

Public Hearings - Leonardtown - Critical Area Plan for The County, of St Mary's 1988 MSA - S1830-48

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE CHESAPEAKE BAY
CRITICAL AREA COMMISSION
LEONARDTOWN, MARYLAND

CRITICAL AREA PLAN FOR THE
COUNTY OF ST. MARY'S

St. Mary's County Courthouse
Leonardtown, Maryland

Thursday, March 31, 1988

The above-entitled matter came on for hearing
pursuant to notice.

BEFORE:

JAMES E. GUTMAN, Chairman

APPEARANCES:

- FRANK RALEY
- ALBERT ZAHNISER
- SAM BOWLING
- BOB PERCIASEPE
- WREN SEVEY
- GEORGE FLEURY
- ORAN WILKERSON
- RONALD J. SCHUG
- PETE AMOLF
- TUCKER BROWN
- JACK WITTEN
- ANDY CHINNI
- PATRICK O'DONNELL
- OWEN WITHITE
- ARTHUR ESCH

P R O C E E D I N G S

1
2 CHAIRMAN GUTMAN: Good evening. I'd like to wel-
3 come everyone to the hearing on the St. Mary's County
4 Chesapeake Bay Critical Area Plan. Tonight we have a num-
5 ber of speakers; and in a minute, I'll indicate how we will
6 proceed so that everyone has an opportunity to speak.

7 But first, let me pause to inquire if there is
8 present in the audience any elected official, either of the
9 county or of the state, that would wish to be recognized and
10 the oppor -- have the opportunity to speak if they wish to
11 do so at this time? All right. This hearing is conducted
12 pursuant to Section 8.1804E of the Critical Area Act. And
13 our purpose is to receive testimony on the plan, the text
14 of the plan, on the maps, the ones that are at the table
15 here in the front, from anyone who wishes to speak about
16 this program.

17 Our purpose is to hear comments as to whether you
18 think the criteria that was developed by the commission has
19 been followed, and whether you are in agreement with what
20 is being proposed by the county. Let me make very clear
21 that our purpose tonight is not to have this panel, from
22 the -- drawn from the members of the commission, in any way

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 pass judgment on a specific parcel. In fact, this panel
2 will not respond to any questions, nor is our purpose to
3 provide any information about the plan. For those who may
4 have a question or a problem with how the mapping has been
5 done that effects property in which they have an interest,
6 the appropriate method is to speak to the Planning Staff
7 of the county.

8 Again, this panel will not respond even when asked
9 about a particular parcel or a particular element in the
10 plan. We are here to get your input as to what you think
11 of the plan and whether you are in approval or disapproval
12 or whatever, about what has been proposed for your county.

13 We have a number of speakers, a number of indivi-
14 duals who have indicated they wish to speak. And I think
15 in fairness to all, there should be a time limit, so that
16 we're not here too late. I'm going to ask that everyone
17 hold their -- their message to us to no more than three
18 minutes.

19 I think if you can identify yourself, giving your
20 name and address, the parcel or the text of the plan where
21 you wish to comment, you can identify that location, identify
22 that portion of the text. And then very briefly let us know

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 what your feelings are. Certainly there will, however, be
2 the opportunity for anyone to provide tonight any written
3 testimony, that will become a part of the record.

4 And further, if you wish, after the hearing to
5 send a comment to the commission, you may do this in writ-
6 ing by addressing your communication to the Chairman of
7 the Critical Area, Chesapeake Bay Critical Area Commission.
8 That would be to Solomon Liss. His last name is spelled
9 L-i-s-s. He is the Chairman of the Chesapeake Bay Critical
10 Area Commission. His office is at 580 Taylor Avenue, D-4,
11 "D" for dog, 4, Annapolis, Maryland. The zip code is
12 21401. Solomon Liss, Chairman, Chesapeake Bay Critical
13 Area Commission, 580 Taylor Avenue, D-4, Annapolis, Maryland
14 21401.

15 The hearing record will remain open through the
16 day of April the 11th. This allows an additional day. For
17 many tomorrow's a holiday. We have Easter coming up, so
18 your comment, your written comments if sent, should be
19 received no later than the 11th of April, Four thirty in
20 the afternoon.

21 Tonight we have a court reporter; Miss Debbie
22 Becker is taking down verbatim everything that will be

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 presented tonight. And it will be made a part of the record
2 for the commission. And it is to that record that we will
3 address ourselves when reviewing the program.

4 I'd now like to have each member of the commission
5 identify themselves, who they represent, what county, what
6 jurisdiction, or what interest. And I'll start over here
7 with the gentlemen I think many of you know.

8 MR. RALEY: Okay, Frank Raley, St. Mary's County.

9 MR. ZAHNISER: Albert Zahniser, Calvert County.

10 MR. BOWLING: Sam Bowling, Charles County.

11 MR. PERCIASEPE: Bob Perciasepe with the Maryland
12 Department of Environments.

13 CHAIRMAN GUTMAN: My name incidently is James E.
14 Gutman. I am from Anne Arundel County, and I serve at large
15 on a commission representing the western shore. With us
16 we have a staff member from the Chesapeake Bay Critical Area
17 Commission.

18 MR. SEREY: Wren Serey.

19 CHAIRMAN GUTMAN: All right. I think we are ready
20 to proceed. And I would like in advance to apologize to one
21 and all for what is coming, I know for sure. And that is
22 a terrible mispronunciation of names. Please excuse me.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Where they are clearly printed, I might do better. But I
2 apologize to anyone who I do not really intend to offend.
3 We will start with Mr. George Fleury.

4 MR. FLEURY: Good evening. My name is George
5 Fleury. And my wife and I own a home on Paw Paw Point,
6 which is directly across the bay from Abel's Wharf, which
7 is situated at Lover's Point. I think it's very regrettable
8 that this meeting was scheduled for Holy Thursday, which
9 is a very important religious holiday in St. Mary's County
10 And this conflict has made it impossible for many interested
11 citizens to attend this meeting and to present their views.

12 I am a member of Save St. Mary's Waterways, and
13 I'd like to explain to you why we -- why we feel that these
14 40 acres at Lover's Point do not meet the criteria for
15 designation as an intensely developed area. Could we --
16 could I show you this map in some way? I don't see any...

17 (Off record discussion.)

18 MR. FLEURY: This map shows the two farms that
19 comprise the Maryland Rock Gravel operation at Abel's Wharf.
20 This was the Mattingly farms in yellow and the Greenwell
21 farms in green. Prior to the inactment of the 1974 zoning
22 ordinance, which was St. Mary's County's first zoning

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 ordinance, the gravel excavation had begun on this part
2 which is approximately 40 acres, and was being carried out
3 under the terms of a simple grading permit.

4 When the zoning ordinance was enacted, it became
5 necessary for the miners to apply for a conditional use
6 permit to mine the gravel on the rest of this property.
7 And it is this 40 acres that we understand has been desig-
8 nated by our county commissioners as a -- as an intensely,
9 intensely developed area. That's fine, thanks.

10 The criteria is, as I understand, for an intensely
11 developed area or another one that there should be at
12 least four dwelling units per acre. And there are no
13 dwelling units on this 40 acre tract. Another criterion
14 would be that the area be served by public sewer or water,
15 and there's no public water or sewer anywhere near Abel's
16 Wharp tract. The third criterion is that industrial,
17 institutional or commercial uses are concentrated on the
18 tract that's being proposed or that's being designated as
19 an intensely developed area.

20 It is true that gravel processing and barge load-
21 ing, which are industrial uses, are going on at this time
22 lawfully on this tract. However, this -- these uses are

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 only temporary. They only are lawful by virtue of a condi-
2 tional use permit, which was issued in 1975, and which will
3 expire 21 months from today. There are those who believe
4 that the processing and barging are non-conforming uses,
5 but we feel that the courts will uphold us in our conten-
6 sion that barging and processing of material brought from
7 off the site are not non-conforming uses, and will not be
8 allowed to continue.

