in the other recommendations of the Final Report of the Blue Ribbon Panel.

### **REINVENTING THE CHESAPEAKE BAY PROGRAM:**

In September of 2006, the Keith Campbell Foundation for the Environment convened a group of Chesapeake Bay advocates in a series of meetings about how best to restructure the Chesapeake Bay Program to deal with current realities and public expectations of the cleanup. One area that received a great deal of attention was financing the gap in needed public funds. A number of the supplemental recommendations of the Blue Ribbon Panel were discussed, but it was clear that there was currently no part of the Bay Program structure that could effectively deal with these issues.

The group issued its Report and recommendations in January, 2007, under the title, “Reinventing the Chesapeake Bay Program” (see Appendix II). Included were a number of innovative suggestions for restructuring different parts of the Program. Under Operating Principles, the Report calls for elevating the importance of financing, stating:

“There is a broad understanding of the solutions to cleaning up the Bay. But there is a significant gap in the financing needed to implement them. Therefore, the CBP should focus on identifying new financing tools to support the Bay restoration, and/or using existing financing tools more effectively. The Blue Ribbon Panel report provides a blue print for this work.”

Later in the Report, under Framework Concepts, there is a call for establishing a Financing Commission as part of the Bay Program, to “monitor federal and state funding gaps and explore methods to address them”. The Report further recommends that the “Commission must be professionally staffed, have goals and an annual work program, and publish regular reports. It should also....report directly to the Executive Council.”

### **ESTABLISHING A CHESAPEAKE FINANCE COMMISSION:**

Using these principles as a baseline, the remainder of this report outlines how a Chesapeake Finance Commission could be formed and how it could operate. The simplest way to establish it would be through a Directive signed by the Executive Council. This would require

review of the concept at many levels as it worked its way toward promulgation. It would also give the imprimatur of the Executive Council to the final structure and form of the group, as well as the valuable assurance that it would be adequately funded by the Bay Program. A draft Directive is included in Appendix I of this report.

The most important elements of the Commission are its duties, its composition, and its staffing. In order to assure its utility and respect, the Finance Commission needs to have its duties set out in such a way that its reports are anticipated and valued for their accuracy and integrity. If the group becomes a debating society of esoteric funding concepts, it will serve little purpose. For that reason, it is proposed that its work be structured with deadlines and duties and protected from political interference.

The focus of the Commission's work should be a series of annual reports reflecting the status of the funding gaps of each state and the federal government. They should also include jurisdiction-specific proposals for how to close the gap. And they should include data on previous years to compare current performance with past progress. These reports should be released to the public at the same time they are presented to the Executive Council at its annual meeting. The effect will be to show an honest and clear picture of the comparative progress of each of the states and the federal government in dealing with its funding gap that year, thus providing in a competitive framework a snapshot of the relative progress of the partners. This is what economists call "incentivizing the system".

In order to produce the annual reports to the Executive Council, the Financial Commission should go through a series of steps. Each year they must identify the funding requirements and the funding gaps, based on staff update of the estimates of the Blue Ribbon Panel and using the Panel's methodology and assumptions for comparability. The annual gaps must be established by jurisdiction. Proposals for closing the gaps should then be developed, specific to each jurisdiction. The results should be compared with past results in each jurisdiction to identify trends, and with the results in other jurisdictions to assure fairness in the analysis and recommendations.

The staff of the Commission should include professionals with expertise in public and private finance. They should report to a neutral organization under contract with the Bay Program. The Environmental Finance Center is an example of such an organization. Staff must be protected from and be clear of political influence. Their primary functions are to prepare materials for meetings of the Commission, which might be quarterly, and to follow through on Commission actions and decisions.

The members of the Chesapeake Finance Commission should be appointed by the Executive Council. They should themselves be knowledgeable of a variety of public finance approaches, and have experience in financial management in the public or private sector. Each Executive Council member could be asked to appoint 3 persons to the Commission, making a total of 18. To assure independent views, it might be appropriate to limit public sector employees to one or at most two of the three positions. Members should serve at the pleasure of the appropriate Executive Council member and should be reimbursed for expenses, but not paid for their services.

