

Commission Meetings and Corresp.

Oct 1984

MSA-51832-2

October 16, 1984

RECEIVED

1984 OCT 23 P 3:48

DNR-00S

The Honorable Solomon Liss
3207 Fallstaff Road
Baltimore, Maryland 21215

CAE

Dear Judge Liss:

I have today appointed you Chairman of the Chesapeake Bay Critical Areas Commission to serve at the pleasure of the Governor.

In addition, since this appointment requires confirmation by the Senate, I will submit your name to the Senate on the first day of the next legislative session.

It gives me great pleasure to make this appointment and I am confident that your judgment and ability in performing the duties of this office will be to the advantage of the State and its people.

Sincerely,

Governor

HH:CRB:pm

bcc: Senator Hoffman
Secy of NR

REQUEST FOR USE OF THE CALVERT ROOM

(121 State House)

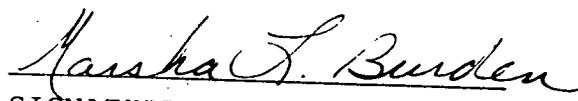
BY: Marsha L. Burden, Executive Department

DATE & TIME FRAME Monday, October 22, 1984, 3:00 - 6:00 p.m.

ACTIVITY (Please be specific): Meeting of Critical Area Commission

*HOW MANY PEOPLE: 25

I UNDERSTAND THE ROOM IS NOT TO BE REARRANGED IN ANY WAY.
ALSO, I AGREE TO TAKE FULL RESPONSIBILITY FOR ANY DAMAGE TO
THE ROOM AND ITS CONTENTS DURING THE TIME IT IS RESERVED BY
OUR ORGANIZATION.


SIGNATURE

DATE: _____

APPROVED: _____

Melvin A. Steinberg
President of the Senate

PLEASE RETURN TO:

Janet Davidson
107 State House
Annapolis, MD 21401

*Fire Code Limit
Calvert Room (82)

cc: Services & Supply
Security, Annapolis Building and Grounds
(if in use after normal hours)



STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

HARRY HUGHES
GOVERNOR

October 19, 1984

Ms. Cathy Athey
Room B-15
James Senate Office Building
Annapolis, Maryland 21401

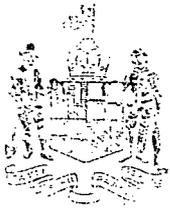
Dear Ms. Athey:

This is to confirm my request to reserve the Joint Hearing Room for a meeting of the Critical Area Commission on Monday, October 22, 1984, from 3:00 - 7:00 p.m. We are expecting approximately 200 persons in attendance.

Thank you for your assistance. If you have any questions, please feel free to give me a call at 269-3091.

Sincerely,

Marsha L. Burden
Special Assistant



HARRY HUGHES
GOVERNOR

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

October 11, 1984

Janice

Ms. Laura Duncan *757-1717*
Busch's Chesapeake Inn
321 Revell Highway
Annapolis, Maryland 21401

Dear Ms. Duncan:

This is to confirm dinner reservations for
20-25 persons for Monday, October 22, 1984, at 7:30 p.m.

As I discussed with Ms. Carol Caruso, the
reservation should be in the name of Judge Solomon Liss.
The bill for the evening should be forwarded to
Dr. Torrey C. Brown, Secretary, Department of Natural
Resources, Tawes State Office Building, Annapolis,
Maryland 21401.

It is my understanding that you require a room
reservation deposit of \$25.00 which is deducted from
the total bill. A check in this amount will be forwarded
to you by the Department of Natural Resources.

If you have any questions, please feel free to
contact me in Annapolis on 269-3091.

Sincerely,

Marsha L. Burden

Marsha L. Burden
Special Assistant



STATE OF MARYLAND
EXECUTIVE DEPARTMENT

TO: Governor Harry Hughes

DATE October 19, 1984

FROM: Ellen L. Fraites

SUBJECT: Initial Critical Area Commission Meeting, Monday, October 22,
to be Followed by Dinner, Busch's Chesapeake Inn, Route 50,
7:30 p.m.

Since it now appears you may not be able to visit with the Critical Area Commission at the outset of the initial meeting, I was wondering if you might consider dropping by to greet them during their get acquainted dinner at Busch's to personally thank them for agreeing to serve on the Commission and to express your thoughts on the importance of their task.

I understand your schedule with the Mondale campaign may preclude your making such a visit, however, if you are able to arrange a quick appearance, it would certainly be appreciated by the Commission members and may also help to impress upon everyone the significance of their endeavor in the overall Bay cleanup program.

Of course, a visit with the Commission can also be arranged at a subsequent meeting when there would be opportunity for press coverage.

Critical Areas Commission

Barris Glendinning - apprehensive

Gutman - reserved comments

Stein "

Shep Kretsch "

Walkup - knw. experience -

~~DuBunn~~ - absent well balanced board -

Hutchinson -

Florence Kuddle

QA - O'Neill -

~~Turner~~ - absent

Zankhouse

Logan

Luthy

Lynch

Bastian -

Coates -

J. Frank Raley -

Tyler -

Cawley

Cade

Bron

Blene

Rules Governing Conduct of Business

gen-public business

notice is required

closed session - advice legal matters

minutes be kept

~~Robert~~

specific by-laws - will be drawn up -

Robert's Rules of Order -

issue of alternate - come, participate - not entitled to vote:

motion - may designate in writing - sit in participate Ayes

Public Comments -

at conclusion - where time permits -
motion - adopted -

Overview of Act -

- Need for law - EPA Study SPing changes ~~land use~~
basis for findings

- Commission -

created

relationship to DNR - for purposes of
executive organization - chapter headed
and budget -

Dept of Board of Review - no jurisdiction

Section 2 of Chapter 794 - staggering of
terms - 2 years, 3 years - 4 years
set out in footnote

Staff - Chm, Exec Dir, As TAG 2 staff planners
& 2 secret -

assist in coastal zone - 5 other depts

1806 - promulgate reg -
conduct reg
contracts

} all powers not
exclusive list

- Determination of Critical Areas -

3 step ^{process} initial plng.

less areas of exclusion - proposed local govt. ^{approved} by CAC

- CA Protection Program
standards in statute
C-6 agricultural buffer -

- Duties of Commission
develop criteria

- Local gov't intention to develop program
approve

• definition of project approval
consistent with program required
local gov't responsibility
Shift to Oversight and Intervention -
police implementation

Legislative Oversight Committee
shall meet periodically

June 1-84 - 88) Interim period

Commission Calendar -
Reviewed

- Harford
Cecil Kent
- (1) Elkton - advertisement - set up ^{expedited} schedule
- (2) SA Tabbott Caroline Easton
- (3) Dorchester - Smeral Wicomico ~~Cam~~ Salisbury - more centrally located
- (4) BCC Balto Co - Pikesville
- (5) Chas of St Marys Prince Frederick
- (6) AA & PG Crofton

^{2nd round} assumption shift to alternate

Motion - on location of hearing

Portions of media - for public notice

Meetings - 4 P.M. - 6 P.M.