9 CHAIRMAN GUTMAN: Thank you Mr. Fleury Do you
10 wish to...

11 MR. FLEURY: I'd -- I'd like to have just a...

12 CHAIRMAN GUTMAN: Do you wish to submit this for
13 the record or do you wish to take that with you sir?

14 MR. FLEURY: Well, if it would help, I would
15 gladly submit it.

16 CHAIRMAN GUTMAN: All right. we'll...

17 MR. FLEURY: I'll send it in.

18 CHAIRMAN GUTMAN: All right. That's fine. Well,
19 thank you very much Mr. Fleury.

20 MR. FLEURY: Can I mention another issue or could
21 I -- would I be allowed to...

22 CHAIRMAN GUTMAN: You have used your allotted time

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 sir. Mr. Oran Wilker -- Wilkerson is our next...

2 MR. WILKERSON: Is it this one?

3 CHAIRMAN GUTMAN: Yes, speak right into there if
4 you will please.

5 MR. WILKERSON: All right. My name is Oran
6 Wilkerson, and I'm speaking on behalf of the Potomac River
7 Association of St. Mary's County. And I want to direct my
8 remarks to tax map 48. The property, part of the property
9 occupied by Maryland Rock Industries on Breton Bay. I
10 want to mention to the gentlement here that as early as
11 February 26th of this year our association wrote to you
12 concerning our feelings as to the designation of this piece
13 of property on the critical areas maps of the county.

14 And If I may I'd like to read from that letter.
15 An agreement dated September 11, 1975, between John S.
16 Mattingly, et al, and Little Breton Bay, Inc., et al,
17 involving the above land specifies, quote, "the excavation,
18 processing, and shipping of materials shall cease on or
19 before December 1, 1989." The reference is Liber 235,
20 folio 77 of the land records of St. Mary's County.

21 And secondly, the St. Mary's County Board of
22 Appeals in granting a conditional use permit for the land

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 specified the conditional permit is granted until
2 December 31, 1989, or until the mining operation is com-
3 pleted, whichever is sooner. See St. Mary's County Board of
4 Appeals, Case No. CU-74-2, dated November 13, 1975.

5 Now the conditions of the Mattingly, Little
6 Breton Bay, Incorporated agreement, and those of the con-
7 ditional use permits specify, quote, "the conditions and
8 restrictions herein contained shall be binding upon the
9 applicant and any subsequent contract purchaser and their
10 successors, heirs and assigns. The restrictions herein set
11 forth shall run with and bind the land."

12 In summary, the fact that the gravel mining
13 operation is legally required to cease operations by
14 December 31, 1989, (less than two years away), that it is
15 located in an agricultural area, and that Maryland Rock
16 Industries is required to restore the land to its original
17 state, namely farm land, we ask you review whatever action
18 you may have already taken on the St. Mary's County Criti-
19 cal Area Plan and to examine the maps once more in the light
20 of the information we have furnished.

21 We believe St. Mary's County Office of Planning
22 and Zoning are in error. We feel that office is not

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 receptive to our views. And so we address you. We urge
2 that the commission disapprove that portion of the plan
3 that designates the property in question as intensely
4 developed, and give it its property designation as resource
5 conservation.

6 Now, speaking as an individual, I want to say
7 that in -- in view of the -- in my view at least, the
8 operations of Maryland Rock were intended to be from the
9 very beginning, temporary in nature when the first condi-
10 tional use was granted in 1975. The operations of Maryland
11 Rock are temporary by the terms of the various agreements
12 and the conditional permits granted to them by the St. Mary's
13 County Board of Appeals. And by the terms of the agreement
14 with the company's predecessor, those terms bind Maryland
15 Rock as well.

16 CHAIRMAN GUTMAN: Mr. Wilkerson if you will
17 please sum up.

18 MR. WILKERSON: Right, one sentence. In view
19 of the fact that the operations are not intended to be
20 permanent, I urge the Chesapeake Bay Critical Area Commis-
21 sion to direct that the area in question be designated
22 resource conservation on the St. Mary's County Critical

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Area Map. And here's a copy of our original letter in
2 the event that the first one was misplaced.

3 CHAIRMAN GUTMAN: All right. We will make this
4 a part of tonight's record.

5 MR. WILKERSON: Thank you.

6 CHAIRMAN GUTMAN: I believe we have with us a com-
7 missioner from St. Mary's County, Mr. Ed Bailey? Is he
8 in the audience? Do you care to say anything at this time
9 Mr. Bailey?

10 MR. BAILEY: No sir. I was here the night the
11 commission -- people of St. Mary's County. We can listen
12 to what you have to say and then we'll make up our mind.
13 We'll be thinking about it.

14 CHAIRMAN GUTMAN: All right. Well, Mr. Commis-
15 sioner, thank you for being with us. As I explained
16 earlier, we the panel members from the commission will be
17 silent tonight. You will be hearing from your consti-
18 tuents instead.

19 Next we will hear from Mr. Ronald J. Schug. Again
20 I apologize for any mis...

21 MR. SCHUG: It's perfect.

22 CHAIRMAN GUTMAN: All right sir. All right.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 MR. SCHUG: I'm Ronald Schug from Medley's Neck
2 and I -- I represent the Save St. Mary's Waterways and the
3 residents of the real Medley's Neck. Those signatures
4 that I went out and solicited to support the attention of
5 the residents to see what was happening to the encroachment
6 problems in our area. And I think most of us that are
7 residents or close proximity to Medley's Neck are concerned
8 about encroachment, and that it is not just a temporary
9 operation. But that it is a full fledged operation that
10 will continue for as many years as they will be allowed to
11 find and influence residents to sell their property or to
12 deny the use of public property which appears to be right
13 within the intensely designated area.

14 I believe that there is a, because I live in
15 that area and travel the road every day and observe the
16 operations of Maryland Rock, I think that they tried to
17 adhere to many of their commentments. But what they failed
18 to do is to actually take care of the area the way the
19 former operators, the Langenfelders, and now Maryland
20 or Florida Rock is doing.

21 Their property adjoins or is very near to my
22 own and to many of the other residents that I've contacted.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 And it appears that they will continue to move further into
2 a -- a very serious area of use to the public as well as
3 to resource conservation. I've been contacted by the
4 Smithsonian to offer my property if I was willing to sell
5 it. I think any one of these pieces of property that's in
6 Medley's Neck; there are all types and species of waterfowl
7 as well as areas of very serious concern to artifacts that
8 -- that should be excavated and the great history that is
9 in that area from the -- dating back from 1634 as I think we
10 just celebrated today.

11 We trouble -- we are troubled with well water.
12 We've watched it go down. They pump lots of it. The water
13 changes color. We can't get rid of it; we can't get clear
14 water. I watched gravel, two barges, personally, go down
15 on Sunday operations. They are not containing themselves
16 five days a week or six days a week. They move gravel as
17 fast as they can move it. They move sand at the rate of
18 three or four barges on a Sunday at a time.

19 It's definitely Sunday operations, 1989, 2006.
20 And I think there's nothing to stop them except the people
21 here in this room. Thank you.

22 CHAIRMAN GUTMAN: Thank you. We now have with us

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 two additional members of the commission, Mr. Carl, I
2 believe they fondly refer to him as Buddy, Lafler, who
3 is the president. Would you, Mr. Lafler, care to make any
4 remarks at this time sir?

5 MR. LAFLER: Not at this time. We're listening
6 as well as you are.

7 CHAIRMAN GUTMAN: All right. Well, thank you for
8 being with us. Also Robert Jarboe is present as well.

9 MR. JARBOE: Mr. Chairman, I don't have anything
10 -- . Just here to listen to what the people have to say.

11 CHAIRMAN GUTMAN: All right. Glad that you've
12 joined us. And I believe I saw Ford Dean come in.

13 MR. DEAN: Yes, Ford Dean.

14 CHAIRMAN GUTMAN: Would you care to at this time
15 provide any remarks sir?

16 MR. DEAN: No thank you, Jim. I'm just hear to
17 listen as well.

18 CHAIRMAN GUTMAN: All right. Well, glad to see
19 you again, Ford. Okay. Again I would just like to ask
20 if anyone has not signed the sign-in sheets off to my left,
21 outside of the door, please do so. Particularly indicate
22 if you do wish to speak, so we can have you on the record

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 tonight. Next we will hear from Mr. Pete Amolf.