A draft Directive putting these concepts into the appropriate format is included as Appendix I.

In addition, we recommend that we be authorized to convene a panel of experts to review and comment on this report before it becomes final. The panel would be comprised of five to ten members approved by EPA and brought together by the Environmental Finance Center during the early summer of 2007. Members would include staff and members of the Blue Ribbon Finance Panel, as well as high level experts drawn from public and private sectors. Their comments and suggestions for improvement and implementation of these recommendations would be included in the Final Report to be presented to EPA by the end of the summer. Meanwhile, EPA and others in the Bay Program may wish to use the draft Directive included in this draft as a basis for discussion leading to the next Executive Council meeting in the fall of 2007.

**APPENDIX I**

**DRAFT DIRECTIVE**

**CHESAPEAKE EXECUTIVE COUNCIL**

**DIRECTIVE NO. 07-00**

**ESTABLISHING A CHESAPEAKE FINANCE COMMISSION**

On December 2, 2003, we issued Directive Number 03-02, entitled Meeting the Nutrient and Sediment Reduction Goals. Among other things, it directed the Chesapeake Bay Program to establish and convene a Blue Ribbon Panel to consider funding sources and make recommendations on financing the implementation of tributary strategies. In October, 2004, the Panel presented its analysis and recommendations, including a call for a regional finance authority, as well as 22 supplemental recommendations related to funding the restoration of the Chesapeake Bay.

Efforts to obtain initial federal funds to allow the regional authority to be established have been so far unsuccessful, and the likelihood of a favorable response in the near future is not great. Meanwhile the states have moved forward on financing initiatives, enacting innovative and effective approaches to begin to fund identified implementation needs. In addition, last year we joined our partners in other states in the Bay watershed to advance a series of funding proposals for consideration by Congress as part of the enactment of the 2007 Farm Bill.

Despite this progress and the best efforts of representatives in the legislative branches of our states and the US Congress, there is a continued a gap in the financial resources needed to meet our obligations for cleaning up the Bay. We believe it is time to call upon the financial expertise available in our region to convene and work together on an organized and regular basis to identify, refine and propose initiatives to close this gap.

**We therefore direct** the Chesapeake Bay Program to establish and fund a Chesapeake Finance Commission. This new institution shall meet at least quarterly. Drawing on the full set of supplemental recommendations of the Blue Ribbon Panel, the Commission shall report to us and the public at our annual meeting and shall bring together the best minds in our region with respect to public finance and innovation in funding sources. Each of us commits to appoint three of the finest experts available and willing to serve us on this Commission. In order to provide the broadest perspective, appointees should represent public, private and non-profit sectors. Members shall serve at our pleasure and shall be reimbursed for expenses, but shall volunteer their services.

**We further direct** that the Commission be adequately staffed with qualified professionals reporting to a non-profit organization with expertise in public finance and under contract to the Bay Program. They should assist with the preparation of materials for all Commission meetings, and with follow-through on decisions.

Each year in advance of the meeting of this Executive Council, we expect the Commission to produce a series of reports on the funding gaps, if any, of each state and the federal government. These reports shall be public and shall estimate funding requirements for each jurisdiction, available funds and the remaining gap, and shall provide recommendations specific to each on how to close the gap. Each report shall include a comparison of the current year with past reports in order to identify trends, as well as a comparison with the reports of the other jurisdictions to assure fairness in the analysis and recommendations.

**Finally, we direct** the Chesapeake Bay Program to establish the Finance Commission by January 1, 2008, in order to assure adequate time to prepare the analysis and first annual reports for the next meeting of this Council.

