

**Testimony of Ann Swanson, Executive Director, Chesapeake Bay Commission
Before the Committee on Natural Resources
U.S. House of Representatives
July 8, 2009**

**Hearing on H.R. 1771, the Chesapeake Science, Education and Ecosystem
Enhancement Act of 2009 & H.R. 1053, the Chesapeake Bay Accountability and
Recovery Act of 2009**

Thank you, Mr. Chairman and Members of the Committee, for this opportunity to testify in support of H.R. 1771, the Chesapeake Science, Education and Ecosystem Enhancement Act of 2009 and H.R. 1053, the Chesapeake Bay Accountability and Recovery Act of 2009. At the outset, I want to commend Representatives John Sarbanes and Rob Wittman for their leadership in sponsoring these important measures to advance the restoration of Chesapeake Bay.

The Chesapeake Bay Commission is a tri-state legislative assembly established in 1980 to coordinate Bay-related policy across state lines and to develop shared solutions. The Commission has been a signatory to every Chesapeake Bay Agreement and continues to promote policy initiatives on a full spectrum of Bay issues: from living resources protection and land conservation, to water quality restoration. We believe that restoring our nation's largest estuary is a shared responsibility -- not just of State and local governments and the private sector, but of the Federal government as well. In February, 2008, the Commission developed and broadly distributed a special report containing a full suite of recommendations for Federal legislation and funding to advance the Bay's restoration over the three year period 2008 – 2010. Included within that report were recommendations that the NOAA Chesapeake Bay Program be reauthorized and that the accountability of the EPA Chesapeake Bay Program be improved.

NOAA has been a key Federal partner in the Chesapeake Bay effort since 1984 when the agency first signed a memorandum of agreement with EPA to participate in the restoration program. Congress formally authorized NOAA's role and responsibilities in the Chesapeake Bay in 1992 and established the NOAA Chesapeake Bay Office (NCBO) to coordinate the agency's various line-offices, programs and activities in the Bay. The legislation was reauthorized in 1996 and again in 2002 as part of the Hydrographic Services Improvement Act Amendments. That authority expired in 2006 and must be reauthorized.

Over the past twenty-five years, States in the watershed have relied heavily on NOAA's ecosystem science, coastal and living resources management, and environmental literacy capabilities to meet our commitments within *Chesapeake 2000*, particularly those commitments that call for further Bay living resource restoration and education. Examples include:

- NOAA-funded trawl surveys provide information each year to help the states of Maryland and Virginia and the Potomac River Fisheries Commission decide how to manage the next season's blue crab fishery.
- NOAA's Chesapeake Bay Office has provided more than \$28 million in grants since 2001 to Maryland and Virginia to restore native oyster populations and habitat in the Bay.
- Bay Watershed Education and Training or B-WET Grants totaling more than \$3 million annually are helping to provide meaningful watershed experiences for approximately 150,000 students in States throughout the watershed.
- Through a program known as Chesapeake NEMO, NOAA is providing direct assistance to local communities in Pennsylvania, Maryland, and Virginia to incorporate natural resources into local-decision making.
- NOAA's Chesapeake Bay Interpretive Buoy System (CBIBS) is providing critical real-time water quality, weather and interpretive information for managers, boaters, students and tourists alike.
- NOAA's satellite-based remote sensing data is helping state fisheries managers assess the status and condition of fisheries in the Bay.

In each of these areas, NOAA brings unique scientific and technical expertise, which no other agency provides and which is increasingly needed. The Chesapeake Bay Office adds a deep knowledge of ecosystem science and fisheries management that allows us to integrate water quality and living resource management decisions to our restoration effort. For example, while we are seeing recovery of underwater grasses in many parts of the Bay, overall the Chesapeake continues to suffer from poor water quality, low populations of many species of fish and shellfish and degraded habitat conditions. If we hope to ever fully restore the Chesapeake Bay ecosystem, we must more clearly understand cause and effect. The NOAA Chesapeake Bay Office's research, monitoring, living resource management, habitat restoration and education programs are integral to advancing this understanding. The legislation before you seeks to accomplish just this.

H.R.1771 will strengthen NOAA's Chesapeake Bay Office in four ways. First, it will enhance monitoring capabilities through the further development of an integrated observations system and the Chesapeake Bay Interpretative Buoy System. By forging a collaborative partnership with multiple Federal and state agencies and academic institutions, NOAA will collect and supply complete scientific information necessary for the management of living resources and marine habitat to assist policy makers, resource managers, scientists and the public. Adding further value, these systems will also provide support for human safety and maritime operations throughout the Bay.

Second, H.R. 1771 will authorize and strengthen the B-WET programs, which helps to get students outdoors and learning about the Bay. At long last, this authorization provides a clear basis for NOAA's highly successful education program aimed at increasing citizen knowledge and stewardship of the Chesapeake Bay ecosystem. This program furthers NOAA's commitment to educational programs throughout the entire Bay watershed and provides competitive grants to support educational and training experiences that enhance understanding of Bay related issues.