2 MR. AMOLF: Hammol's close or Amolf. My name is
3 Amolf, and as I say, I don't live on Breton Bay. I have no
4 financial interest there. I have no relatives. The only
5 thing that I -- that brings me here is the fact that Breton
6 Bay is Maryland water. These people are here, and I'm
7 certainly sure that they themselves are familiar with the
8 critical area law, subtitle 18.

9 And, of course, the national studies have docu-
10 mented that the quality and productivity of the water to
11 the Chesapeake Bay and its tributaries has declined due to
12 the cumulative efforts of human activity. That it caused
13 increase levels of pollutants, -- and toxics in the bay
14 system, and declines and more protective land use such as
15 forest land, agricultural land in the bay region.

16 These -- the reason that I made it clear that
17 I'm not from any area of Breton Bay, I do live on the water.
18 And everybody should be considered interested in the Maryland
19 waters. The situation is that we met with the county
20 commissioners not too long ago, and we tried to express our
21 thinking after the effect that this one area that we're
22 primarily concerned with tonight, is just one of a lot of

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 things that have happened along the Chesapeake Bay for
2 several hundred years.

3 Mostly the downfall of the bay has happened in
4 the last 30 to 40 years. And it's little pockets of this
5 sort of situation that we have at Medley's Neck that is
6 contributed to the entire bay and the tributaries today.
7 The situation is such that the critical area law that I
8 just mentioned spells out the very things that we are inter-
9 ested in. And to go back to the area itself, the Maryland
10 Rock operation today is not a legal, non-conforming use
11 under the provisions of the 1974 zoning ordinance.

12 So if they are not, then where does the ball stop
13 rolling. And personally, and I think literally everybody
14 in this room feels like, that you people are one that can
15 give us the thought that will put some meat in the people's
16 thinking beyond St. Mary's County. I'd like to mention
17 one thing that I read just recently. And that is, well,
18 was -- yesterday, and it was the commitments made in the
19 Chesapeake Bay agreement. And to go into it without reading
20 a lot, these people are now outlining a program for citi-
21 zens' involvement.

22 They expect to involve a million people,

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 residents of the State of Maryland, to clean up the
2 Chesapeake Bay. How can anybody expect a million citizens
3 of the State of Maryland to go out and clean up after a
4 bad neighbor, that has no friends among the people in
5 close proximity to this operation on Medley's Neck. And...

6 CHAIRMAN GUTMAN: I'll have to ask that you sum
7 up sir. Your time has expired.

8 MR. AMOLF: I have and I want to thank you for
9 the time. And I hope that you people will see some of our
10 side of the thing.

11 CHAIRMAN GUTMAN: Thank you very much sir.
12 Our next speaker will be Mr. Tucker Brown.

13 MR. BROWN: Mr. Chairman, committee members,
14 my name is Tucker Brown, and we welcome you here to St.
15 Mary's County this evening. I am here representing the
16 St. Mary's County Watermen's Association, the Charles County
17 Watermen's Association, the Maryland Divers' Association
18 and the Maryland State Watermen's Association. And we also
19 stand behind Save St. Mary's Waterways, Incorporated. I
20 am a waterman, my brother, my father, his father. And I
21 have worked with all of them. And I know I do not have to
22 stand here before you tonight and tell you some of the

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 problems that you have already heard. But in all of our
2 years have I ever seen anything to a state that our water-
3 ways are in now. And it is going to take a strong backbone
4 to help bring some of this back.

5 And one of it is what we see here on this paper,
6 intense develop. Our ways are going to change, gentlemen
7 of the commjttee. If we are going to survive into our
8 water industry, we're going to have to take a role into it
9 whether we really like it or not. But our headwaters are
10 where this is going to start at.

11 I'm not -- I respect the Chair, and i know I'm
12 not supposed to be picking at one area, but people, there
13 is an area. -- traffic, June 3, 1981, \$3500 damage, one
14 acre. May 13, 1987, the tug Rolatae, 15 acres, still
15 pending. -- 3500, 26 by 3500, that will give you an esti-
16 mate of damage.

17 I will leave these papers, one from the D&R, --
18 director, say how important we must all come together to
19 save our headwaters. What about our old heritage, where we
20 came from. Where are we headed. This is the upsetting
21 part. A major source of food is laying right there, gentle-
22 men. Something is not right there. Something is wrong.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 There is so much more that I could say. And if
2 the Chair says I get three minutes for each one of these
3 associations, I would thank you.

4 CHAIRMAN GUTMAN: I'm sorry, but I interpret you
5 sir as one individual.

6 MR. BROWN: So, in summary, in summing it up, I
7 say to you gentlemen, let's keep everything that we had.
8 We can work together. A lot of people say oh, the water
9 industry and development can wait, of course, resource
10 conversation. Thank you very much.

11 CHAIRMAN GUTMAN: Thank you Mr. Brown. All right.
12 Our next speaker will be Mr. Jack Whitten.

13 MR. WITTEN: Thank you Mr. Chairman. My name is
14 Jack Whitten. I live in Hollywood, Maryland. I'm a member
15 of the Chesapeake Bay Commission and a member of Maryland
16 Environmental Trust, a Director of the Potomac River
17 Association, and presently a member of the Citizen's Task
18 Force on revising the critical areas criteria.

19 I think a change of discussion a little bit, I
20 want to say first, that we support completely the Save
21 Maryland Waterways position on Breton Bay and Lover Point.
22 And we also support the -- we'd like to challenge the

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 assignment of intention development area under the grand-
2 father clause to Murtle Point. I think this commission has
3 a very serious issue here. Both of these in our mind, and
4 we have seen absolutely no evidence to justify a grant --
5 Murtle Point, and we no -- nothing in the certeria to justi-
6 fy the intense developing category for the Breton Bay site.
7 And what these represent in our minds are political classi-
8 fication. And if the jurisdictions are allowed to override
9 or to apply your criteria and your law with political over-
10 rides and political classifications, your critical areas
11 program is going to be in very serious trouble.

12 And I'd like to bring that to your attention.
13 Looking at the critical areas and we corresponded with you
14 on August 4th on this matter. We corresponded with com-
15 missioners repeatedly since two years ago; and looking at
16 the plan as it was submitted to you in December, it has
17 four characteristics. It avoids firm language; it avoids
18 firm standards; it makes most of the critical decision
19 making out of public sight in what they call the environ-
20 mental review process; and the maps are late, muddy and
21 inadequate. And they have not been available for public
22 review.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 We made a very strong effort several days ago
2 with the Critical Area Commission staff to have those maps
3 posted where people could see them. We made the same re-
4 marks to the County Commissioners in January 11th, 1986.
5 And we've made it repeatedly since then. We have a very
6 strong open meetings law in this County, and we feel that
7 way of presenting a map to this body of people on that
8 important program you're working is completely inadequate.

9 The County and State have invested about \$450,000
10 in this effort and that's mickey mouse. That's not the
11 way you handle a serious effort that has tremendous legal
12 repercussions and has tremendous impact on the property
13 values of the people assembled. And we have yet to find
14 the day when the maps would be on the wall where we could
15 look at them all at once, and in context, despite the fact
16 that we made repeated representation to that effect.

17 And -- and I think that the other point I'd like
18 to make is you cannot look at the December submission of
19 the Critical Areas Program out of context with these maps,
20 or out of context with the draft comprehensive plan, or
21 out of context with what is going to be produced by the --
22 by the Critical areas Task Force which is meeting. So we

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 have three balls in here, and -- and all talking to the
2 same issue.

3 I'm not even sure that they have the same maps or
4 going to have the same maps. And I think that the whole
5 process is not precise enough. It's not orderly enough.
6 It's not disciplined enough. We can't see the relationship
7 between what were submitted to you in December and the cur-
8 rent draft of the Comprehensive Plan in place, that they
9 agree with each other. In places they argue with each
10 other.