**CHESAPEAKE EXECUTIVE COUNCIL**

**\_\_\_\_\_ , 2007**

## APPENDIX II

### **Reinventing the Chesapeake Bay Program January 2007**

*A summary of recommendations by Chesapeake Bay advocates convened by the Keith Campbell Foundation for the Environment in a series of meetings from September 2006 to January 2007. Participants in the meetings brought with them Bay-related experience in policy, science, communications, advocacy, philanthropy, and state, local, and federal agencies. However, they participated as private individuals, rather than representatives of agencies and/or organizations.*

*Participants included: Don Boesch, Michael Burke, David Carroll, Kim Coble, Tom DeMoss, Ted Graham, Jack Greer, John Griffin, Verna Harrison, Roy Hoagland, Lara Lutz, Bill Matuszeski, Connie Musgrove, David O'Neill, Theresa Pierno, Albert Pollard, Peyton Robertson, Charlie Stek, Pat Stuntz, Ann Swanson, Neil Wilkie.*

The Chesapeake Bay Program (CBP) has advanced world-class science and established aggressive, cutting-edge goals for the restoration of the Chesapeake Bay—but it is neither efficient nor effective at implementation.

The current CBP structure is ill equipped to meet the 2010 restoration and protection goals for the Bay. As 2010 quickly approaches, the CBP must step forward with aggressive and creative plans for a self-transformation that will accelerate the Bay restoration effort.

A renewed CBP should be structured to provide stronger focus on key priorities and more funding to address them. The restoration process must also be transparent both to those who are affected by it and those who want participate in it.

For a transformation of this magnitude to occur, CBP governance must be fundamentally altered to recognize that all levels of government, businesses, farmers, non-profit organizations, and citizens must be more involved in the Bay's restoration and protection.

The new structure should provide opportunities for those most affected by Bay restoration decisions and those most committed to the cause to be directly engaged in the decision-making process. Their efforts should be organized around key strategic priorities that are essential to the clean up of the Bay.

Funding and financing mechanisms—crucial components in the implementation phase of the Bay recovery—must receive significant standing in the new structure.

Accountability and transparency in the work of the CBP and for progress in the restoration effort must transcend all components of the new CBP structure.

Finally, the CBP needs to be reinvigorated with thoughtful and energetic leadership. Even the best-designed structure cannot be sustained without it. We need vocal, visible champions for the Bay, as well as dynamic program managers. The Bay restoration effort involves an enormous number of citizens, organizations, and agencies, which bring with them an even larger variety of backgrounds, expertise, and resources. Lasting solutions for the Bay will result from leaders who not only show political courage, but also elicit and reward meaningful participation from this varied cast.

In what follows, we lay out the principles, functions, and tools through which the CBP can evolve to meet future challenges and to improve on a model that is considered a world example in watershed and estuarine restoration and protection.

### ***Operating Principles***

- **Focus the CBP on Implementation.** The overarching goal of the CBP is to restore the Bay's living resources by restoring water quality in the Bay and its tributaries. The focus of the CBP should be squarely placed on implementing programs and practices that achieve this goal, particularly with respect to scientifically proven, cost-effective methods for reducing nitrogen pollution.
- **Establish Strategic Implementation Priorities.** Implementation should focus for the next five years on three strategic priorities that most rapidly accelerate nutrient reductions. The new CBP structure should place clear and direct leadership responsibility for each of these priorities on a particular agency or sector of government.

The initial set of strategic priorities should be:

- *Agriculture.* Achieving nitrogen reductions from agricultural sources is essential to the Bay's recovery. Focus of this strategic priority should be placed on geographic areas that contribute the most nitrogen from agriculture: the Shenandoah Valley, the Lower Susquehanna River Basin, and the Eastern Shore.
  - *Land Use Change.* With rapid land use change occurring in many parts of the watershed, preventing increased nitrogen loadings from growth (and, if possible, obtaining reductions) should be a priority.
  - *Stormwater.* The fastest growing source of pollution is stormwater runoff. Therefore, it should also be a strategic priority of the CBP. Focus on responsibilities under the NPDES stormwater permitting program and generating revenue for stormwater management.
- **Elevate the Importance of Financing.** There is broad understanding of the solutions to cleaning up the Bay. But there is a significant gap in the financing needed to implement them. Therefore, the CBP should focus on identifying new financing tools to support the Bay restoration, and/or using existing financing tools more effectively. The Blue Ribbon Panel report provides a blue print for this work.

