

# National Water Quality Trading Alliance

March 17, 2014

Via email to [agreement@chesapeakebay.net](mailto:agreement@chesapeakebay.net)

Mr. Nicholas DiPasquale  
Chair, Chesapeake Bay Program Management Board  
410 Severn Avenue, Suite 109  
Annapolis, Maryland 21403

RE: January 29, 2014, Draft Chesapeake Bay Watershed Agreement

Dear Mr. DiPasquale and Management Board Members:

The National Water Quality Trading Alliance (Trading Alliance) appreciates the opportunity to comment on the Chesapeake Bay Program's, January 29, 2014, Draft Chesapeake Bay Watershed Agreement (Draft Agreement). We applaud the Bay Program members for their collective efforts and commitment toward Bay restoration and protection. While we are greatly encouraged by the Draft Agreement, particularly the effort to set out "Principles," "Goals and Outcomes" and a "Management Strategy," we feel that the omission of water quality trading from the current draft represents a lost opportunity for the Program members to promote this proven tool for impactful restoration and protection in the Bay region. Accordingly, we offer the following comments on the Draft Agreement to better recognize the current and potential contributions of entrepreneurs and water quality trading in general to advance the restoration of the Chesapeake Bay.

The Trading Alliance is a diverse and growing group formed to advance the science, law and policy underlying water quality trading. We believe these objectives can be met by supporting comprehensive and coherent rules and policies on trading; promoting consistency, integrity, scientific rigor and defensibility in the application of rules and policies; providing a platform to advance the science and ecological effectiveness of trading; and serving as a catalyst and champion for trading opportunities.

At various times the Bay Program has undertaken water quality trading studies and developed nutrient trading principles and guidelines. Those efforts, and the establishment of various trading programs within the Bay watershed and throughout the country, provide "lessons learned" that can be translated into better and more comprehensive actions.

As the Draft Agreement recognizes, there are many challenges facing Bay restoration, not the least of which are cost and the speed at which restoration efforts can be undertaken. The Trading Alliance believes that water quality trading can continue to accelerate the scope and pace of Bay restoration and bring substantial private sector financial resources to the effort. Varying trading programs have developed or are developing within Bay jurisdictions. The

Commonwealth of Virginia is but one example of how state leadership recognizing the value of trading can result in increased restoration efforts, private investment and costs savings. For example, in the short time that Virginia has allowed trading of nutrient credits for stormwater compliance, private investors have established "nutrient banks" in every major Virginia river basin. Each bank preserves land in perpetuity; provides landowners such as farmers with additional means of income as an alternative to development; involves verified on the ground nutrient reductions well before any impact and associated trading occurs; and creates multiple other ecological benefits. These benefits all fall directly within many of the "Goals and Outcomes" listed in the Draft Agreement including under Vital Habitats, Water Quality, Healthy Watersheds, and Land Conservation.

We suggest the following amendments to recognize the past successes, and promote the further development of, trading programs as a tool for advancing Bay restoration:

**Page 2, Preamble, Fifth Paragraph (new text underlined and italicized):**

One of the most important lessons learned from the past three decades is that, while watershed-wide partnerships help to coordinate and catalyze, implementation happens locally. Local governments are key partners as are individual citizens, businesses, *entrepreneurs*, watershed groups and other non-governmental organizations. Working together to engage, empower and facilitate these partners will leverage resources and ensure better outcomes.

**Page 4, Principles (new text underlined and italicized):**

In order to better capture the role and benefits of trading and the private market we suggest that additional Principles be added as follows:

- *Recognize that tax payer funding alone is not sufficient to meet restoration needs and that platforms that promote private sector investment via water quality trading will be sought out and promoted.*
- *Promote the continued development of new and existing state and regional trading markets, remove existing road blocks to those efforts and seek consistency among trading programs within the Bay watershed.*

**Page 5, Goals and Outcomes, Second Paragraph (new text underlined and italicized):**

The management strategies, further described in the next section of this Agreement, articulate the actions necessary to achieve the goals and outcomes identified below. This work will require effort from many, including all levels of government, academic institutions, non-governmental organizations, watershed groups, *entrepreneurs, businesses*, and individual citizens. Local government will continue to play a unique and critical role in helping the Partnership realize the

Mr. Nicholas DiPasquale

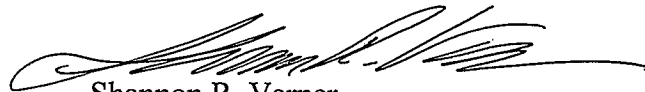
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shared vision for the Chesapeake Bay. As the Partnership identifies new opportunities and concerns, goals and outcomes may be adopted or modified."

Thank you for considering these comments. Please feel free to contact me at 804-697-1331 or [Shannon.varner@troutmansanders.com](mailto:Shannon.varner@troutmansanders.com) with questions or if I or the Trading Alliance members can be of any other assistance.

Sincerely,



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Common Counsel for the Trading Alliance

#### Current Trading Alliance Founding Members

American Farmland Trust

Chesapeake Bay Nutrient Land Trust

Ecosystem Insurance Associates, LLC

Ecosystems Services Exchange

Electric Power Research Institute

Environmental Banc & Exchange

Keiser & Associates

National Association of Clean Water Agencies

Restoration Systems

The Freshwater Trust

U.S. Water Alliance

World Resources Institute

Willamette Partnership