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July 31, 2020

Ms. Laura McKay
Program Manager
Virginia Coastal Zone Management Program
Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, Virginia 23219

Submitted via email

Dear Ms. McKay:

RE: The Pew Charitable Trusts' Comments on Virginia's Section 309 Coastal Needs Assessment and Strategies (2021-2025)

Thank you for the opportunity to provide comments on Virginia's Coastal Needs Assessment and Strategies, conducted by the Virginia Coastal Zone Management (CZM) Program under section 309 of the Coastal Zone Management Act (CZMA). Every five years, this program allows states and territories to assess their CZM programs across nine enhancement areas, rank specific areas in order of priority, and finally develop new five-year strategies in specific enhancement areas to improve protection and management of the coastal zone through the development of new enforceable policies.

The Pew Charitable Trusts' (Pew's) main interests relative to the CZMA and section 309 are to promote and maintain healthy coastal ecosystems and to reduce the impacts of floods and hurricanes on communities. Healthy coastal and marine ecosystems provide many benefits and services that support coastal economies and help mitigate climate-related impacts such as sea level rise and intensifying coastal storms.

Virginia's CZM program has a comprehensive policy purview that spans state agencies and federal actions, as well as an ability to direct and leverage funding. Accordingly, over the next five years, the program has an opportunity to strengthen coastal and ocean management in furtherance of the Commonwealth's climate goals (including Executive Order 24), coastal economies and natural heritage. We commend Virginia CZM for its proposed 309 strategies for the period 2021 to 2025 focusing on coastal hazards, marine debris and ocean resources, including strengthening CZM enforceable policies to account for coastal hazards and climate impacts, and developing an ocean plan. We feel these strategies

will bring to bear public input, science and evidence-based solutions for future CZM program updates necessary for addressing the significant challenges facing the coastal zone, most notably climate change.

We also agree that the Cumulative and Secondary Impacts (CSI) enhancement area is a high priority. Though we recognize that limited funding necessitates prioritizing specific new lines of work over the next five years, we welcome the opportunity to partner with Virginia's CZM program to develop strategies to address CSI, such as stormwater management and low impact development.

We provide detailed comments on the proposed strategies in the following section.

Coastal Hazards

Pew supports the Commonwealth's prioritization of coastal hazards and the development of specific strategies related to reviewing enforceable policies and promoting shoreline and community resiliency. These strategies address some of the most critical issues facing the Commonwealth's coastal zone including flooding, habitat loss, and community vulnerability, and will be key to advancing the Commonwealth's goals on resilience (Executive Order 24) and flooding (Executive Order 45).

With respect to strengthening CZM enforceable policies (EPs), we commend the Commonwealth for its considerable work to develop narrative enforceable policies that provide a clear and concise statement of the CZM program structure and rules. We endorse the proposed strategy to expand upon this work by reviewing and identifying opportunities to incorporate coastal hazards and climate-impact considerations into existing or new EPs. This work would be precedent setting and could guide other state CZM programs that are in the process of reviewing their EPs. Examples include EPs related to land-use planning in floodplains; policies governing protection and restoration of natural defenses like submerged aquatic vegetation, oyster reefs and salt marsh; and authorities related to land conservation and opportunities to facilitate inland migration of coastal habitats.

We recommend incorporating input from a broad range of stakeholders and experts, including from other states and national entities, to take advantage of new research and policy guidance. Conferring with other states about the benefits and challenges associated with using local land use regulations or other management plans as sources of enforceable policies may be beneficial. As an example, Oregon extracts enforceable policies from local land use regulations and estuary management plans (created by coastal counties) and may be able to provide helpful insight to this approach. Oregon also employs coastal Statewide Planning Goals that direct state agencies and local jurisdictions to meet broad resource goals of the state. The Commonwealth could study that model and modify as appropriate to coordinate local jurisdictions to achieve coastal resilience goals, and create new EPs, while maintaining the traditional decentralized local land use structure.

We also support the proposed strategy related to strengthening shoreline management plans to more effectively build natural resilience. This strategy is consistent with and will advance the new requirement instituted by the Virginia Marine Resources Commission to permit only living shoreline approaches to shoreline management unless the best available science shows that such approaches are

not suitable.[1] We endorse building the evidence base to incorporate incentives such as water quality credits, as well as considering opportunities to partner with oyster growers in pilot communities to advance the use of shellfish in the context of living shorelines. In addition, consistent with the Commonwealth's climate goals, we recommend further exploration of the carbon sequestration potential of living shorelines and conducting research to this end in specific pilot communities. We note that there may be opportunities to share information on this topic and others of relevance to living shorelines with science, NGO and agency partners in North Carolina.

