



Comments on the Potential Legal Challenge of the  
Chesapeake Bay TMDL by the  
Hampton Roads Planning District Commission

March 17, 2011

Hampton Roads communities stand to gain substantial benefits from a clean Chesapeake Bay and James River. The restoration of Hampton Roads waterways will not only increase the quality of life of the residents, but also increase tourism and increase the number of jobs in the area. A recent study of boaters in Hampton found that water quality is the number one concern when determining the base location for their boat. In the current economic climate, it is critical for localities to acknowledge the influence of water quality on their economies and to take the necessary actions to ensure that local economic sustainability will be ensured into the future.

The James River Association understands that Hampton Roads communities are concerned regarding the costs associated with the Chesapeake Bay TMDL, however, there are ways to reduce the costs of implementing the Watershed Implementation Plan that should be considered before any legal challenge is taken: options for lower cost BMPs must be investigated, the impact of the newly passed fertilizer bill needs to be understood, as well as the impact of the newly proposed expanded nutrient trading program. In the future, new technologies could be developed to meet financial needs. Additionally, the fact that costs will rise through time should not be ignored. Delaying implementation of the TMDL runs the risk of costing the communities more in the long run.

JRA understands that HRPDC communities are concerned about flexibility and adaptability throughout the TMDL process, but if the framework of the approved WIP - which includes significant reductions from unregulated sources - is compromised, the EPA will use their clear authority under the Clean Water Act to require more significant reductions from regulated sources, like HRSD and MS4 permits. This may result in more costly improvements than the current TMDL calls for and threatens the flexibility that HRPDC communities deeply desire.

Finally, it should be emphasized that the James River Association is ready and willing to work with the Hampton Roads Planning District Commission and individual localities to find a workable path forward.



*The James River in Surry County*