11 CHAIRMAN GUTMAN: Mr. Witten, you will please
12 sum up sir.

13 MR. WITTEN: And while this panel may disavowal
14 itself of making any decision on any particular plot of
15 ground, the decision you have to make with respect to our
16 total submission, and those of every other jurisdictions,
17 is are the classifications being made on political criteria
18 or the legal criteria of the law. Thank you.

19 CHAIRMAN GUTMAN: Thank you Mr. Witten. We will
20 now hear from Andy Chinni I believe. I'm not sure I'm...

21 MR. CHINNI: That's very close.

22 CHAIRMAN GUTMAN: I beg your pardon sir.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 MR. CHINNI: I'm Andy Chinni. I'm a resident of
2 Medley's Neck, and I want to say that I think that the plan
3 does address what I feel is -- is certainly a consideration
4 in that the area down at Medley's Neck is not vital to this
5 County. I think the -- putting this area in the plan, it's
6 an obscure, out of the way area. It does not carry all of
7 the services taht you need to support an operation like
8 that.

9 It just, to me, is unbelievable. But I'd like to
10 mention just a few things. You may choose to disregard
11 what you're -- what you're about to hear, but I think you
12 should hear it. Several years ago a cancer grew up amongst
13 us. But we were told it was going to be benign, and not
14 to worry about it. That it wouldn't grow.

15 We were told that there was a gravel there the
16 likes of which was not to be found any place else in
17 St. Mary's County. Therefore, we needed it in -- in this
18 county here. There were going to be 40 acres mined and no
19 other business was to be permitted down there. And they
20 would be out by 1984. We were in for a few surprises.

21 We woke up one morning and the area had increased
22 to 400 acres. The time was extended until 1989. We woke

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 another morning to find that the cancer had now grown to
2 900 acres and the time had been extended to the year 2004.
3 We woke up another morning and there was a full blown, ready
4 mix operation, a concrete operation, in there. There was
5 a cross road and two more man-made lakes. We were promised
6 tht nothing would ever be imported into this area. Yet
7 we woke up one morning to find the Woodrow Wilson Bridge
8 strewn along the shoreline and piled up like cord wood in
9 -- in the fields out there.

10 We woke up another morning and learned that there
11 was a mysterious load of blue plain sludge that had just
12 appeared there. What it was doing there, we don't know.
13 Thank God the County Commissioners acted on it, and they
14 did -- they did remove it. These are a few irregularities
15 that we've been exposed to, but let me tell you some of the
16 regularities that we missed.

17 In early December ducks would appear on Breton
18 Bay. By mid-December the geese were there. As regular as
19 time itself, the swans would appear around the first part
20 of January. Some mornings when we would wake up, we would
21 be on our way to work, the fields would be covered with
22 swans. It would look like a foot of fresh snow had fallen.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 There would be that many swans in those fields. I haven't
2 seen the swans in five years. I haven't seen a duck. I
3 haven't heard one goose honk in five years.

4 I think it's a critical area. And if it were
5 needed for the development and growth of this County, I
6 would support it. But it's not. It's wrong. It's been
7 wrong; and unless you remove it or consider something to
8 take this out of there, it's not going to be a 40 acre area.
9 It's going to be a 900 acre area. Thank you.

10 CHAIRMAN GUTMAN: Thank you. Next we will hear
11 from Patrick O'Donnell.

12 MR. O'DONNELL: I live in Valley Lee, and also
13 an executive of the Potomac River Association. Our associa-
14 tion lobbied or testified when the critical area legisla-
15 tion was first introduced. We also appeared to testify
16 sometime later when attempts were being made to undermine
17 the, or to weaken the criteria. And I think we were a
18 small part in the successful outcome there.

19 Our -- in 1986, we, the Potomac River Association,
20 directors polled their membership, which is -- was 800 at
21 that time. And we had people living all around the shore-
22 line of Breton Bay. And we found that overwhelmingly they

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 were in favor of the Chesapeake Bay Critical Area Program.
2 They in many cases wrote that they hoped that this would be
3 the means to clean up the bay and the shorelines that they
4 were looking at every day.

5 It seems that in some way the critical area
6 initiative is being used to achieve just the opposite pur-
7 pose. Because without your labeling or designating this
8 as a resource conservation area, it will, of course, conti-
9 nue to silt. The barge operation, the constant siltation,
10 the destruction of oyster bars, all that will continue.
11 Perhaps it will even grow. And it will grow because in
12 some way the public outcry that would have occurred here at
13 the local level will have been circumvented at the State
14 level. Just the opposite of what I'm sure our membership
15 and directors have in mind.

16 So for that reason I earnestly ask that the area
17 be designated resource conversation area. Thank you.

18 CHAIRMAN GUTMAN: Thank you sir. I believe the
19 next speakers name is Owen Withite, but I'm unsure that
20 I'm pronouncing it correctly. Star Box 65A1.

21 MR. WHITHITE: I don't believe I marked to speak,
22 but I'm willing. I'm relatively new to the County. Only

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 been here about six years. It has been my habit to drop
2 down to the wharf on Lover's Point to spend an hour now
3 and then. I come down what I take to be a County road,
4 near to the end of the paving. The last time I went I find
5 it was blocked off. And I have only one point to make and
6 that is I don't understand how a public wharf can be
7 blocked off from a County road.

8 CHAIRMAN GUTMAN: Thank you sir. Again I apologize
9 for my pronunciation, Arthur Esch, Breton Bay.

10 MR. ESCH: That's perfect. My name is Arthur Esch,
11 and I want to thank all of you who came tonight to support
12 Save St. Mary's Waterways. I am a representative of Save
13 St. Mary's Waterways. I believe it to be the most impor-
14 tant issue that all of us as citizens of this County face.
15 is to protect all of the waterways. Because they are our
16 greatest natural resource.

17 I find the most single offensive situation in our
18 County to be Maryland Rock. I and many of you here are
19 dramatically opposed to giving Maryland Rock the status of
20 intensely developed. And a number of us couldn't be here
21 tonight. In fact, something in excess of 2,000, and we
22 will send these to you; but I would like to tell you what

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 it says. Why they signed and why they feel as strongly as
2 I do. It says stop the industrialization of the waterfront
3 on Breton Bay. The St. Mary's County Citizens Sub-Committee
4 studying the new land use plan, strongly opposes the desig-
5 nation of Abell's Wharf property as an intensely developed
6 district. If it is designated as such, the County may lose
7 control over the regulation of the Abell's Wharf property.
8 A deep water port, a manufacturing plant or other indus-
9 trial facilities may be established on the shoreline of
10 Breton Bay.

11 To prevent the industrialization of the area and
12 to ensure that the County may continue to monitor and
13 regulate the mining operations of Maryland Rock, we the
14 undersigned, all 2,000 of them, petition the County Commis-
15 sioners to designate the mining area on Breton Bay as a
16 resource conservation area.

17 This request fell on deaf ears, but we take the
18 same request. And we will send it to you with the 2,000
19 citizens' signatures, and ask that it not fall on deaf
20 ears. And that you rise up and help these citizens to
21 protect Breton Bay and to protect all the waterways of
22 St. Mary's County. Thank you.

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 CHAIRMAN GUTMAN: Thank you sir. Next speaker
2 will be B. G. Lauterbach.

3 MR. LAUTERBACH: I have nothing to say.

4 CHAIRMAN GUTMAN: Pardon?

5 MR. LAUTERBACH: I have nothing to say.

6 CHAIRMAN GUTMAN: All right. Now I have one
7 more person here who has indicated they wish to speak. And
8 after that, I will inquire if there is anyone else in the
9 audience who wishes to make a statement. At this time I'll
10 call Mr. Ford Dean.

11 MR. DEAN: I'd like to welcome the members of the
12 commission to St. Mary's County as well. I wanted to
13 speak because I think it's important to explain a process
14 that is at work, and perhaps clarify it a little bit. In
15 October of 1987, St. Mary's County submitted its proposed
16 Critical Area Program to the State Critical Area Commission.
17 And that commission has had that program under review, and
18 in fact is conducting this hearing tonight to hear public
19 comment about that plan.