Marsha - check Calvert
Room

1st Wednesday each month -

Annapolis :

publish notice - (14-November) -

Budget -

local jurisdictions - strapped -
practice - every jurisdiction gets \$

Oversight Committee - intend to keep them informed -
advised - proposals -
submitted proposed program
let us know - if they need information

170,000 -

Mrs Beauregard - Crofton - location - public hearing
P.G. Co. - Patuxent - appointee -

10/5

OFFICE OF THE SECRETARY
DEPARTMENT OF NATURAL RESOURCES
ANNAPOLIS, MARYLAND

FROM THE DESK OF: JOHN R. GRIFFIN

Wes - ^{sent 10/8}
pls send
to Mr F a
cc of Garrey's
letter from
Sol Hess re:
1st meeting
of Commission
on Oct 22nd.
Thanks.

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
TIDEWATER ADMINISTRATION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

TO: John

FROM: Sarah

SUBJECT:

DATE: 10-5-84

Deborah Washington, my secretary, is going to handle the Critical Areas Commission letter for you today. She will bring it upstairs when all originals are ready for your signature.

I will be in Ocean City speaking on Bay Initiatives.



RECEIVED

1984 OCT -8 JUDGE SOLOMON LISS
CHAIRMAN

TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

You're scheduled
Sched.!
good!

The Honorable Torrey C. Brown, M.D.
Secretary of Natural Resources
Tawes State Office Building
Annapolis, Maryland 21401

Dear Secretary Brown:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

I expect the meeting will last until approximately 7:00 p.m. We will have a dinner for the Commission members starting at 7:30 p.m. at Busch's Chesapeake Inn on Route 50, east of Annapolis.

Since we have much work to do in the months ahead, I hope that all members will be able to attend this initial meeting. Please bring your calendar with you so that we may also schedule future meetings.

Please contact Mrs. Marsha Burden of the Governor's Office at 269-3091 by Monday, October 15th to confirm your attendance.

I look forward to seeing you on October 22nd.

Sincerely,

Sol Liss

Solomon Liss
Chairman

SL/dcw



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mrs. Barbara O'Neill
1171 Winch Road
Port Deposit, Maryland 21904

Dear Mrs. O'Neill:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Constance Lieder
Secretary of State Planning
301 West Preston Street
Baltimore, Maryland 21201

Dear Secretary Lieder:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Chairman

SL/dcw

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TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. James E. Gutman
233 Wiltshire Lane
Severna Park, Maryland 21146

Dear Mr. Gutman:

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Solomon Liss
Chairman

SL/dcw



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Shepard Krech, Jr.
Whitehouse Farms
Box 779
Easton, Maryland 21601

Dear Mr. Krech:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Chairman

SL/dcw

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SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Samuel E. Turner, Sr.
Bellevue
Royal Oak, Maryland 21662

Dear Mr. Turner:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. William J. Bostian
10 Devonshire Drive
Salisbury, Maryland 21801

Dear Mr. Bostian:

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TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable J. Frank Raley, Jr.
P.O. Box 34
St. Mary's City, Maryland 20686

Dear Mr. Raley:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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SECRETARY

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CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984.

Mr. Robert R. Price, Jr. Esquire
103 Lawyers Row
Centreville, Maryland 21617

Dear Mr. Price:

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TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable John Wood Logan
P.O. Box 88
Denton, Maryland 21629

Dear Mr. Logan:

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Solomon Liss
Chairman

SL/dcw



TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

JUDGE SOLOMON LISS
CHAIRMAN

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Lloyd S. Tyler, III
President
City Council of Crisfield
243 N. Somerset Avenue
Crisfield, Maryland 21817

Dear President Tyler:

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CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Harry T. Stine, Vice Chairman
Charles County
Planning Commissioner
Route 1, Box 91
Newburg, Maryland 20664

Dear Vice Chairman Stine:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Solomon Liss
Chairman

SL/dcw

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TORREY C. BROWN, M.D.
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STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

JUDGE SOLOMON LISS
CHAIRMAN

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Albert W. Zahniser, Vice Chairman
Calvert County
Planning Commissioner
C Street
Solomons, Maryland 20688

Dear Chairman Zahniser:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Mary Roe Walkup
Kent County Commissioner
R.D. #1, Box 90
Maple Dam Road
Cambridge, Maryland 21613

Dear Commissioner Walkup:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Chairman

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TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Ann Sturgis Coates
Town of Snow Hill
103 North Church Street
Snow Hill, Maryland 21863

Dear Councilwoman Coates:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable John Luthy, Jr.
Dorchester County Council
Route 1, Box 90
Maple Dam Road
Cambridge, Maryland 21613

Dear Councilman Luthy:

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Solomon Liss
Chairman

SL/dcw



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Donald P. Hutchinson
Baltimore County Executive
624 Dorsey Avenue
Baltimore, Maryland 21221

Dear Mr. Hutchinson:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

I expect the meeting will last until approximately 7:00 p.m. We will have a dinner for the Commission members starting at 7:30 p.m. at Busch's Chesapeake Inn on Route 50, east of Annapolis.

Since we have much work to do in the months ahead, I hope that all members will be able to attend this initial meeting. Please bring your calendar with you so that we may also schedule future meetings.

Please contact Mrs. Marsha Burden of the Governor's Office at 269-3091 by Monday, October 15th to confirm your attendance.

I look forward to seeing you on October 22nd.

Sincerely,

A handwritten signature in cursive script that reads "Sol Liss".

Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Parris N. Glendening
Prince George's County Executive
6911 Oakridge Road
University Park, Maryland 20782

Dear Mr. Glendening;

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. Robert S. Lynch, Director
Harford County Planning and Zoning
3 Overbrook Court
Bel Air, Maryland 21014

Dear Mr. Lynch:

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JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Clarence Burns
President, Baltimore City Council
2630 Mura Street
Baltimore, Maryland 21213

Dear Chairman Burns:

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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

JUDGE SOLOMON LISS
CHAIRMAN

October 5, 1984

Mrs. Florence B. Kurdle, Director
Anne Arundel County Planning & Zoning
1904 Sleep Hollow Lane
Annapolis, Maryland 21401

Dear Mrs. Kurdle:

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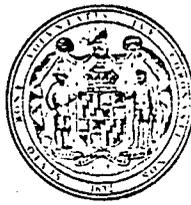
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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Wayne A. Cawley, Jr.
Secretary of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

Dear Secretary Cawley:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

The Honorable Frank J. DeFrancis, Secretary
Economic and Community Development
45 Calvert Street
Annapolis, Maryland 21401

Dear Secretary DeFrancis:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



TORREY C. BROWN, M.D.
SECRETARY

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

October 5, 1984

Mr. William M. Eichbaum
Assistant Secretary for Environmental Programs
Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Eichbaum:

I am pleased to announce that the initial meeting of the Chesapeake Bay Critical Areas Commission will be held on Monday, October 22, 1984 at 3:00 p.m. in the Calvert Room, 1st floor, Statehouse, Annapolis.