Third, this legislation will greatly assist our efforts to restore finfish and shellfish populations through technical assistance to watermen to develop aquaculture programs for not only oysters, but also other shellfish and finfish. Critical habitat protection and restoration is also advanced with the inclusion of propagation programs for submerged aquatic vegetation.

Finally, the authorization will trigger a NOAA evaluation of the NOAA Chesapeake Bay Office to determine if new resources are needed in FY 2011 and beyond to address the requirements contained in the authorization. We believe that the legislation could even serve as a catalyst for retroactive activity, encouraging NOAA to adjust its FY2010 budget to meet anticipated responsibilities called for in the proposed legislation.

It is for all of the above-mentioned reasons that we strongly support the passage of H.R. 1771 and offer our assistance to the Office and to the Congress as you proceed.

The second bill that the Chesapeake Bay Commission has have been asked to offer comments on proposes measures to improve the effectiveness and responsibility of the EPA Chesapeake Bay Program. The Commission applauds Representative Whitman's H.R. 1053, the *Chesapeake Bay Accountability and Recovery Act of 2009* because it hones in on two elements that are necessary for restoration of the Chesapeake: accountability and adaptive management.

We believe that Congressman Wittman's proposed legislation has already had an influence on recent Chesapeake Bay Program developments. The Bay States are now submitting two-year milestones delineating their restoration goals, funding sources and progress made. The Commission supports these concepts and believes that accountability and prioritization are essential if we are to keep the restoration effort on track and continuously improving.

Moreover, reports issued by the General Accountability Office and the Inspector General of the EPA over the past four years have also recommended that the EPA Chesapeake Bay Program develop and implement an integrated approach and coordinated strategy to better assess, report and manage restoration progress in the Bay.

H.R. 1053 calls for the Administrator of the EPA to develop an adaptive management plan with specific and measurable objectives to improve water quality, habitat and fisheries. It also delineates a process for stakeholder participation and for prioritizing and modifying restoration activities and programs. It would require the Director of the Office of Management and Budget in consultation with the Chesapeake Executive Council, the Chesapeake Bay watershed states, and the Chesapeake Bay Commission, to submit to Congress an interagency crosscut budget for restoration activities that protect, conserve, or restore living resources, habitat, water resources, or water quality in the Chesapeake Bay watershed. Although some of the concepts called for in the bill have recently been acted upon, we believe that Congressional vigilance and oversight of the Chesapeake Bay restoration is vitally important to forging ahead and must never cease.

On May 12 of this year, President Obama signed an Executive Order which declared the Chesapeake Bay a “National Treasure.” The Order calls for a “new era of shared Federal leadership with respect to the protection and restoration of the Chesapeake Bay” and “renewed commitment to controlling pollution from all sources as well as protecting and restoring habitat and living resources, conserving lands, and improving management of natural resources.” It directs the EPA Administrator to “establish a clear path to meeting, as expeditiously as practicable, water quality and environmental restoration goals for the Chesapeake Bay,” which are performance and science-based, publicly accountable and reflect adaptive management principles. It also gives the Secretary of Commerce, acting through NOAA, important responsibilities for environmental monitoring and observing systems; focused and coordinated habitat and research activities; and assessing the impacts of climate change on the Chesapeake Bay.

Before concluding, I would like to offer one possible improvement to H.R. 1053 – the creation of an Independent Evaluator. We believe that the Congress should establish and fund an Independent Evaluator (IE) for the Bay Program, to be appointed by the members of the Chesapeake Executive Council. Topics to be reviewed by the IE could be tackled at the suggestion of the Council or chosen independently based upon a perceived need. To be effective, the IE would have to function independently, with full access to state and Federal data. Then, working collaboratively to share its findings, the IE would provide a supportive role in ensuring that adaptive management becomes the practice of the Program. Ongoing constructive criticism and advice would serve as a driver as the Program strives for continuous improvement in its management of the Bay’s land, water air and cultural resources.

The concept of an Independent Evaluator is not new. In November 2008, the Chesapeake Executive Council charged the Bay Program with examining how best to create an Independent Evaluator and in Phase I of this effort the National Academy of Sciences has been contracted to examine the execution of the state and Federal two-year Milestones aimed at reducing nitrogen, phosphorus and sediment. President Obama’s 2009 Executive Order also calls for creation of an Independent Evaluator, who would report periodically on progress made toward meeting the Bay restoration goals. These reports are to be made available to the public for full review and evaluation. As seasoned policy-makers, we see the addition of an Independent Evaluator as a logical next step in the maturation of the Bay Program. H.R. 1053 provides a policy framework to permanently establish the Independent Evaluator within the structure of the Chesapeake Bay Program.

Mr. Chairman, this concludes my statement. Once again, I am grateful for the opportunity to testify before this committee and I am happy to answer any questions.