20 There is some -- there is another review process
21 also on the way. In January of this year the Board of
22 County Commissioners appointed a Critical Area Review Task

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Force, and asked me if I would be the chairman. That Review
2 Task Force is also looking and reviewing the Critical Area
3 Program that was submitted to the State. Probably sometime
4 in April the Critical Area Commission will return the County
5 program to the County with comments. And the County will
6 then have 40 days to address those comments, and also
7 propose any additional amendments that it feels is in order.

8 In May, probably around May 18th, the Critical
9 Area Review Task Force, the County Critical Area Review
10 Task Force, will hold a public hearing to discuss any
11 amendments that might be proposed. Now I thought I might
12 clarify that just a little bit. Thank you.

13 CHAIRMAN GUTMAN: Thank you Mr. Dean. I'll now
14 ask if there is anyone else who has not already spoken, who
15 wishes to make a statement on the record? I think I'd just
16 like to change our usual procedure. We've heard a number
17 of people this evening speak in regard to a property that
18 I understand is known as Maryland Rock.

19 I have no knowledge of this myself. But I would
20 like to ask those who are in sympathy with the statements
21 that we have been hearing on Maryland Rock. First those
22 who are opposed to what has been said would rise and then

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 I will ask for those who are in sympathy with the state-
2 ments that we've been hearing on Maryland Rock. Those who
3 are in opposition to what has been placed on the record
4 regarding that property, if you'd be good enough to rise.
5 For the record I see no one.

6 I will now ask for those who are in sympathy
7 with the testimony we received tonight regarding Maryland
8 Rock to please rise. All right, I thank you. I would
9 declare for the record, in my judgment, well over 95% of
10 the audience rose when I asked for those who were in sym-
11 pathy. Mr. Witten I recognize your impatience sir.

12 MR. WITTEN: I'd just like to submit a written
13 statement as part of the record.

14 CHAIRMAN GUTMAN: Please do sir. All right, at
15 this point if there is no one else who wishes to speak on
16 the record, I will declare this hearing adjourned.

17 (Whereupon, on Thursday, March 31, 1988, the
18 hearing adjourned.)
19
20
21
22

C E R T I F I C A T E


This is to certify that the foregoing transcript
in the matter of: Critical Area Plan for St. Mary's County

BEFORE: JAMES F. GUTMAN, Chairman

DATE: March 31, 1988

PLACE: St. Mary's County Courthouse, Leonardtown, Maryland

represents the full and complete proceedings of the afore-
mentioned matter, as reported and reduced to typewriting.


Debbie Becker

FREE STATE REPORTING INC.

COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

June - 31 1981 Tug (Sea Hawk)
aground on Heron Island

survey (1) acre
Damage (\$3500) to Replowish bar
(CLP Towing company, New York)

May 13, 1987, Tug (Polstar)
ROR aground ^{Higgins} ~~Heron~~ Island

extensive Damage 15 acre
case still pending

(26-times 3500) estimated

Damage (survey By DNR
& local waterman) \$1,500.00

Potomac River Commission
Colonel Beach Va

Critical Area

Intense Development

Resource conservation

mayor source good

Natural Resource

Aquaculture farming

Heritage

Mother county

Bagless Dredging

June

3, 1981

Øgrand

Rønne.

— Tug

Heron

Island

seal level

ST. MARY'S COUNTY WATERMEN'S ASSOCIATION

St. Mary's County, Maryland

February 8, 1988

Re: Save St. Mary's Waterways, Inc.
vs. Florida Rock Gravel Co.

St. Mary's County Commissioners
Leonardtown, Md.

Dear Sirs:

The St. Mary's County Watermen's Association supports Save St. Mary's Waterways, Inc. in their efforts to prevent the land exchange agreement and industrialization of Florida Rock at the Abell Wharf site.

There is more than just a land exchange agreement involved, the unloading facilities will mean more barge traffic and the watermen are very concerned about the increased barge traffic through this area. If we expect to have a seafood industry which will provide jobs for buyers, shuckers, box and basket makers, truck drivers and so on, as well as sustaining one of the best tourist attractions of the State, we must not allow further development on the waterways.

The Potomac River Fisheries Commission, which is the governing body of the Potomac River have, at the present time, a case pending in court for damages as a result of a barge running aground on Huggins at the mouth of Breton Bay on May 13, 1987. The barge, Rolatae, did damage estimated in the thousands of dollars. Surveys were done by state and local people to determine the amount necessary to restore the damage to the public oyster bar. This incident is not the only time damages have been claimed against the barges.

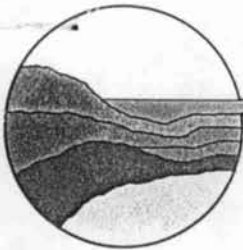
We should never lose sight of the reason the critical area criteria was defined and the need for resource conservation areas. Without these, our seafood industry will not survive and one of the oldest heritages in history will vanish right before our eyes.

It is time to provide good government leadership and carry this development plan back to the drawing board and hold on to the water resources which are for the good of the entire public population.

Sincerely,

Butch Cornelius
President

Butch Cornelius
BC/bsd



Maryland Department of Natural Resources

Tidewater Administration

Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

William Donald Schaefer
Governor

Torrey C. Brown, M.D.
Secretary

December 29, 1987

Mr. Tucker Brown
Avenue, MD 20609

Dear Tucker:

Surveys to document the disease situation on Maryland oyster bars have provided information enabling managers to delineate three zones of disease impact. These three zones are delineated so that oyster management practices designed to offset the impact of diseases may be implemented. They are based on infection intensity, and are labeled zones of intense infection, intermediate infection, and light infection.

Basically, intense zones are where Dermo and MSX have persisted since 1981 and will cause 50-95% mortality. Intermediate zones are where diseases have recently become established and mortality ranges from 20 to 50%. Light zones are composed of upstream portions of the Bay and tributaries where mortalities are less than 20%.

Light zones include areas such as the Upper Bay, Chester River, Wye River, Choptank River, Upper Patuxent, South River, Wicomico River and the Potomac tributaries of the Wicomico River, St. Catherine Sound and Breton Bay.

The management recommendation for the light zone is to maximize seed planting and plant shells on marginal bottom to provide a base for expanded seed planting the following year. In short, these areas are the ones that are being counted on to maintain the Maryland oyster population.

Telephone: 974-3558
DNR TTY for Deaf: 301-974-3683

Breton Bay contains eight natural oyster bars totalling 844 acres of bottom available for seed and shell plantings. It is important that these areas be utilized to their fullest extent if we are to have any chance of rebuilding the Maryland oyster resource. These areas were once referred to as "marginal" but have now taken on a new and significant role in oyster management. Every effort must be made to protect them.

Sincerely,

A handwritten signature in black ink, appearing to read 'W.P. Jensen', with a long horizontal flourish extending to the right.

W.P. Jensen, Director,
Fisheries Division

Report of Divers (G. Muller-Parker, Ph.D.; D. Jenkins)

Visual Inspection of Area Under Proposed Marina Site:

We conducted a visual inspection of the bottom in the area of the proposed marina facility on Saturday, November 15, 1966. We used S.C.U.B.A. to conduct three 50-foot line transects across the marina site (see accompanying figure). Transect surveys extended from a depth of about 6 feet to 10-12 feet depth. The visibility was 4-5 feet at the time of the survey. Shallow areas (shore to 6-Ft. depth) were inspected without transect lines.

Overall character of bottom: The entire area is covered by a uniform layer of loosely compacted fine sediments (silts and clays). This layer is 0.5 ft to 1.5 ft thick and increases in thickness with distance from the shore. The bottom slopes gently to a depth of about 12 ft. We did not see any areas of biological significance during the entire survey: no hard bottom or evidence of oyster beds. We did not see any submerged aquatic vegetation (sea grasses or macrophytic algae). The bottom was consistently barren, with the exception of small patches of benthic diatoms.