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Sincerely,

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Solomon Liss
Chairman

SL/dcw

TELEPHONE _____



Maryland Department of Economic & Community Development

Harry Hughes
Governor
Frank J. De Francis
Secretary

Office of the Secretary 45 Calvert Street, Annapolis, Maryland 21401 301/269-3174

October 23, 1984

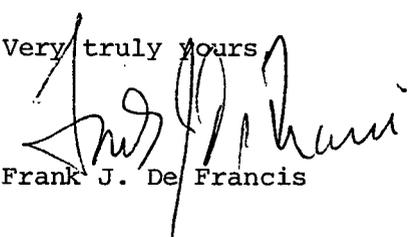
Judge Solomon Liss
Chairman
Department of Natural Resources
Critical Areas Commission
Tawes State Office Building
Annapolis, Maryland 21401

Dear Judge Liss:

By this letter I am designating the Department of Economic and Community Development Assistant Secretary Ardath M. Cade to be my official representative to the Chesapeake Bay Critical Areas Commission when I am unable to attend. Please send her a duplicate mailing of all items.

It is my understanding that as my official designee, Mrs. Cade will have the right to full participation in the deliberations of the Commission but in accordance with the rules established by the Commission at its meeting of October 22, 1984, will have no vote.

Very truly yours


Frank J. De Francis

FJDeF:db



MARYLAND
DEPARTMENT OF STATE PLANNING
301 W. PRESTON STREET
BALTIMORE, MARYLAND 21201-2365

HARRY HUGHES
GOVERNOR

CONSTANCE LIEDER
SECRETARY

October 23, 1984

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

Dear Judge Liss:

I'm sorry that illness prevented me from attending the first
Critical Area Commission meeting on October 22.

This note is to designate Kay Bienen of my staff as my alter-
nate to the Commission.

Name: KAY BIENEN
Address: Department of State Planning
Suite 1101
301 West Preston Street
Baltimore, Maryland 21201
Phone: 383-7700

Thank you very much.

Very sincerely yours,

A handwritten signature in cursive script that reads "Constance Lieder".

Constance Lieder

CL:KB:r

AGENDA

CHESAPEAKE BAY CRITICAL AREAS COMMISSION MEETING

October 22, 1984

Introductory Remarks and Introduction of Commission Members	Solomon Liss, Chairman
Agreement on Rules of Procedure	Solomon Liss
Description of Relevant Administrative Law Requirements	Thomas Deming, Asst. Attorney General, DNR
Analysis of the Chesapeake Bay Critical Areas Act	Thomas Deming
Presentation of Draft Work Plan- time line, products, options	
Other Items:	Solomon Liss
map status	
Department of State Planning Handbook	
Local Government Advisory Letter for Interim Findings	
Local Government Advisory Letter on Program Development	
Presentation of 1985 Budget Status, 1986 Budget	
Enhancement with Approval to Develop 1986 Budget	
Educational Seminar for Commission Members	
Consultant for Criteria Development	
Establishment of November Meeting Date with Agenda Items to be Handled	Solomon Liss
Closed Session - Discussion of Staff Hiring	Solomon Liss

TIME FRAME

October 22, 1984	1st Commission Meeting * organizational * conduct of business and work plans * briefings on activities
November 1984	2nd Commission Meeting *establish hearing schedule and Commission participation *approve expanded notice of public hearings on criteria development
December 1984 ⁴ January 1985	6 regional hearings held prior to criteria development
February 1985- May 1985	Meetings of Commission relating to criteria development *establishment of public hearing schedule on draft regulations *Commission to approve draft criteria regulations for publication in the <u>Maryland Register</u>
June 1, 1985	Publish draft regulations on criteria in <u>Maryland Register</u>
Mid-June 1985- July 1985	6 public hearings held on draft criteria regulations
August 1985- September 1985	Several meetings of Commission to revise draft criteria regulations as a result of the hearings
October 1, 1985	Commission to adopt and publish final draft regulations in <u>Maryland Register</u> (45 day comment period to follow)
December 1, 1985 or before	Commission promulgates final regulations
January 1986	Commission submits criteria for General Assembly approval

* From time to time the Joint Committee on the Chesapeake Bay Critical Areas will request to meet with the Commission to review the development of the criteria.

SJT/ses 10/19/84

TIME FRAME, PRODUCTS, OPTIONS

Time Frame	Products	Options
<p>Nov. 1984</p>	<p>*Draft Handbook completed *Maps with 1000 foot delineation completed and sent to local governments *Hearing schedule and format established - <i>staff</i></p> <p>*Expanded notice of public hearings on Criteria completed</p>	<p>Attendance: *All Commission members may want to go to each hearing *A Sub-group could attend each hearing *Local representatives may want to be the ones present</p> <p>Format: *Ground rules for hearing may be formal - transcript, recorded * Ground rules for hearing may be informal - workshop format - with recording.</p> <p>*May want a general approach to criteria formatted</p> <p>*May want examples of criteria presented from other states</p> <p>*Combination of the above</p>
<p>Dec. 1984/ Jan. 1985</p>	<p>*Six regional hearings held</p>	
<p>Feb. 1985 - May 1985</p>	<p>*Several Commission meetings to work with criteria development</p> <p>*Final version of DSP criteria Handbook distributed</p>	<p>*Timing of public input - open record - open Commission meetings, record closed except for written comment - open meetings, but closed record</p> <p>*Commission participation in criteria development (other than through Commission meetings): - whole Commission - subcommittee only composed of Commission members - subcommittee of Commission members with expansion to outside parties</p>

Time Frame	Products	Options
May 1985	*Establishment of public hearing schedule and approval of draft regulations for publication	*Format of the hearings - - formal - informal *Commission participation - full Commission - partial Commission
June 1, 1985	*Draft criteria regulations published	
Mid June 1985 through July 1985	*6 public hearings held on draft criteria regulations	
August 1985 - Sept. 1985	*Several meetings of Commission to revise draft criteria regulations	
Oct. 1, 1985	*Final draft regulations adopted and published in <u>Maryland Register</u>	
Dec. 1, 1985 or before	*Regulations promulgated	
Jan. 1986	*Regulations submitted to General Assembly	

DRAFT LETTER TO HEADS OF PLANNING -
MUNICIPALITIES & COUNTIES

RE: DEVELOPMENT OF COST PROPOSALS BY OCTOBER 31, 1984

Statute

86
While ambiguity in the intent that be included in the assist be included in the budget authorized me to convey that the intent of the legislation is to

Dear :

Under Section 8-1808, entitled Program Development of the Chesapeake Bay Critical Area Commission Act, it is required that each local jurisdiction submit to the Governor by October 31, 1984, a detailed request for funds that are equivalent to the additional costs incurred in developing the program under Section 8-1808.

