

# COUNTY COMMISSIONERS of CAROLINE COUNTY, MARYLAND

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October 21, 2014

Colonel J. Richard Jordan, III  
District Engineer  
U.S. Army Engineer Corps of Engineers  
Baltimore District  
P.O. Box 1715  
Baltimore, Maryland 21203

Joseph P. Gill, Secretary  
Maryland Department of Natural Resources  
Tawes State Office Building  
580 Annapolis, Maryland 21401

Shawn M. Garvin, Regional Administrator  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-5122

Genevieve LaRouche, Field Supervisor  
US FWS Chesapeake Bay Field Office  
177 Admiral Cochrane Drive  
Annapolis, Maryland 21401

Peyton Robertson, Director  
NOAA Chesapeake Bay Office  
410 Severn Avenue, Suite 207-A  
Annapolis, Maryland 21403

Re: Coordination relative to USACE, NOAA, USFWS, USEPA and MDNR  
Oyster Restoration in the Chesapeake Bay

Dear Colonel Jordan, Ms. LaRouche, Mr. Robertson, Mr. Garvin and Secretary Gill:

Caroline County citizens, and all Marylanders, want the Chesapeake Bay cleaned, in the most efficient way and with the least tax burden. Beyond doubt, oysters are one of the best natural filters of the Bay. They remove sediments, nitrogen, phosphorous and carbon from the water. They cost-effectively remove all three of the pollutants targeted by the 2010 Chesapeake Bay Total Maximum Daily Load ("2010 TMDL"). In the worlds of science and of politics, there is little, if any question, that oysters are nature's super-filter.

Caroline County is one of 10 Maryland counties that currently comprise the Clean Chesapeake Coalition<sup>1</sup> ("Coalition"). Two sister counties, Kent and Dorchester, have taken a stand for oyster restoration by urging federal and state agencies to use the proven most cost efficient and effective method for restoring historic oyster beds in the Bay: the cultivation, seeding with natural/wild spat/spat on shell and selective harvesting used by Maryland's veteran watermen. Those Coalition counties invoked coordination in order to discuss an agency switch

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<sup>1</sup>The following Maryland counties currently comprise the Clean Chesapeake Coalition: Allegany, Caroline, Carroll, Cecil, Dorchester, Frederick, Harford, Kent, Queen Anne's and Wicomico.

to the watermen's process, which will better support the total environment (*i.e.*, the human environment – the economic, social and cultural environment along with and in addition to the natural environment) in Maryland.<sup>2</sup> As articulated by our fellow Coalition counties, the best way to recover historic oyster beds is to expand the areas where oyster cultivation (formerly referred to as “dredging”) is permitted. Just as an orchard needs to be mowed, pruned, sprayed and harvested (*i.e.*, cultivated) to survive and thrive and just as a farm field needs to be disked (and occasionally tilled), seeded, weeded, irrigated and harvested (*i.e.*, cultivated) to survive and thrive, an oyster bed needs to be cultivated in order to survive and thrive. Cultivation, natural seeding and selective harvesting is the proven best oyster restoration process. The Maryland Department of Natural Resources' annual oyster surveys verify that the watermen's oyster cultivation program has resulted in the highest level spat count and the greatest density and biomass of live oysters in the Bay.

When oyster cultivation improves the water quality of the Bay, the demands are logically lessened on our County to reduce TMDLs from other sources such as farms and businesses. In fact, any claimed reduction resulting from limiting phosphorus runoff from farms is far less significant than the level of phosphorus cleaning achieved by properly cultivated oysters.

Caroline County has engaged in a number of costly programs to improve the natural environment---all driven by the objective of satisfying Maryland's allocation under the 2010 TMDL. Some of TMDL/WIP programs and requirements that the County is required to implement do not make economic or environmental sense given unique characteristics of our County. Nevertheless, we were required to impose requirements of dubious effectiveness in order to prevent punitive action by regulatory agencies.

Our efforts, the costs connected with them and the burden to County taxpayers result in loss of business and residents and the diminishment of social and cultural institutions and the quality of living in the County. Economic expansion, renovation, redevelopment and new development within the County have suffered as the result of the TMDL/WIP driven programs being implemented without any coordination with us, all to the detriment of our human environment. Phosphorous requirements proposed for agricultural operations will harm farmers and drive business out of Caroline County. More regulations to “account for growth” in the name of TMDL Bay restoration will further harm our human environment.