The bottom sediments are easily disturbed, resulting in much suspended fine silt material being stirred up by the activities of divers near the sediments. However, the depth of the water is such that shallow-draft boats will probably not create a significant increase in the turbidity of the water.

Gisèle Muller-Parker, Ph.D.

326-4281

326-6335



THE *Maryland Watermen's Association* INC.

February 8, 1988

TO WHOM IT MAY CONCERN:


The Maryland Watermen's Association Board of Directors voted unanimously to support the efforts of the Save St. Mary's Waterways, Inc. in their action against Florida Rock Gravel Co.'s activities in Breton Bay. The Board of Directors met on Friday, February 5, 1988, in Annapolis, Maryland, and took the above action and indicated that Tucker Brown would be the representative of the Maryland Watermen's Association at any meetings on this matter.

The Association has many concerns when additional development is allowed to continue unabated along the shorelines of the State, much of which is in direct violation of the critical areas criteria, which was designed to halt such development.

Additional barge activity in the Breton Bay area will further hamper the waterman's way of life, causing gear damage and loss of harvesting ground. This infringement on the commercial industry is unacceptable and it is up to the governing body of this County and other Counties along the Bay to put a stop to further damage to the shorelines of the State.

We, as the trade association for the commercial watermen of the state, strongly oppose the actions planned by Florida Rock Gravel Company and support the Save St. Mary's Waterway, Inc. in their efforts.

Sincerely,


Larry Simms
President

LS/bsd

CHARLES COUNTY WATERMEN'S ASSOCIATION
Newburg, Maryland

Copy

February 8, 1988

TO WHOM IT MAY CONCERN:

Re: Save St. Mary's Waterway, Inc.
vs. Florida Rock Gravel Co.

It has come to the attention of the Charles County Watermen's Association that Florida Rock Gravel Company is persuing plans for additional unloading facilities in the Breton Bay area of St. Mary's County which will have severe negative effects on the water quality of the area. Also further development by this corporation would seem to be in direct violation of the critical area criteria which has been established for the Chesapeake Bay region in an effort to perserve the Bay for generations to come.

The barge activity of the Breton Bay area will further aggrevate losses already being felt by the watermen in the area, who are feeling the impact of a low harvest of oysters. Further damage to the watermen of the area is unacceptable.

The Save St. Mary's Waterway, Inc. has the full support of the Charles County Watermen's Association in their efforts to halt any further damage to the environment that would be a direct result of Florida Rock Gravel Company's unloading and bardge activities in Breton Bay as the area has potential for being a much needed oyster harvesting area under the Administration's new thrust for aquaculture.

Sincerely,

William Rice

William Rice
President

WR/bsd



Maryland Commercial Oyster Divers Association

304 S. Liberty Street
Centreville, MD 21617
758-3462

February 5, 1988

Save St. Mary's Waterways, Inc.
vs.
Florida Rock Gravel Co.

TO WHOM IT MAY CONCERN:

The membership of the Maryland Divers Association are ardent supporters of the Critical Areas Law. It is our belief that the presence of Florida Rock Gravel Co. located on Breton Bay has an adverse affect on the water quality and development standards of that area and thus is in violation of the laws criteria.

Watermen sustain a severe loss of their equipment as a direct result of your barge traffic. It is also my understanding that your company plans to procede with an unloading practice that most certainly will aggravate the situation. Being very aware of the cost on working gear for the watermen, this is unacceptable.

I would like to bring to your attention Gov. William Donald Schaefer's Comprehensive Plan concerning aquaculture. Under this program is the concept of leasing bottoms from the State for the purpose of raising oysters privately. Throughout Breton Bay, over 800-acres of potential oyster producing areas exist that will be negatively impacted as a direct result of your operation.

For the examples I have previously stated the Maryland Divers Association condemns the business practice of Florida Rock Gravel Co. In an effort to rectify these problems, we endorse the group Save St. Mary's Waterways Inc. and request that Florida Rock cooperate to the fullest extent for the benefit of the Chesapeake Bay and it's watermen.

Respectfully Submitted,

George O'Donnell
President
Maryland Divers Association
(previously: MD Commercial
Oyster Divers Assn.)



Potomac River Association of ST. MARY'S COUNTY

Box 76
Valley Lec, Md. 20692

February 26, 1988

Judge Solomon Liss, Chairman
Chesapeake Bay Critical Area Commission,
Department of Natural Resources,
Tawes State Office Building D-4,
Annapolis, Maryland 21401

Dear Judge Liss:

This Association has been advised by the St. Mary's County Office of Planning and Zoning that they have submitted the county's Critical Area Plan as well as the Critical Area maps to the Commission for review and approval. We want to bring to your attention a designation of property within the county's Critical Area which we think is incorrect.

We refer specifically to Parcels 123 and 7 appearing on St. Mary's County Tax Map 48. These properties are wholly or in part on Breton Bay and entirely or partially designated on the map as "Intensively Developed". The foregoing is correct insofar as we know it but we had no opportunity to examine the maps which were submitted to you. We believe this designation is incorrect. We feel the property should be designated "Resource Conservation".

At the present time Maryland Rock Industries, a gravel mining company, maintains a gravel storage area, barge loading facility and a redi-mix concrete plant on the property within the Critical Area. It was designated "Intensively Developed" on the basis of its present use.

The information we want to present to you is:

1. An agreement dated September 11, 1975 between John S. Mattingly, et al & Little Breton Bay, Inc., et al involving the above land specifies "The excavation, processing, and shipping of materials shall cease on or before December 1, 1989." Liber 235, Folio 77 of the Land Records of St. Mary's County.
2. The St. Mary's County Board of Appeals in granting a "Conditional Use" permit for the land specified "The conditional permit is granted until December 31, 1989, or until the mining operation is completed, whichever is soomer." See St. Mary's County Board of Appeals, Case No. CU-74-2, dated November 13, 1975.

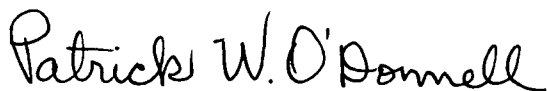
The conditions of the Mattingly - Little Breton Bay, Inc., and those of the "Conditional Use" permit specify "The conditions and restrictions herein contained shall be binding upon the applicant and any subsequent contract purchaser and their successors, heirs and assigns." "The restrictions herein set forth shall run with and bind the land."

In summary, the fact that the gravel mining operation is legally required to cease operations by December 31, 1989 (less than 2 years away), that it is located in an agricultural area, and that Maryland Rock Industries is required to restore the land to its original state, namely farm land, we ask you to review whatever action you may have already taken of the St. Mary's County Critical Area Plan and to examine the maps once more in the light of the information we have furnished.

We urge that the Commission disapprove that portion of the Plan that designates the property in question as "Intensively Developed" and give it its proper designation as "Resource Conservation".

We would like to hear from you in the matter. May we have a response?

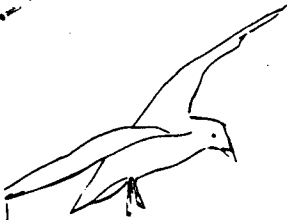
Sincerely,



Patrick W. O'Donnell
Co-Director *ofw*



Oran R. Wilkerson
Co-Director



Potomac River Association OF ST. MARY'S COUNTY

Box 76
Valley Lee, Md. 20692

August 4, 1987

St. Mary's County Commissioners
St. Mary's County Planning Commission
Chairman of the Citizen's Advisory Committee
for The Comprehension Plan Development

Honorable Commissioners and Chairman of the Citizen's
Advisory Committee

Development of the new comprehensive plan and related ordinance changes is the most important project which will be accomplished by this Board of Commissioners. The effort will have a major long-term impact upon all aspects of life in St. Mary's County.

The Potomac River Association continues its interest in the development of new land management plans and requirements for St. Mary's County. On January 15, 1987 we presented our recommendations for a plan of action for the Citizens' Advisory Committee and the responsible County officials. We are pleased to note that many of the recommendations have been reflected in work completed to date.