Realizing that October 31, 1984 is just a week away, the purpose of this letter is to extend the deadline of cost submittal by no later than November 30, 1984 and to provide guidance as to possible areas you may wish to examine in the development of these costs.

in time for budget prep
if we get it by Nov 30 ample to include in the budget.

In developing specific budget proposals, several cost categories that could be included are:

1. Salaries and Wages of additional staff,
2. Communication costs such as phone calls and mailings,
3. Travel to attend in-State hearings and meetings dealing with program development,
4. Contractual Services - for example - payment for services associated with environmental inventories and analyses that are not available and are required for implementation of the Act, printing, cost of public information meetings and hearings which may be required in the process of program development,
5. Supplies and Materials - for the office, for instruction,
6. Equipment - for small purchases directly related to program development,

If submittals follow these categories, they will reflect the State Budget categories used for budget submittal. As a set budget limit has not been established for each jurisdiction, it is important to submit only those costs relating to program development.

I hope this will be of assistance to you.

Sincerely,

antistat prog developm.

P Please note that while this is a one time submittal cost, the funding of which will be available July 1, 1985 *through the Governor* it is intended that this activity will continue occur each year to enable the program development portion of the process to continue. Federal and State

funds will be co-mingled for this purpose



TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401

JUDGE SOLOMON LISS
CHAIRMAN

COMMISSION SUBCOMMITTEE LIST FOR
CRITERIA DEVELOPMENT

Subcommittee on Resource-Based Activities

Ann Sturgis Coates
Dr. Shepard Krech, Jr.
Florence B. Kurdle
John Luthy, Jr.
J. Frank Raley, Jr.
Harry T. Stine
Samuel E. Turner, Sr.
Mary Roe Walkup

Ex.-Officio: Torrey C. Brown, Wayne A. Cawley, Jr.

Staff Member(s): Sarah J. Taylor, Charles Davis

Subcommittee on Development Activities

William Bostian
Clarence "Du" Burns
Parris N. Glendening
James E. Gutman
Donald P. Hutchinson
Robert R. Price, Jr.
Robert S. Lynch

Ex.-Officio: William Eichbaum, Constance Lieder, Ardath Cade

Staff Member(s): Tony Redman, Charles Davis

Subcommittee on Resource Enhancement and Management

John W. Logan
Barbara W. O'Neill
Lloyd S. Tyler, III
Albert W. Zahniser

Staff Member: Kevin Sullivan

Judge Liss will circulate among the subcommittees.

The MD CRITICAL AREAS PROGRAM

A Timeline For Action

1984

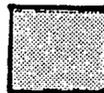
MAY 1984	JUNE 1984	JULY 1984	OCTOBER 1984	NOVEMBER - DECEMBER 1984
Governor Hughes signs Chesapeake Bay Critical Areas Bill	Local governments begin making interim findings on projects	25 member Critical Areas Commission appointed	First meetings of Commission. Local cost estimates for program development due	Commission holds six regional hearings to solicit public input on criteria the Commission must develop

1985

JANUARY - JUNE 1985	JULY - SEPTEMBER 1985	SEPTEMBER 1985	OCTOBER - NOVEMBER 1985
Commission meetings - incorporate hearing results into criteria Use meetings to address concerns of interest groups	Commission meetings to review criteria as they are written into regulatory format	Proposed criteria published in <u>Maryland Register</u> . Hearings to be announced in area newspapers	Regional hearings held on criteria. Revisions made as needed

1986

JANUARY 1986	???	
Criteria submitted to MD General Assembly for their approval during the 1986 legislative session	General Assembly approves criteria and local jurisdiction program development begins	<i>All local jurisdictions are expected to have their local programs ready for implementation by January 1988. This timeline covers only the period involved in criteria development. Timelines for the later stages will be prepared as the program progresses.</i>



Implementation phases that require public participation

Prepared by the Chesapeake Bay Foundation. For more information contact Ann Pesiri Swanson or Steve Bunker 268-8616

CHESAPEAKE BAY CRITICAL AREA COMMISSION

3:00 P.M. - OCTOBER 22, 1984

CALVERT ROOM, STATE HOUSE

ANNAPOLIS, MARYLAND

A G E N D A

1. Introductory Remarks and Introduction of.....Solomon Liss,
Commission Members Chairman
(Attachment #1, Biographies of Members)
2. Rules Governing Conduct of Business.....Solomon Liss,
a. Public Meetings Law Chairman and
b. Promulgation of Regulations Thomas A. Deming,
c. Attendance Requirements Assistant Attorney
d. Rules of Order General
e. Non-Voting Alternates
f. Public Comments
3. Overview of Chesapeake Bay Critical Area Act.....Thomas A. Deming,
(Attachment #2 - Outline and Copy of Statute) Assistant Attorney
General
4. Commission Calendar from October, 1984.....Solomon Liss,
to January, 1986 Chairman
(Attachment #3 - Calendar)
5. Initial Public Hearings on Criteria.....Solomon Liss,
Chairman
6. Schedule for Monthly Meetings.....Solomon Liss,
Chairman
7. Fiscal Year 1985 Commission Budget.....Solomon Liss,
Chairman
8. Legislative Joint Committee on Chesapeake.....Solomon Liss,
Bay Critical Areas Chairman
(Attachment #4 - List of Members)
9. Related Activities
a. Critical Area Mapping.....Thomas A. Deming,
Assistant Attorney
General
b. Letter to Local Planning Directors.....Thomas A. Deming,
(Attachment #5) Assistant Attorney
General

CHESAPEAKE BAY CRITICAL AREA COMMISSION

AGENDA

OCTOBER 22, 1984

- c. Local Government Handbook.....Constance Lieder,
Secretary, Dept. of
State Planning
- d. Letter to Local Governments on Cost.....Thomas A. Deming,
Estimates Assistant Attorney
General
- 10. Other Business
- 11. Session Closed to Public for Discussion of
Personnel Matters

MEMBERS OF THE CHESAPEAKE BAY CRITICAL AREA COMMISSION

Chair, Critical Area Commission

JUDGE SOLOMON LISS Judge Liss has a long history of dedication to public service. Having served two terms as a Baltimore City Councilman, Judge Liss also founded the Baltimore-Metropolitan Area Council, served as Chairman of the Public Service Commission and was Vice-President of the Maryland State Bar Association before rising to the Supreme Bench of Baltimore City in 1968. From 1968 to 1976 when he was appointed Associate Judge of the Maryland Court of Special Appeals, Judge Liss also contributed his knowledge and experience to government as a member of the Governor's Commission on Judicial Reform and Judicial Disabilities, and the Governor's Task Force on Circuit Court Unification. He also chaired the Maryland Judicial Conference Committee on Free Press/Fair Trial. Since 1976, Judge Liss has served on the Executive Board of the Maryland Judicial Conference, taught as an Adjunct Professor at the University of Baltimore School of Law, and has authored numerous legal papers and articles for professional journals and local newspapers. He has been actively involved in many civic organizations, including the Legal Aid Bureau and the previously mentioned Baltimore-Metropolitan Area Council. Judge Liss will bring leadership, judicial experience, and deep public commitment to his role as Chairman of the Critical Area Commission.