Pew commends the Commonwealth for its ongoing initiatives to assist communities with assessing risk and identifying resilience strategies. Communities can sometimes struggle to transition from risk assessment and resilience planning to implementation. By continuing to employ the Resilience Adaptation Feasibility Tool (RAFT) and Community Rating System (CRS) evaluation in the next five years, Virginia will support communities as they carry out the recommended actions identified in the RAFT process and enhance local capacity to anticipate and address coastal hazards in their day-to-day decision-making.

Finally, we note that the CSI assessment highlights a critical coastal hazard – the challenge of increased rainfall and associated runoff from coastal developments. We agree with the assessment's recommendation that advancing more resilient stormwater design capacity should be a priority and included as part of the Coastal Hazards strategy.

Marine Debris

Virginia's CZM strategy related to updating its Marine Debris Reduction Plan is a timely development and complementary with the ocean plan strategy included in the ocean resources enhancement area. We also note opportunities to consider CSI via this strategy, specifically storm water and promoting the use of low-impact development in rules and regulations governing upland areas to reduce debris and pollution flowing into the ocean.

Given the shared watershed of the Chesapeake Bay, Pew also encourages the Commonwealth to work with its counterparts in Maryland and other Chesapeake Bay Program affiliated states to help expand efforts to reduce land-based sources of debris. As noted in the Phase II Assessment, the increasing attendance at the 2016 and 2019 Marine Debris Summits hosted by Virginia's CZM program is evidence of the need for a larger, more regional approach to this issue.

Regarding derelict fishing gear, Pew is encouraged by past engagement with the fishing industry to find, map and remove gear, as well as the development of a smartphone app to empower the general public to report and collect data. While there is a well understood connection between derelict gear and blue crab production, marine debris (and plastic pollution at-large) can also negatively impact important coastal habitats like submerged aquatic vegetation and saltmarsh, as well as oysters.

[1] General Assembly of Virginia, 2020 Session. An Act to amend and reenact §§ 28.2-104.1, 28.2-1301, 28.2-1302, and 28.2-1308 of the Code of Virginia, relating to wetlands protection; living shorelines (S. 776). Virginia Acts of Assembly. Accessed March 10, 2020: http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB776ER.

We'd encourage Virginia's CZM program to leverage its expertise in this area and consult with the various fishery management agencies to develop additional incentive programs to encourage best practices and to avoid leaving abandoned or derelict gear in the water. This could include better labeling and requirements to retrieve lost and abandoned gear to facilitate clean-up. Managing agencies should encourage the recycling of gear and could partner with recycling companies and municipalities to recycle disabled, lost, and abandoned gear. One innovative example is the North Carolina Coastal Federation pilot program that worked with commercial fishermen to recycle blue crab pots into oyster reefs[2]. We also recommend exploring the idea of requiring a pre-established "storm plan" that outlines how gear will be secured before major storms and prevent damage to surrounding natural habitats and impediments to navigable waterways and public access infrastructure.

Finally, relative to the issue of plastic pollution, we would like to highlight the following recent reports funded by Pew, which we would be happy to discuss in further detail:

- Duke University Nicholas Institute for the Environment's Twenty Years of Government Responses to the Global Plastic Pollution Program, which compiled an inventory of nearly 300 sub-national, national and international policies instituted between 2000 and mid-2019 to target plastic pollution, and canvassed the scientific literature for studies on the effectiveness of these policies.

- "Breaking the Plastic Wave: A Comprehensive Assessment of Pathways Towards Stopping Ocean Plastic Pollution," a new analysis by Pew and SYSTEMIQ that finds that without immediate and sustained action, the annual flow of plastic into the ocean could nearly triple by 2040. The study also identifies solutions that could cut this volume by more than 80 percent using technologies that are available today, if key decision-makers are willing to make systemwide changes.

- "Evaluating scenarios toward zero plastic pollution," an accompanying article in the journal *Science* which detailed the methodology behind Breaking the Plastic Wave and reports that the combined plastic pollution to land and sea could be 710 million metric tons even under the best-case scenario and that urgent action is needed to curb plastic waste going into the environment.