During the July 21 public hearing on the Critical Areas Ordinance changes and plan we promised to provide detailed comments. The Office of Planning and Zoning advised us August 6 was the deadline for these comments. These comments are provided in three parts: general comments, detailed comments on the proposed ordinance changes and similar comments on the Critical Area Program. The draft ordinance was dated June 21 and the Program Plan was identified as draft OL-0716 of 1987.

The working group preparing these comments studied the 95 pages of draft text, the Critical Areas law, the contract and budget for the effort and the record files of the project. We had two members of the Citizens' Advisory Committee as members of our working group.

August 4, 1987

Page 2

We appreciate the fact that the 452,000 dollar effort to revise the St. Mary's County land management system is a massive one. We admire the zeal and competence of the Citizens' Advisory Committee. Melding of the Advisory Committee effort with that of the Contractor and the Office of Planning and Zoning staff could be improved. For example: The Citizens' Advisory Committee participation in the two draft documents which are the subject of this letter was made impossible by the date the documents were made available to the Committee.

It is our desire to provide valid, constructive and practical recommendations. We request a serious effort to evaluate and apply the substance of our comments to the proposed ordinance change and program plan.

Sincerely,

POTOMAC RIVER ASSOCIATION

Pat O'Donnell
Oran Wilkerson
by _____

Pat O'Donnell,
Oran Wilkerson,
Co-Chairmen

Enclosures 1
2
3

General Comments:

Both the proposed ordinance and the program plan to a large part are verbatim extracts from pertinent sections of the Critical Areas law. It is recommended that the same terms be used for the major topics unless there is a compelling necessity to change them. For example: the three categories of land areas in the Critical Areas law are termed areas. In the proposed draft they are called "Districts". We have worked with these terms and definitions of the law for almost 4 years. There is little to be gained and much to be lost inventing new terms.

The definitions in the drafts should be grouped in one definition section. The definitions used should be the same as those used in the law unless there is a compelling need to do otherwise.

It is growing more apparent each day that there is a need for an ordinance to govern the operation of Marinas. This Association proposed a practical approach for development of such an ordinance several times. Starting the new ordinance now would provide time for orderly development, review and adoption before the marina problems becomes more critical.

The documents are silent on Boat Houses. Management of the land at the waters edge requires analysis of the Boat House problem and the development of effective controls and their inclusion in the proposed ordinance change.

It is essential to include in the ordinance the calculation strategies for determining existing densities of homes. A number of questions exist. For example:

Does the criteria include open water between shores of creeks as land area?

Is the 20 acre plot to determine density made parallel to the shore line and back 1000 feet or is it a square with the shore line and landward dimensions the same. There is sure to be considerable controversy pertaining to criteria for calculating existing housing densities and the development categories assigned as a result. It is recommended that the following approaches and problems be addressed and that the Potomac River Association be advised of the explicit details of the methods used to develop current maps. We are available to discuss this issue in more detail.

Recommendations:

On peninsulas bounded by two bodies of water, calculate the land area from the centerline of the creeks to the ridgeline or center of the peninsula extending inland as necessary to become a 20 acre sample.

In areas with extended essentially straight shorelines such as the Scotland area, calculate the area based upon a 20 acre square with the shoreline forming one side of the square.

In all calculations include the water between points of land as part of the area in the calculations.

As was requested at the July 21 meeting and not included in the minutes, it is requested that the maps which are a vital part of this package be put on public display on the main floor of the Government Center, and their availability to be publicized. The public must have free and useful access to these maps if they are to be a part of the reviewing process.

It is essential that a criteria for defining neighborhoods be developed and included as the definition for neighborhood in the definitions section. Ambiguity of definition of such an important term leads to abuses and major misunderstanding.

The Outline for a Comprehensive Planning Process recently distributed by Robin Guyther is a very useful start in getting the remaining work on the Comprehensive Plan organized.

An effort should be made to obtain aerial photographs which are more recent than 1980. The reports of the contractor identify 1980 as the time major development began. As such it is not a valid tool for these processes.

A density of less than four houses per acre should be applied to the criteria for determining limited development densities. At the present time the term 4 houses per acre is used in the Intensive Development Area criteria and "up to" 4 houses per acre is used in the criteria for limited development. Changing this statement to less than 4 houses per acre would eliminate a lot of confusion without substantially changing the criteria.

The introductory material in the zoning ordinance and in the Critical Area Program document should make reference to each other and to the Critical Area Law subtitle 18. The land

management program evolving from the current efforts are comprised of a system of plans, regulations, ordinances, and maps. The new documents should include a brief definition of this system and put the various parts in context with each other. One of the major writing goals should be to make the land management processes understandable to the general public. The observation made of these two new drafts is that just the opposite seems to be the case.

Detailed Comments on the Proposed
Ordinance Changes for the Critical
Areas

The following comments are identified by the Section and Paragraph identifiers used in the draft.

Cover Page

39.00 Change to Read: Critical Areas

Reason: To make the designation consistent with the terms which we have used for the past 4 years and to make it consistent with the terminology of the law.

This change should be applied to all parts of the text which use the term Districts when the commonly accepted term is areas.

Page 1

39.00 2 Scope Change to read: The Critical Areas are superimposed on the normal zoning classifications applied within the Chesapeake Bay Critical Area.

Reason: The current paragraph does not convey a clear statement of what is meant.

Second sentence change to read: The Critical Areas ordinance imposes specific regulations for development of land within the Critical Areas in addition to those zoning categories contained in current regulations and plans. In the event of any inconsistency between the Critical Areas provisions and the provision established in the zoning and planning regulations which preceded these actions the more restrictive or stringent provisions in the ordinances and regulations shall apply.

Reason: To use familiar terms and to convey the intent more directly.

39.01 Change to read: Specific Critical Areas

Paragraph 1: Add the Intensive Development Area definition included in PP 3 a of the 14.15.02.

Reason: To improve clarity.

39.01 Paragraph 1. (a) Include the Development standards and development criteria of paragraphs 03 C and 03 D of the above title. To make the intent, criteria and standards clear and available in the regulation.

Paragraph 1. (a) (1) Change to read: Accommodate existing intensely developed residential, commercial or industrial land uses within the Chesapeake Bay Critical Area.

Reason: To make the purpose more clear.

Paragraph 1. (b) Uses Change to read: The uses allowed in the Intensive Development Areas are the same as those allowed for the currently established zoning categories in which the land has been classified.

Reason: To clarify the meaning.

39.01 Limited Development Areas

Include the definition in Paragraph 04 A of the 14.15.02 article.

Reason: For completeness and clarity.

Paragraph 2. (a) Purposes Add the development standards and criteria of Paragraphs 4 C and 4 D of 14.15.02.

Reason: For completeness and clarity.

39.01 Paragraph 3 Resource Conservation Areas

Include the definition of paragraph 05 A of 14.15.02

Paragraph 3 (a) Include the criteria and standards in Paragraphs 05 05 C and 05 D of 14.15.01 (Note Paragraph 05 D of the title is identified as B due to a misprint).

39.02 Permitted Uses

Item 2. Industrial d. Add X's to all Columns.

Item 2 g. and h. Add X's to the Resource Conservation Area Columns.

39.03 Paragraph 1. (a) Delete as redundant and re-identify the remaining.

Paragraph 3. (a) Delete as redundant and re-identify the remaining.

Paragraph 6. Include a reference to the state law for St. Mary's County pertaining to sludge handling.

39.04 Paragraph 1. (b) Change to read: Best management practices shall be applied to permeable areas with emphasis upon renewed vegetation shall be applied to reduce existing levels of pollution.

Reason: We are requiring farmers to use best management practices in establishing farming enterprises. We should ask no less of existing and new development in intensely developed areas.

Paragraph 9. (c) Add to the requirement--using permeable surfaces.

Reason: To encourage and expand the use of permeable surfacing.