Local Officials

CLARENCE "Du" BURNS (Baltimore City) Elected President of the Baltimore City Council in 1982, "Du" Burns has been a Council member since 1971. Presently serving as a member of both the Regional Planning Council and the Energy, Environmental and Natural Resources Steering Committee of the National League of Cities, the President has also sat on the Maryland Advisory Council on Comprehensive Health Planning and the Maryland Commission on Law Enforcement and the Administration of Justice. He was also a founding member and past Chairman of the Eastside Democratic Club, formed for the improvement of housing, medical and educational facilities.

FLORENCE BECK KURDLE (Anne Arundel) Ms. Kurdle is the Planning and Zoning Officer for Anne Arundel County. As such she has had much experience with both developmental and environmental concerns. She has also been an Instructor at Johns Hopkins University for Land Use and Environmental Policy Planning. Ms. Kurdle also served as Chair for the Regional Planning Council's 1982 General Development Plan Committee, and as a member of the Maryland Association of County Planners and the Maryland Chapter of the American Planning Association.

DONALD P. HUTCHINSON (Baltimore County) County Executive Hutchinson has a solid background in public service. Prior to his election as County Executive in 1978, Mr. Hutchinson served several terms in the General Assembly, first as a Delegate, then Senator. He was also a delegate to the Maryland Constitutional Convention in 1967. County Executive Hutchinson is a member of many civic and governmental organizations, including the Maryland Association of Counties, the United Way of Central Maryland, the Baltimore Area Council of Boy Scouts of America, the Essex-Middle River Jaycees, the National Association of Counties/Urban Affairs Committee, and the National Council of Elected County Executives.

PARRIS N. GLENDENNING (Prince George's County) County Executive Glendenning received his Ph.D. from Florida State University before dedicating himself to public service. Mr. Glendenning served on the Prince George's County Council from 1974-80, including two terms as Chairman of the Council, after which he was elected as County Executive. County Executive Glendenning has also served as an Associate Professor at the University of Maryland, lecturing on Government and Policies.

Local Official

ROBERT S. LYNCH (Harford) As Director of the Harford County Department of Planning and Zoning, Mr. Lynch brings an extensive background both in law and in regional and land use planning. Accordingly, Mr. Lynch has been active in implementing the Harford County Coastal Zone Management Program and the Harford County Agricultural Preservation Program, as well as in the drafting of legislation dealing with Industrial, Commercial, and Natural Resource Protection Zones, and the Wild and Scenic River Plan for the Deer Creek River Valley. Mr. Lynch has also written articles for National Scope Magazine on development and the environment.

Local Individual

BARBARA W. O'NEILL (Cecil) Ms. O'Neill brings to the Commission a long history of dedication to environmental concerns. Most recently Ms. O'Neill has served on the Governor's Task Force on Hazardous Waste Initiatives, the Upper Chesapeake Watershed Association, Inc. (President), the Cecil Soil Conservation District (Associate Supervisor), the League of Women Voters (Water Quality, Coastal Resources Advisory Committee, State Water Quality Advisory Committee, Citizens Program for the Chesapeake Bay), and the Maryland Conservation Council. Ms. O'Neill received her Masters of Education in 1961 from the University of Delaware and has taught science and math at both the elementary school and college levels.

Local Official

Ann Sturgis Coates (Worcester) In addition to being a Councilwoman of Snow Hill, Ms. Coates is a member of the Board of Directors of the Maryland Municipal League and serves on the League's Bay Initiatives Subcommittee and the Intergovernmental Relations Committee. She has also worked as a Commercial Loan Officer for the Maryland National Bank and a Credit Consultant for the Talbot Bank. Councilwoman Coates is also a Board member of Coastal Hospice, Inc., the Salisbury State College Foundation, the Adkins Arboretum, the Worcester County Garden Club (President) and the American Heart Fund (Board of Directors).

Local Individual

JOHN WOOD LOGAN (Caroline County) Judge Logan is a committed public servant who has served both in the Maryland General Assembly and as Judge on the Maryland Tax Court.

.....
Local Official

MARY ROE WALKUP (Kent) In addition to being President of the Kent County Board of Commissioners, Commissioner Walkup brings much environmental experience to the Commission. She has served as Vice President for the Maryland Wildlife Federation, as President for the Kent Conservation, Inc., and as a member of the Kent County Farm Bureau.

.....
Local Individual

ROBERT R. PRICE, JR. (Queen Anne's) Mr. Price is a lawyer from Centreville, with an extensive background in planning and zoning. He served from 1966 - 1970 as the Eastern Shore representative to the Maryland Planning and Zoning Law Study Commission which resulted in the revision of Article 66B of the Maryland Code. Mr. Price has also served as attorney for the Queen Anne's Planning and Zoning Commission for almost twenty years and the County Commissioners for over six years. In these capacities Mr. Price has been deeply involved with concerned citizens, developers, and County Officials, alike.

Local Official

JOHN LUTHY, JR., (Dorchester) John Luthy, Jr., is both a Dorchester County Commissioner and a farmer of 2300 acres (Luthy Farms). Commissioner Luthy has also served as Judge of the Orphans Court, and as a Director of the Farm Credit Bank of Denton. He is also a member of the Forestry Conservation Board, the Tidewater Farm Club, and the Dorchester County Farm Bureau.

Local Individual

SAMUEL E. TURNER, SR. (Talbot) Mr. Turner is a professional waterman who, as President of Bellevue Seafood Company, Inc., has made his living from the Chesapeake Bay. His experience includes commercial fishing, boat building, and shipyard welding. A native of Bellevue, Mr. Turner is also a former member of the Governor's Seafood Advisory Commission and the Farmers Home Administration Committee. Active in the community, Mr. Turner is also a former Boy Scout Leader and Church School Superintendent.

