

## *A Coalition for an Affordable Bay Solution*

### **The Coalition for an Affordable Bay Solution Disputes Statements Made by the Chesapeake Bay Foundation (CBF) Regarding SB 994:**

#### **Statement 1:**

CBF states: *“Cost-effective strategies are already being implemented broadly across the Commonwealth with great success. They’re helping farmers meet regulatory requirements and municipalities improve their bottom line by lowering infrastructure costs. They also help reduce flooding, protect drinking water, revitalize our communities, and support local economies.”*

Despite spending hundreds of millions of dollars in public funding during the last 12 years, CBF’s practices have failed to achieve their own Bay improvement targets. Per the chart below, the CBF scoring program has made few improvements, broadly missing its target Bay health score of 50 in 2010. By its own admission, in just over 10 years, CBF has improved the Bay scoring from 28 to 32, a “D” to a “D+” – a stunning lack of progress.

#### **Chesapeake Bay Foundation "State of the Bay" Scoring**

	Pollution					Habitat				Fisheries				Total
	Nitrogen	Phosphorus	Water Clarity	Dissolved Oxygen	Toxics	Forested Buffers	Wetlands	Underwater Grasses	Resource Lands	Rockfish	Crabs	Oysters	Shad	
2012	16	27	16	25	28	58	42	20	32	69	55	6	9	32
2010	16	23	16	19	28	58	42	22	31	69	50	5	9	31
2008	17	23	14	14	27	56	42	20	30	70	35	4	9	28
2007	17	23	14	16	27	56	42	18	29	71	36	4	10	28
2006	17	29	16	15	27	56	42	18	29	71	38	4	10	29
2005	13	20	12	15	27	55	42	20	29	71	38	3	12	27
2004	12	16	13	15	27	55	42	18	29	73	38	2	10	27
2003	13	13	14	12	28	55	42	22	29	75	38	2	9	27
2002	16	16	16	15	28	54	42	12	30	75	40	2	7	27
2001	15	15	15	15	30	54	42	12	30	75	42	2	6	27
2000	15	15	15	15	30	53	42	12	33	75	46	2	5	28

Below 20	=	F
20-25	=	D-
25-29	=	D
30-34	=	D+
35-39	=	C
40-44	=	C+
45-49	=	B
50-59	=	B+
60-69	=	A
70 +	=	A+

**Statement 2:**

CBF states that SB 994: *"Will divert critical funding from CBF endorsed clean water practices in favor of proprietary, corporate backed technologies."*

SB 994 states "(3) In establishing the program, the Department shall dedicate 25% of any request for proposal to any farms or entities representing any farms where such farms gross receipts are less than \$750,000, so that these farms may competitively bid for TMDL parameter reductions."

Additionally, SB 994 clearly states in Section 6 that existing sources of funding for conservation programs shall not be included in the potential funding report and that a study to determine funding will be conducted by PA Legislative and Budget Finance Committee. Thus, as CBF knows, SB 994 does not divert funding from existing programs.

**Statement 3:**

CBF states that SB 994 favors *"Corporate-backed technologies that cost three times as much"* and that *"These senators want us to pay more for less clean water"* and *"The science-based solutions we (CBF) support generally cost one-third what the private, nutrient reduction technologies do."*

SB 994 does not contain the word 'technology' and does not seek or promote any one solution over another. SB 994's competitive bidding program is open to all sources that can meet the October 2015 required verified nutrient credit reduction standard, including "CBF endorsed practices." If CBF's solutions are cheaper, then it should be supporting legislation that focuses solely on reducing costs.

**Statement 4:**

CBF states that *"The bill would create a new 'TMDL parameter credit' which must be bought by the state to help fund expensive technology to meet the nutrient reduction requirements of the Chesapeake Bay Watershed and other major watersheds in Pennsylvania."*

SB 994 defines "Verified TMDL parameter credit" as "the unit of compliance that corresponds with a verified pound of reduction of a total maximum daily load (TMDL) parameter as determined by the department." In addition, SB 994 states under Section 3 "Major Watershed Improvement Program which shall consist of the purchase of verified TMDL parameter credits by PENNVEST through a program administered by the department and PENNVEST."

CBF distorts SB 994 by omitting the key word 'verified.' The bill language is specific since its objective is to focus limited resources going forward on practices that will produce verified credits, as required commencing in October 2015, rather than the certified credits from CBF's endorsed practices. Moreover, nowhere in the bill does it require funding expensive technology solutions. By its very nature, a public bid seeks the lowest cost solution.

**Statement 5:**

CBF states *“Worse, the bill requires taxpayers fund the credits up front before the work is done and without any matching requirements. Every other state program providing funding for nutrient reduction measures on farms and by municipalities reimburses farms and municipalities for their work after they complete it and provides at least some matching requirement.”*

SB 994 is a competitively bid program that contains no matching funds and makes no provision for reimbursement. SB 994 is a competitively bid procurement program that will pay for verified reductions that DEP will have audited and approved PRIOR to payment. This legislation is no different from other commodity programs where payment will be rendered AFTER and NOT PRIOR to delivery of the goods and services under the agreement. Furthermore, SB 994 transfers the performance risk from the taxpayer to the credit generator whereby under existing programs the taxpayer assumes the performance risk.

Senator Elder Vogel, who introduced the legislation, recognizes that competitive bidding will attract low cost solutions and projects that can produce verified nutrition reductions. “The end result,” he stated, “will be that overall federally mandated compliance costs will be significantly reduced while Pennsylvania's local communities will benefit from improved public health, long-term cost avoidance to meet drinking water standards, and economic growth.”

**In conclusion, SB 994 is:**

- Based upon the successful Colorado salinity program that implemented competitive bidding for verified salt reductions, with the result being a 70% reduction in cost with the least cost solutions coming from private sector agriculture to replace higher cost public authority projects.
- A standing Pennsylvania bi-partisan committee has determined that adoption of competitive bidding for verified nutrient reductions could reduce verified nutrient compliance costs to taxpayers by up to 80%.
- All sources can participate. If CBF or any other source provides the lowest cost verified reduction solution, they will be awarded the winning bid.
- Small farms will have priority for 25% of the total awards. Their participation will be voluntary.
- SB 994 favors no source, technology or practice; simply a low bid verified solution.
- SB 994 protects the taxpayer by transferring the performance risk to the credit generator versus present practice where the taxpayer assumes the performance risk.
- SB 994 specifically excludes existing sources of conservation funding from inclusion in the study on potential sources of funding for SB 994.
- SB 994 procurement is limited to verified credits as determined by the department.