39.05 Paragraph 1 (5) (a) Change to prohibit clear cutting in the buffer strip.

Reason: There is no reason to hope that clear cutting will be better managed in the buffer strip than what we are presently observing. There cannot be a great deal of land in the buffer strip which is strictly Loblolly Pine or Tulip Poplar.

Paragraph 1 (5) (a) (ii) Change to read: The area disturbed or cut shall be replanted with diverse planting in a manner that assures the availability of cover and breeding sites for wildlife, and re-establishes the wildlife corridor functions of the buffer.

Reason: The buffer areas must be replanted quickly after cutting. Diverse planting is required to achieve the habitat goals.

Detailed Comments on the
Critical Area Program Document

Page 2 Paragraph 2 a) Change to read: Housing densities ranging from one dwelling unit per 5 acres or less than 4 dwelling units per acre.

Reason: 4 Dwelling units per acre is used for admission criteria in the Intensive Development Areas. This requirement should be stated as LESS than 4 dwelling units per acre to draw a clear distinction in criteria between the two categories.

The measurement standards, strategies, and criteria developed as a result of our general comments should be included in this section in order that the public may know how the various categories were determined.

Page 3 Add to policies

Protect aquifer recharge areas

Page 5 Paragraph 2 e) Add after equal basis in quantity; and diversity.

Reason: Diverse replanting is essential to habitat quality.

Page 5 Paragraph 2 d) Delete mitigation and add replanting. To make the requirement clear and effective.

Page 10 Paragraph 1 Add: Residential areas.

Reason: Gravel mines should not intrude into residential areas.

Page 11 Implementation Change lead paragraph to read: All new land mining operations and expansions of existing mining operations throughout St. Mary's County will be subject to the following regulations as a minimum.

Reason: To include expansions of existing mines.

Page 14 Policies: Include in the second paragraph including parks and utility line rights of way.

Add new last paragraph under Policies.

Assure that they are not encroached upon by high density residential developments.

Reason: To protect the farmers from harassment over their operations.

Page 17 St. Mary's County Office of Planning and Zoning: Change the thrust of the lead paragraph to recognize that this provides professional staff assistance to the St. Mary's County Commissioners and the Planning Commission. It is they who make the policies and bear the responsibility.

Reason: To make clear the agency is to assist in the development of plans, policies and regulations; and to identify clearly who has the authority and the responsibility.

Page 29 Agency Responsibilities

Serious considerations should be given to establishment of an independent office for the habitat protection program or placing it in the Recreation and Parks Department. The Office of Planning and Zoning has too many conflicts of interest to administer this function.

Page 32 Include in the definitions section a definition of the terms recognized private right or public need. As currently used these terms could be a large loop hole in the entire process. As in the definition of neighborhoods, and housing density calculations, the term recognized private right until clearly defined is an all embracing criteria.

Page 33 Paragraph 3 d Change the last word to prevented.

Reason: It is well within the state of the art and should be done.

①

SIGN IN SHEET

NAME & ADDRESS

Do You Wish
To TESTIFY?
YES | NO

• ~~A~~ GEORGE FLEURY
BRETON BAY

✓

• DRAN R. WILKERSON
CALIF. MD.

✓

• Ronald J. Schug
Medley's Neck,

✓

• PETE AMOLF
AVENUE, MD.

✓

• TUCKER BROWN
AVENUE MD.

✓

• JACK F. WILLEN
HOLLYWOOD, MD

✓

• Andy Chianni
Medley's Neck

✓

• Blanche E. Albernethy
Leonardtown

✓

• Patrick Wm. O'Donnell
Valley Lee

✓

② SIGN IN SHEET

NAME & ADDRESS

Do You Wish
To TESTIFY?
YES | NO

NAME & ADDRESS	Do You Wish To TESTIFY? YES	NO
• <u>Orin White</u> Starke Box 65 A 1 Leonardtown, Md 20650	✓	
• <u>Mary Anne Hoot</u> Rt 1 Box 56 F Pux. Md. 20650		✓
• <u>John J. Campin</u> Rt I, Box 99 Leonardtown, Md.		✓
• <u>Margaret H. Campion</u> Rt. 1 Box 99 Leon.		✓
• <u>Charlotte Ashby</u> Colton's Pl. MD 20626		✓
• <u>Ruth Dishman</u> Abell, MD 20606		✓
• <u>Charles A Young</u> Box 84 F Drayden MD 20630		X
• <u>Pick Myers</u> Rt 2 Box 355B Hollywood, Md 20636		X
• <u>Sarah Long</u> Britton Beach Leonardtown Md 20652		X

③ SIGN IN SHEET

NAME & ADDRESS

Do You Wish
To Testify?
YES | NO

NAME & ADDRESS	Do You Wish To Testify? YES NO
Mary Whistler Rt 5 Box 469 Minn Md. 20659	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Charlotte C. Young Windmill Point Farm Drayden Md 20630	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Melba W. Wilton 1185 Clark's Mill Rd. Abbeystead, Me 20636	<input type="checkbox"/> YES <input type="checkbox"/> NO
Melrose Rose Hill Estate Lusby Md 20657	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Arthur S. Zamarako Leonardtown Md 20650	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Alice F. Zamarako Leonardtown, Md 20650	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Sara A. Aquillanti Leonardtown Md 20650	<input type="checkbox"/> YES <input type="checkbox"/> NO
ARTHUR ESCH BRETON BAY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ALBERT R. CLINE JR 417. ST. LO PLACE LEXINGTON PARK MD 20653	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

④ SIGN IN SHEET

NAME & ADDRESS

Do You Wish
To Testify?
YES | NO

<p>• JOHN F. "SAM" RICHARD S P.O. Box 69 ST MARYS CITY, MD 20686</p>		<p>X</p>
<p>• BETTY M. Robrecht P.O. Box 74 - Tall Timbers Rd. TALL TIMBERS, MD. 20690</p>		<p>X</p>
<p>• Joan Marsh Rt 3, 289 Breton View Ct. Leonardtown MD</p>		<p>X</p>
<p>• John McFadden Rt #1, Box 62 A LEONARDTOWN MD. 20650</p>		<p>X</p>
<p>• Tom & Ann Waring 207 Potomac View Dr. Leonardtown</p>		<p>X</p>
<p>• MICHAEL WIDSON Rt 4 Box 400 MECHANICS VILLAGE</p>		<p>X</p>
<p>• B.G. LAUTERBACH F B LAUTERBACH Clearbrook Farm Ltd Myrtle Point Rd</p>	<p>X</p>	
<p>• Robert T. Jarboe Star Rt. Box 54 Leonardtown md 20650</p>		<p>X</p>
<p>• Norris Jay Hanks PO Box 186 Hollywood MD 20636</p>		<p>X</p>

5

SIGN IN SHEET

Do You Wish
To Testify?
YES | NO

NAME & ADDRESS

<p>Paul Gray Long Creston Beach Rd. Leonardtown Md.</p>		✓
<p>Mr & Mrs J. E. Bokowski Route 2 Box 394 Leonardtown Md 20650</p>		X
<p>Frank Gierred box 653 Leonardtown Md 20650</p>		X
<p>THOMAS W. Bell, JR PO Box 353 LEONARDTOWN, Md 20650</p>		
<p>W. C. Dutton, Jr 5415 Water Street Upper Marlboro, MD 20722</p>		✓
<p>Leonard Greess 307 Port Place Leonardtown, Md. 20650</p>		X
<p>Aleck Loker Jr RT 1 Box 60 Leonardtown, MD</p>		X

6 SIGN IN SHEET

Do You Wish
To Testify?
YES | NO

NAME & ADDRESS

JOSEPH A. MATTINGLY JR.
Box 40
LEONARDTOWN, MD. 20650

X

Ford L Dean

X

SIGN IN SHEET

Do You Wish
To Testify?
YES | NO

⑦
NAME & ADDRESS

Roy VAN HORDEN

RT 3 Box 3001

LEONARDTOWN MD

Lynne Hubins

PO Box 448

Leonardtown, Md 20612

George A. Hewens

PO Box 448

Leonardtown Md 20650

J Bradley

117 Lemington Park

X

X

X