- **Strengthen Accountability Procedures and Increase Transparency.** Accountability and transparency should be hallmarks of the new CBP structure. There must be clear, measurable objectives on an annual basis. The Executive Council should identify priorities, communicate them broadly, and then report on progress the following year. This requires an efficient and transparent reporting system that is agreed to by all responsible parties and governmental entities, and that is vetted through the scientific community. Reports must be clear and understandable to the public. The accountability system must be objective and free from political influence. A periodic external audit should also be established.
- **Strengthen Local Collaboration and Inclusiveness.** In order to more effectively manage the large-scale Bay ecosystem program and to promote broader local implementation of Bay restoration activities, the CBP must establish more capable and accountable structures at tributary or river scales. This will require more attention and resources directed at local tributary implementation.
- **Enhance Efficiency and Effectiveness.** Through greater cooperation among groups most affected by Bay restoration activities and by communicating progress broadly and challenges more openly, the CBP will become more efficient and effective. This principle must transcend all structural changes—if it is not possible to demonstrate that a recommendation will increase efficiency and/or effectiveness, then the recommendation should not go forward. The CBP should conduct regular evaluations, supported by managers who are called upon to adapt their course as needed.
- **Seek Innovations and New Technology.** Innovation has been a hallmark of the CBP and this should remain unchanged as it shifts toward implementation. Therefore, support for new science and technology to accelerate Bay recovery should be promoted throughout the CBP structure.

### *Framework Concepts*

- **Boost Executive Council.** Visible, credible, and effective regional leadership must be enhanced if we are to meet 2010 Bay restoration goals. At a minimum, federal agency involvement should expand to include the Secretary of the Department of Agriculture. The Council should also seek more active, substantive counsel from diverse voices, including a new finance commission and a new public-private Bay leadership committee. The Council should also meet more frequently and publicly to elevate the cause and demonstrate its commitment throughout the Bay region.
- **Establish a Financing Commission.** The CBP should develop a Financing Commission. Over the next five years, the commission should monitor federal and state funding gaps and explore methods to address them—both by pursuing new opportunities and refining existing ones to promote greater efficiency. The commission’s blue print should include the Blue Ribbon Panel report on financing the Bay restoration. The commission must be professionally staffed, have goals and

an annual work program, and publish regular reports. It should also have a seat on the Bay Leadership Committee and report directly to the Executive Council.

- **Establish a New Public-Private Bay Leadership Committee.** The CBP should establish a new public-private leadership committee, no larger than 30 members. The Bay Leadership Committee would include state and federal agency representatives, finance and business leaders, local government representation, farmers, NGOs, the foundation community, and congressional leadership. The members should be high-level, decision-making leaders of the groups they represent, with the authority to accept and carry out assignments from the committee. The EPA or Chesapeake Bay Commission should staff the committee.

The committee would shape strategies and implementation practices by integrating the perspectives of a wide range of participants into collective recommendations and actions.

- **Tasks:** The purpose of the new leadership committee is to set and track Bay-wide priorities, strategies, and timelines, with meaningful participation from those who directly implement them. Responsibilities also include:
  - ⌚ Tracking, auditing, and providing overall reports on results. Where results are lacking, investigate and take actions to improve outcomes. Provide annual reports on progress, including the State of the Bay and river report cards.
  - ⌚ Encouraging targeted restoration and protection efforts to achieve greatest ecological benefits for the least cost;
  - ⌚ Promoting collaboration across jurisdictions and sectors, and establish new partnerships that can accelerate Bay restoration;
  - ⌚ Ensuring that regulatory/enforcement tools are brought to bear as permissible by the Clean Water Act; highlight regulatory gaps that need to be addressed;
  - ⌚ Establishing a system for resolving disagreements among partners;
  - ⌚ Ensuring that watershed-level action, plans, and structures are supported by and integrated into the CBP;
  - ⌚ Recommending changes to the tactics or methods used to accomplish Bay restoration goals (adaptive management), including annual recommendations to the Executive Council;
  - ⌚ Raising public awareness of the progress of Bay restoration; and

⌚ Highlighting best examples of what is working to celebrate progress and to encourage replication of best practices.