Cumulative and Secondary Impacts (CSI)

While Pew understands the Coastal Policy Team's determination that a standalone CSI strategy was not needed at this time, we would like to emphasize the importance of continuing to communicate about and effectively coordinating the growing number of CSI-related activities. For example, Pew supports the continued economic research and proposed literature review regarding the co-benefits of living shorelines.

Additionally, we encourage CZM program engagement with the Virginia Council on Environmental Justice (VCEJ), which was established by Governor Northam's Executive Order 29 in 2019 and made permanent in legislation passed by the General Assembly in 2020. We believe Virginia's CZM program can take a leading role in addressing CSI-related issues and bringing a voice to at-risk or underserved

[2] NOAA Marine Debris Program, Recycling North Carolina Derelict Crab Pots into Oyster Reefs, accessed July 2020: https://marinedebris.noaa.gov/removal-projects/recycling-north-carolina-derelict-crab-pots-oyster-reefs.

communities. We suggest looking to California and New Jersey, who are using their CZM programs to address issues of environmental justice and equity. California's Bay Conservation and Development Commission recently adopted an amendment to add environmental justice and social equity findings and policies to the Bay's coastal program. This amendment incorporates principles of environmental justice and social equity into the planning, design, and permitting of projects in and along the San Francisco Bay. New Jersey's coastal program is also looking at ways the program can address issues of equity in the coastal zone. The state's "A Seat at the Table" initiative conducted as a NOAA CZM "Project of Special Merit" in partnership with The Rutgers University Bloustein School and the Jacques Cousteau National Estuarine Research Reserve is developing guidance, training, tools, and policy recommendations for the state's CZM program to better meet the needs of vulnerable coastal communities.

Lastly, Virginia's CZM program has demonstrated the importance of outreach and engagement with at-risk communities in the past, and Pew encourages the program to continue these efforts so that leaders can work with policymakers on CSI-related issues more successfully.

Ocean Resources

We applaud the Commonwealth for proposing a strategy to leverage the science, data and partnerships forged via the Mid Atlantic Regional Planning Body (now the Mid Atlantic Committee on the Ocean) to develop a Virginia Ocean Plan. Virginia's nearshore and ocean waters harbor ecologically significant habitats and wildlife that support fisheries, tourism, culture and heritage. Given the increase in industrial activities (e.g., offshore wind, shipping, potential offshore aquaculture), as well as climate-related challenges such as warming and acidifying waters and shifting wildlife populations, there is a critical need to apply science, precaution and regulatory clarity to the management of the Commonwealth's ocean waters.

Development of an ocean plan will create an opportunity to engage a broad range of stakeholders including businesses, communities, NGOs, tribes and others to examine current and emerging needs. In addition, Pew supports using the best available science to identify and designate ecologically rich areas to avoid impacts to sensitive habitats including corals and whale migration routes from infrastructure related to offshore wind, potential offshore aquaculture, and other industries.

As an example, we highlight a similar process undertaken by the state of Washington in the context of its ocean plan (Marine Spatial Plan). Washington identified Important, Sensitive and Unique Areas (ISUs) in state waters that have high conservation, historic and other values; and included standards to maintain the integrity of these areas and to protect the ISUs from adverse effects of offshore development, while allowing existing compatible uses such as fishing. Focusing the plan on sensitive resource areas, rather than uses or activities, provides an opportunity to leverage work on the ocean plan with Virginia's emerging geographic location description in terms of development of new enforceable policies and federal activities listed for Commonwealth review.

Pew supports Virginia's CZM's plan to form an "Ocean Planning Committee" and encourages engagement beyond the committee to include the proposed working groups as well as the public as

appropriate. Pew has a long track record in ocean and fisheries issues, and would welcome the opportunity to provide policy, education, outreach and science expertise and support to the Commonwealth as it embarks on the development of this plan.

The Pew Charitable Trusts is committed to supporting the important work conducted by the Virginia CZM Program to improve protection and management of the Commonwealth's coastal resources. We thank you for the opportunity to comment on Virginia's Section 309 Coastal Needs Assessment and Strategies and look forward to the development and implementation of new program enhancement strategies that will continue this vital work.

Sincerely,

Zachary Greenberg

Zachary Greenberg
Officer, Conserving Marine Life in the United States
The Pew Charitable Trusts