

May 8, 2008

The Honorable Timothy M. Kaine
Governor, Commonwealth of Virginia
Patrick Henry Building, 3rd Floor
1111 E. Broad Street
Richmond, VA 23219

Re: Proposed Virginia Urban Stormwater Permit Regulations

Dear Governor Kaine:

Your leadership and strong commitment to Virginia's natural resources are required on a critical matter regarding the protection of Virginia's waterways and achievement of the Commonwealth's water quality goals. The recent crisis of the blue crab highlights the plight of Virginia's waters and the very real impact that degraded water quality has on our natural resources and the citizens of Virginia. Just as you have taken bold action to address fishing pressure on the blue crab, we collectively call for equally strong and immediate action to address the Commonwealth's fastest growing water quality problem: urban stormwater pollution.

The Virginia Department of Conservation and Recreation (DCR) has proposed regulations related to water quality permits for urban stormwater (referred to as small municipal separate storm sewer systems or MS4s) that are scheduled to go before the Soil and Water Conservation Board on May 15, 2008. The current draft MS4 General Permit regulations miss an important opportunity to control pollution associated with municipal stormwater and are insufficient to meet Virginia's water quality standards, as required under the Federal Clean Water Act and Virginia Stormwater Management Act.

Recent studies have shown that urban stormwater pollution is the primary reason why the Chesapeake Bay cleanup effort has stalled. In fact, while pollution from wastewater and agriculture has declined, pollution from urban areas has increased undermining the progress made in the other areas. Additionally, urban stormwater has devastating impacts on local streams, creeks and rivers. To add even more urgency to this issue, as you have stated on numerous occasions, Virginia is on track to develop as much land in the next forty years as it did in its first 400 years. Without strong leadership, urban stormwater pollution threatens to erase all of the progress made to date.

Numerous studies have concluded that the current structure and implementation of the MS4 program nationally and in the Chesapeake Bay region have failed to adequately address pollution associated with new or existing development. The EPA Office of Inspector General recommended that Chesapeake Bay jurisdictions strengthen the MS4 permit process to achieve greater reductions in nutrient and sediment pollution. Currently, the proposed regulations make no mention of the Chesapeake Bay goals and fail to utilize the tremendous amount of science and planning that has been conducted to achieve a healthy Chesapeake Bay and its tributaries.

Governor Kaine, we urge you to utilize this opportunity to ensure a major, lasting contribution to resolving this paramount water quality issue. The urban stormwater regulations must be given teeth. They should have enforceable pollution limits; otherwise, we won't be able to identify pollution-reduction targets, or when those targets are achieved. To date, however, the Commonwealth has declined to take such action, and opponents complain that strong regulations will be too costly.

The groups signed below believe that the general permit and regulations must be strengthened to achieve the water quality goals for Virginia and fulfill its legal obligations under the Clean Water Act and Stormwater Management Law. Our groups have participated in the administrative process in an effort to improve the regulations, and if necessary, we are prepared to pursue further action to address the deficiencies

of the current proposed regulations. We seek your involvement in these regulations to ensure that they are fully consistent with Virginia's water quality laws, commitments and requirements. Specifically, we request that you:

1. Incorporate in the proposed MS4 regulations assigned pollution limits for particular urban areas when those limits are specified in an approved cleanup plan (Total Maximum Daily Load); and
2. Establish and incorporate in the proposed MS4 regulations measurable, enforceable criteria for urban areas based on the Chesapeake Bay goals to ensure that needed nitrogen, phosphorus and sediment pollution reductions are achieved; and
3. Provide a process for an urban area to develop and implement a plan to address pollutants that are documented to be contributing to a water quality impairment; and
4. Place a hold on the proposed MS4 regulations until they are revised in accordance with items 1 through 3 above.

Your leadership is crucial at this critical point as we approach the 2010 deadline established in the Chesapeake Bay 2000 agreement for cleaning up the Chesapeake Bay and its tributaries. By ensuring that Virginia's stormwater permits are consistent with the cleanup plans for the Chesapeake Bay and for other Virginia waters, your Administration can set the Commonwealth on course to achieve its water quality goals and set a standard for other states in the region and across the country.

Thank you for your consideration of our request.

Sincerely,

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Cc: The Honorable L. Preston Bryant, Secretary of Natural Resources
Mr. Joseph H. Maroon, Director, Dept. of Conservation and Recreation
Mr. Brian Shepard, Policy Director, Office of the Governor
Mr. Jeff Corbin, Assistant Secretary of Natural Resources