Local Official

LLOYD S. TYLER, III (Somerset) Mr. Tyler is President of the City Council of Crisfield. A native of Somerset, Mr. Tyler comes from a long line of watermen. He recently completed requirements for his doctoral degree from the University of Maryland with a dissertation on The Blue Crab Industry of the Chesapeake Bay: Technological Development from 1873-1983. Councilman Tyler also served as principal of the J. M. Tawes Vocational Center, and, later, the Washington High School. He is a member of the Somerset Economic Development and Planning Committee, the National Association of Secondary School Principals, and the Somerset County Administrators Association.

Local Individual

WILLIAM J. BOSTIAN (Wicomico) Mr. Bostian is a lawyer and businessman from Salisbury, with an extensive background in environmental concerns. From 1972 - 1975, he worked for Environmental Concern, Inc., which studies estuarine salt marshes and their fauna in order to control spoil and erosion. Since 1978, Mr. Bostian has been employed by E. S. Adkins and Company, a building materials retailer and residential developer. Mr. Bostian is also Vice President of the Maryland Forest Association, a member of the Wicomico County Forestry Board, and Director of Salisbury Wicomico Economic Development and the Salisbury Area Chamber of Commerce. He is also Vice President of the Salisbury Downtown Revitalization Corporation.

Local Officials

J. FRANK RALEY, JR. (St. Mary's) A former member of the House of Delegates and Senate of Maryland, J. Frank Raley is owner of J. Frank Raley Insurance Company in St. Mary's County. A former member of the County Planning Commission for 10 years, Mr. Raley is currently Chairman of the Board of Directors of Commercial Credit, a member of the Board of Trustees of St. Mary's College and serves on the Board of the Tri-County Council.

HARRY T. STINE (Charles) Mr. Stine, owner of a marine contracting business (Southern Piledriving Company), is actively involved with Bay issues. He is a member of the Board of Directors of the Maryland Watermen's Association and the Chesapeake Bay Seafood Industries Association, Inc. Mr. Stine is also a member of the Tri-County Council for Southern Maryland, and is Vice Chairman of the Charles County Planning Commission.

Local Individual

ALBERT W. ZAHNISER (Calvert) Mr. Zahniser owns a boatyard and marina, known as Zahniser's Inc., at Solomons, where he also operates a restaurant. A native of Solomons, Mr. Zahniser received his B.S. from the University of Maryland and serves as the Vice Chairman of the Calvert County Planning Commission.

At-Large

SHEPARD KRECH, JR. (Talbot) Both a farmer and a physician, Dr. Krech has been actively involved with the Maryland Chapter of the Nature Conservancy as a Trustee and is President of the Wildfowl Trust of North America. Fifteen years ago, Mr. Krech began planting buffer strips on his farm to control non-point pollution, and currently uses "minimal till" farming techniques as well.

JAMES E. GUTMAN (Anne Arundel) Mr. Gutman has long been concerned with sources of pollution to the Chesapeake Bay and its tributaries. His initial activities on behalf of the Bay were as the Anne Arundel representative under the Clean Water Act administered by the EPA. He has also been active since the beginning of public participation with Coastal Zone Management, serving on many subcommittees, especially the Critical Areas Task Force. Mr. Gutman has also been a member and former Chairman of Public Advisory Committees for the Baltimore Metropolitan Area and river basins beyond Anne Arundel County. Mr. Gutman is also a past President of the Magothy River Association, the current Chairman of the State Water Quality Advisory Committee, a member of the Hart-Miller Advisory Board to the Governor, and the Patuxent River Commission.

EX OFFICIO MEMBERS

THE HONORABLE WAYNE A. CAWLEY, JR., Secretary of Agriculture

THE HONORABLE FRANK J. DE FRANCIS, Secretary of Economic and Community
Development

WILLIAM EICHBAUM, Department of Health and Mental Hygiene

THE HONORABLE TORREY C. BROWN, Secretary of Natural Resources

THE HONORABLE CONSTANCE LIEDER, Secretary of State Planning

CHESAPEAKE BAY CRITICAL AREA LAW
NATURAL RESOURCES ARTICLE, §§8-1801 - 8-1816

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Subtitle 18. Chesapeake Bay Critical Area Protection Program.

§ 8-1801. Declaration of public policy.

(a) *Findings.* — The General Assembly finds and declares that:

- (1) The Chesapeake Bay and its tributaries are natural resources of great significance to the State and the nation;
- (2) The shoreline and adjacent lands constitute a valuable, fragile, and sensitive part of this estuarine system, where human activity can have a particularly immediate and adverse impact on water quality and natural habitats;
- (3) The capacity of these shoreline and adjacent lands to withstand the continuing demands upon them, without further degradation to water quality and natural habitats is limited;
- (4) National studies have documented that the quality and productivity of the waters of the Chesapeake Bay and its tributaries have declined due to the cumulative effects of human activity that have caused increased levels of pollutants, nutrients, and toxics in the Bay System and declines in more protective land uses such as forestland and agricultural land in the Bay region;
- (5) Those portions of the Chesapeake Bay and its tributaries within Maryland are particularly stressed by the continuing population growth and development activity concentrated in the Baltimore-Washington metropolitan corridor;
- (6) The quality of life for the citizens of Maryland is enhanced through the restoration of the quality and productivity of the waters of the Chesapeake Bay and its tributaries;
- (7) The restoration of the Chesapeake Bay and its tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands;
- (8) The cumulative impact of current development is inimical to these purposes; and

(9) There is a critical and substantial State interest for the benefit of current and future generations in fostering more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake Bay and its tributaries so as to minimize damage to water quality and natural habitats.

(b) *Purposes.* — It is therefore the purpose of the General Assembly in enacting this subtitle to:

(1) Establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and

(2) Implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight. (1984, ch. 794.)

Editor's note. — Section 2, ch. 794, Acts 1984, provides that "of the initial members of the Chesapeake Bay Critical Area Commission, the member from Anne Arundel County, 2 members at large, and the members from Kent, Queen Anne's, Talbot, and Dorchester counties serve for terms of 4 years; the members from Baltimore City and Wicomico, Somerset, Calvert, Charles, and St. Mary's counties serve for terms of 3 years; and the members from Baltimore, Prince George's, Harford, Cecil, Caroline, and Worcester counties, serve for terms of 2 years."

Section 3 of ch. 794 provides that "the criteria

promulgated by the Commission under Natural Resources Article, § 8-1806 and § 8-1808 may not be implemented unless the General Assembly at the 1986 Session affirms by joint resolution that the criteria are reasonable and acceptable to accomplish the goals of this subtitle. If a joint resolution of affirmation is not enacted by the General Assembly at the 1986 Session, the criteria shall be revised by the Commission and resubmitted to the General Assembly on the first day of the 1987 Session and the effective date of the criteria shall be delayed until June 1, 1987."

§ 8-1802. Definitions; obligation imposed by subtitle on Prince George's County and Commission.