- **Establish Task Forces around Strategic Priorities:** The CBP should augment its efforts with task forces that develop and apply tactics for tightly focused, strategic priorities of the Bay restoration effort. Initially, the task forces might include agriculture, land use change, and stormwater. The task forces should have a defined life cycle (3 to 5 years) and provide an opportunity for meaningful involvement of all affected stakeholders, including: agriculture, local government, non-profits, developers, river council representatives (see below), and federal and state agencies.

Each task force should be chaired by the most affected and responsible agency.

- **Tasks:** The purpose of the task forces is to focus attention developing and implementing tactics to advance specific restoration goals, as set by the Executive Council, and to support restoration strategies, as set by the Bay Leadership Committee. Responsibilities also include:
  - ⌚ Tracking and reporting progress of those programs annually to the Bay leadership committee and recommend changes to strategy and/or goals based on experiences/new science;
  - ⌚ Exchanging ideas with the Financing Commission on the most scientifically proven, cost effective strategies to address strategic Bay restoration priorities;
  - ⌚ Advising the Bay Leadership Committee on the barriers to restoration and protection activities and recommend policy and administrative changes that can overcome those impediments;
  - ⌚ Sharing experiences “from the field” and discuss what’s working, what’s not, and why; and,
  - ⌚ Commissioning new reports and science to help accelerate restoration.

- **River Councils: A Framework for Increased Local Implementation.** States should establish River Councils across the Bay watershed. River Councils provide a framework for coordinating key functions and programs (e.g., agricultural best management practice support, stormwater and wastewater management, water quantity planning, public outreach, etc.), which are best positioned to improve Bay tributaries through localized actions. Local partners could work through a single umbrella River Council or through a coordinated set of entities, but they should reflect and represent a community’s multiple interests and perspectives, and have clear connections to and involvement with elected bodies. In some cases, a watershed might be divided into separate councils in order to group similar interests, problems, and local culture more effectively. River Councils should be funded and have the authority to dispense funds. The CBP should also provide technical support (as described below) to increase River Council effectiveness.

## ***Tools***

- **Provide Greater Technical Assistance.** The CBP or the individual states should establish cross-agency technical assistance teams (including SCS reps and federal agency representation) to aid the River Councils. River Councils should also receive a professional staff person with expertise in the issue most affecting the health of the river. Staff and technical assistance teams could help the River Councils set implementation priorities and track progress, perhaps tied to River Report Cards.
- **Boost Financial Incentives for Action.** Grants and direct payments should be made available to the River Councils, individual landowners, and local jurisdictions. These funds should provide incentive for local policies and practices that will accelerate and sustain implementation of tributary strategy goals and they should require a matching commitment on the part of the applicant. Grant pro-grams/payments would be targeted to help River Councils address the most important issues (such as stormwater or agriculture) affecting each river they represent.
  - Funds for the financial incentives could come from:
    - ⌚ Pooling existing restoration funding and making those funds available on a competitive basis for tributary strategy implementation.
    - ⌚ Pooling existing mitigation funds and directing those funds to projects that can achieve the greatest ecological benefit for the least amount of funding.
    - ⌚ New sources that are directed for tributary strategy implementation.
- **Provide Data and Ecological Frameworks for Implementation.** CBP partners should provide data and implementation frameworks to help the River Councils and the local jurisdictions set restoration and protection priorities and to aid them in targeting restoration activities geographically in order to achieve the greatest eco-logical improvements.
- **Elevate and Enhance Communications and Outreach.** Communications should play a more strategic role in a new CBP structure, beyond support for producing progress reports. Communications efforts need the authority and structure to communicate the science, the goals, and the needed actions to key players, such as farmers and local planners. This work could be done in partnership with River Councils, to tailor and deliver the messages in ways that are most appropriate for the local settings.

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