Instead, efficient oyster restoration will remove pollutants to a degree that logically, reasonably, and legally eases the regulatory and statutory demands on our County. For example, the USEPA acknowledges in Appendix U of the 2010 TMDL that only 1 million market-sized oysters remove 700 to 5,500 pounds of nitrogen annually, and USEPA estimates that a tenfold increase in oyster population could remove 10 million pounds of nitrogen annually.<sup>3</sup> The USACE acknowledges that if the oyster density in the Choptank River were increased to 10 oysters per square meter over just 5,000 acres, 50% of the summer input of nitrates and 350% of the summer input of phosphates entering the Choptank River from point and non-point sources would be removed from that Bay tributary.

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<sup>2</sup> See Dorchester County letter to USACE, NOAA, USFWS and MDNR dated September 16, 2014 and Kent County letter to USACE, NOAA, USFWS and MDNR dated September 23, 2014.

<sup>3</sup> Note here that the final reduction target for annual nitrogen loading to the Bay pursuant to Maryland's Phase II WIP is 11.8 million pounds.


USEPA has acknowledged that restoration of historic oyster beds is one of the most cost effective ways to remove the pollutants required to meet the 2010 TMDL. Foreseeably, the improvement in Bay water quality resulting from oyster restoration will surpass other more expensive forms of TMDL abatement, and enable Caroline County to mitigate the impact of expensive requirements that currently drive existing businesses and citizens out of Maryland into states such as Delaware and Pennsylvania; and make it difficult if not impossible to attract new residents and businesses to the County. Caroline County has lost businesses and developments to those nearby states that do not have expensive environmental mandates imposed by the State of Maryland in the name of achieving compliance with the 2010 TMDL.

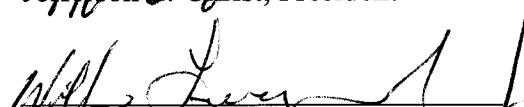
Finding it to be in the best interests of Caroline County's citizens and their human environment, Caroline County now joins Kent County and Dorchester County in invoking coordination to support efforts to persuade the involved federal and state agencies to utilize the cultivation process for improving oyster restoration. Through the coordination process, Caroline County and other Coalition counties will also seek to gain TMDL credits for pollutants removed by oyster restoration and oyster bed reclamation projects that we support. These credits can be used to offset pollutants that may emanate from farms, businesses and economic growth. This will free up funding that is critically needed in order to ensure adequate schools, public safety, infrastructure and other essential services within our County.

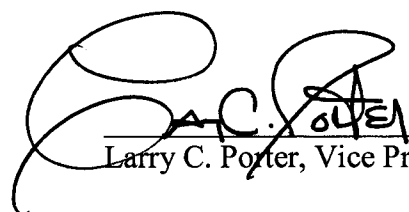
The County Commissioners of Caroline County are committed to participating in the coordination meeting requested and tentatively scheduled by Dorchester County and/or Kent County pursuant to their respective requests (see footnote #2). Alternatively, we have set aside time for a coordination meeting with your agency personnel on the 24<sup>th</sup> day of November, 2014 to allow your agency the opportunity to meet with us, the County's governing body. We trust that you are committed to participation in the government to government process that has been mandated by Congress in the National Environmental Policy Act, by Presidents in Executive Orders 13352 (August 26, 2004) and 13508 (May 12, 2009), and by the Maryland legislature in the Maryland Environmental Policy Act (Md. Code Ann. Nat'l Res. §§ 1-301 et seq.)

We look forward to sharing with you, Kent County, Dorchester County and other Coalition counties a successful coordination process designed to more efficiently and effectively clean the Bay.

Sincerely,  
County Commissioners of Caroline County

  
Jefferson L. Christ, President

  
Wilbur Levensgood, Jr., Commissioner

  
Larry C. Porter, Vice President

cc: Distribution List – see attached

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Caroline County Coordination Letter Addressed to USACE,  
NOAA, USFWS, USEPA and MDNR; dated October 21, 2014.

U.S. Senator Barbara A. Mikulski  
U.S. Senator Benjamin L. Cardin  
U.S. Congressman Andrew P. Harris  
Honorable Richard F. Colburn, Senator  
Honorable Stephen S. Hershey, Jr., Senator  
Honorable Adelaide C. Eckardt, Delegate  
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Honorable Talbot County Council  
Clean Chesapeake Coalition