(a) *In general.* — (1) In this subtitle the following words have the meanings indicated.

(2) "Commission" means the Chesapeake Bay Critical Area Commission established in this subtitle.

(3) "Development" means any activity that materially affects the condition or use of dry land, land under water, or any structure.

(4) "Includes" means includes or including by way of illustration and not by way of limitation.

(5) "Local jurisdiction" means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area as defined in this subtitle, is located.

(6) "Program" means the critical area protection program of a local jurisdiction including any amendments to it.

(7) "Project approval" means the approval of development, other than development by a state or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes

approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

(b) *Maryland-National Capital Park and Planning Commission.* — Wherever this subtitle requires Prince George's County to exercise any power or authority it shares with the Maryland-National Capital Park and Planning Commission, the obligation imposed by this subtitle rests on both the county and the Maryland-National Capital Park and Planning Commission in accordance with their respective powers and authorities. (1984, ch. 794.)

§ 8-1803. Chesapeake Bay Critical Area Commission created; authority of Secretary and Board of Review.

(a) *Commission created.* — There is a Chesapeake Bay Critical Area Commission in the Department.

(b) *Authority of Secretary.* — The Secretary has no authority under Title 1 of this article to approve, alter, or amend the policies or programs of the Commission; to transfer, assign, or reassign statutory functions or activities to or from the Commission; or to adopt, approve, or revise rules and regulations of the Commission.

(c) *Authority of Board of Review.* — The Board of Review has no authority to hear or determine appeals from decisions of the Commission. (1984, ch. 794.)

§ 8-1804. Composition of Commission.

(a) *In general.* — The Commission consists of 25 voting members who are appointed by the Governor, as follows:

(1) A full-time chairman, appointed with the advice and consent of the Senate, who shall serve at the pleasure of the Governor;

(2) 11 individuals, appointed with the advice and consent of the Senate, each of whom is a resident and an elected or appointed official of a local jurisdiction. At least 1 of these 11 individuals must be an elected or appointed official of a municipality. These individuals shall serve on the Commission only while they hold local office. Each shall be selected from certain counties, or from municipalities within said counties, as follows, and only after the Governor has consulted with elected county and municipal officials:

(i) 1 from each of Baltimore City, and Anne Arundel, Baltimore, and Prince George's counties;

(ii) 1 from Harford or Cecil County;

(iii) 1 from Kent or Queen Anne's County;

(iv) 1 from Caroline or Worcester County;

(v) 1 from Talbot or Dorchester County;

(vi) 1 from Wicomico or Somerset County; and

(vii) 2 from Calvert, Charles or St. Mary's County, both of whom shall not be from the same county;

(3) 8 individuals, appointed with the advice and consent of the Senate, who shall represent diverse interests, and among whom shall be a resident from each of the 6 counties that are listed and from which an appointment has not been made under paragraph (2) of this subsection and 2 of the 8 members appointed under this item shall be at large members; and

(4) The Secretaries of Agriculture, Economic and Community Development, Health and Mental Hygiene, Natural Resources, and State Planning, ex officio, or, instead of any of the Secretaries, another representative of that Secretary's department appointed at the request of the Secretary.

(b) *Compensation.* — A member of the Commission who does not hold another office of profit at the State or local level shall be entitled to compensation as provided in the budget. Members of the Commission shall be entitled to reimbursement for expenses as provided in the budget.

(c) *Length of terms; removal of members; filling vacancies.* — Except for the chairman and ex officio State officers or their representatives:

(1) The term of a member is 4 years;

(2) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 1984;

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies;

(4) A member who is appointed after a term is begun serves for the rest of the term and until a successor is appointed and qualifies;

(5) A member may serve no more than 2 terms; and

(6) Any member of the Commission appointed by the Governor who shall fail to attend at least 60 percent of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall thereupon appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public.

(d) *Vacancies other than by expiration of term.* — If a vacancy arises other than by the expiration of a term, the Governor shall appoint within 30 days, with the advice and consent of the Senate, a successor of like qualification to serve the remainder of the term. (1984, ch. 794.)

§ 8-1805. Commission staff.

(a) *In general.* — The Commission shall have the staff provided for in the State budget.

(1) The staff assigned to the Coastal Zone Management Program in the Department shall assist the Commission in the development of regulations and the review of programs.

(2) The State departments represented on the Commission may lend staff or other assistance to the Commission.

(b) *Executive director.* — The chairman with the approval of the Commission shall appoint an executive director for the Commission.

(1) The Executive Director serves at the pleasure of the chairman and is entitled to the salary provided in the State budget.

(2) The Executive Director shall direct the staff of the Commission.

(c) *Assistant attorney general.* — The Attorney General shall designate an assistant attorney general to advise and represent the chairman and the Commission. (1984, ch. 794.)

§ 8-1806. Powers of the Commission.

The Commission has all powers necessary for carrying out the purposes of this subtitle, including the following:

(1) To adopt regulations and criteria in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article;

(2) To conduct hearings in connection with policies, proposed programs, and proposed regulations or amendments to regulations; and

(3) To contract for consultant or other services. (1984, ch. 794.)

§ 8-1807. Chesapeake Bay Critical Area.

(a) *Initial planning area.* — The initial planning area for determination of the Chesapeake Bay Critical Area consists of:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of this article; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of this article.

(b) *Areas local jurisdictions may exclude.* — (1) (i) In determining the Chesapeake Bay Critical Area within its boundaries, a local jurisdiction may exclude those portions of the planning area designated in subsection (a) of this section which the local jurisdiction finds to be:

1. Part of a developed, urban area in which, in view of available public facilities and applicable laws and restrictions, the imposition of a program would not substantially improve protection of tidal water quality or conservation of fish, wildlife, or plant habitats; or

2. Located at least 1,000 feet from open water and separated from open water by an area of wetlands which it is found will serve to protect tidal water quality and fish, wildlife, or plant habitats from adverse impacts of development in the excluded area.

(ii) A portion of urban area to be excluded shall be at least 50 percent developed and may not be less than 2,640,000 square feet in contiguous area or the entire initial planning area located within the boundaries of a municipality, whichever is less.

(2) A local jurisdiction shall include in any program submitted to the Commission under § 8-1809 a designation of those portions of the Chesapeake Bay Critical Area proposed for exclusion under paragraph (1) of this subsection, together with all factual information and expert opinion supporting its findings under this subsection.

(3) The Commission shall approve a local jurisdiction's designation of portions to be excluded unless the Commission finds, based on stated reasons, that the decision of the local jurisdiction was:

- (i) Not supported by competent and material evidence; or
- (ii) Arbitrary or capricious.

(4) If the Commission develops the program to be applied in a local jurisdiction, it shall exclude areas as appropriate to meet the intent of paragraph (1) of this subsection.

(c) *Area designated as critical area.* — The Chesapeake Bay Critical Area shall consist of:

(1) Those areas designated in subsection (a) of this section, except any areas excluded in accordance with subsection (b) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission. (1984, ch. 794.)

§ 8-1808. Program development.

(a) *Local jurisdictions to implement; grants.* — (1) It is the intent of this subtitle that each local jurisdiction shall have primary responsibility for developing and implementing a program, subject to review and approval by the Commission.

(2) The Governor shall include in the budget a sum of money to be used for grants to reimburse local jurisdictions for the reasonable costs of developing a program under this section. Each local jurisdiction shall submit to the Governor by October 31, 1984, a detailed request for funds that are equivalent to the additional costs incurred in developing the program under this section.

(b) *Goals of program.* — A program shall consist of those elements which are necessary or appropriate to:

(1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

(2) Conserve fish, wildlife, and plant habitat; and

(3) Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) *Elements of program.* — At a minimum, a program sufficient to meet the goals stated in subsection (b) includes:

- (1) A map designating the critical area in a local jurisdiction;
- (2) A comprehensive zoning map for the critical area;
- (3) As necessary, new or amended provisions of the jurisdiction's:

- (i) Subdivision regulations;
 - (ii) Comprehensive or master plan;
 - (iii) Zoning ordinances or regulations;
 - (iv) Provisions relating to enforcement; and
 - (v) Provisions as appropriate relating to grandfathering of development at the time the program is adopted or approved by the Commission;
- (4) Provisions requiring that project approvals shall be based on findings that projects are consistent with the standards stated in subsection (b) of this section;
- (5) Provisions to limit the amount of land covered by buildings, roads, parking lots, or other impervious surfaces, and to require or encourage cluster development, where necessary or appropriate;
- (6) Establishment of buffer areas along shorelines within which agriculture will be permitted only if best management practices are used, provided that structures or any other use of land which is necessary for adjacent agriculture shall also be permitted in any buffer area;
- (7) Requirements for minimum setbacks for structures and septic fields along shorelines;
- (8) Designation of shoreline areas if any that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or assembly, and water-related recreation such as boat slips, piers, and beaches;
- (9) Designation of shoreline areas, if any, that are suitable for ports, marinas, and industries that use water for transportation or derive economic benefits from shore access;
- (10) Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area be in accordance with plans approved by the district forestry board; and
- (11) Provisions establishing that the controls in a program which are designed to prevent runoff of pollutants will not be required on sites where the topography prevents runoff from directly or indirectly reaching tidal waters.
- (d) *Criteria for program development.* — (1) The Commission shall promulgate by regulation on or before December 1, 1985, criteria for program development and approval, which are necessary or appropriate to achieve the standards stated in subsection (b) of this section. Prior to developing its criteria and also prior to adopting its criteria, the Commission shall hold at least 6 regional public hearings, one in each of the following areas:
- (i) Harford, Cecil, and Kent counties;
 - (ii) Queen Anne's, Talbot, and Caroline counties;
 - (iii) Dorchester, Somerset, and Wicomico counties;
 - (iv) Baltimore City and Baltimore County;
 - (v) Charles, Calvert, and St. Mary's counties; and
 - (vi) Anne Arundel and Prince George's counties.

During the hearing process, the Commission shall consult with each affected local jurisdiction.

(2) The President of the Senate and the Speaker of the House shall appoint 5 senators and 5 delegates respectively to serve as the Joint Committee on Chesapeake Bay Critical Areas. The Joint Committee shall be staffed by the

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Department of Legislative Reference. The Commission shall meet with the Joint Committee on Chesapeake Bay Critical Areas periodically as the Committee requests to review development and implementation of the criteria for program development.

(e) *Dredging not prevented.* — Nothing in this section shall impede or prevent the dredging of any waterway in a critical area. However, dredging in a critical area is subject to other applicable federal and State laws, rules, and regulations. (1984, ch. 794.)

§ 8-1809. Approval and adoption of program.

(a) *Statements of intent.* — Within 45 days after the criteria adopted by the Commission under § 8-1808 of this subtitle become effective, each local jurisdiction shall submit to the Commission a written statement of its intent either:

(1) To develop a critical area protection program to control the use and development of that part of the Chesapeake Bay Critical Area located within its territorial limits; or

(2) Not to develop such a program.

(b) *Commission may adopt program.* — If a local jurisdiction states its intent not to develop a program or fails to submit a timely statement of intent, the Commission shall prepare and adopt a program for the part of the Chesapeake Bay Critical Area in that local jurisdiction.

(c) *Submission of locally developed program.* — If a local jurisdiction states its intent to develop a program, it shall prepare a proposed program and submit it to the Commission within 270 days after the effective date of the criteria adopted under § 8-1808 of this subtitle. However, if the local jurisdiction submits evidence satisfactory to the Commission that it is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 180 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least one public hearing on the proposed program, for which 2-weeks notice shall be published in a newspaper of general circulation in the local jurisdiction.

(d) *Public hearing; approval by Commission.* — (1) Within 30 days after a program is submitted, the Commission shall appoint a panel of 3 of its members to conduct in the affected jurisdiction a public hearing on the proposed program.

(2) Within 90 days after the Commission receives a proposed program from a local jurisdiction, it shall either approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither the proposal shall be deemed approved.

(3) A changed proposal shall be submitted to the Commission in the same manner as the original proposal, within 40 days after the Commission's notice. Unless the Commission approves a changed proposal or disapproves a changed proposal and states in writing the reasons for its disapproval within 40 days, the changed proposal shall be deemed approved.

(e) *Adoption of program.* — Within 90 days after the Commission approves a proposed program, the local jurisdiction shall hold hearings and adopt the program in accordance with legislative procedures for enacting ordinances. If the governing body of the local jurisdiction wishes to change any part of the approved proposal before adoption, it shall submit the proposed change to the Commission for approval. Unless the Commission approves the change or disapproves the change and states in writing the reasons for its disapproval within 30 days after it receives the change, the change shall be deemed approved. A changed part may not be adopted until it is approved by the Commission.

(f) *Programs effective within 760 days.* — Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(g) *Proposed amendments.* — Each local jurisdiction shall review and propose any necessary amendments to its program, including local zoning maps, at least every 4 years. Amendments shall be submitted to and acted on by the Commission in the same manner as the original program.

(h) *Program not to be amended without approval of Commission.* — A program may not be amended except with the approval of the Commission. Except for amendments developed during program review under subsection (g) of this section, an amendment to a zoning map may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(i) *Standards for approval by Commission.* — The Commission shall approve programs and amendments that meet:

- (1) The standards set forth in § 8-1808 (b) (1) through (3) of this subtitle; and
- (2) The criteria adopted by the Commission under § 8-1808 of this subtitle.

(j) *Program to be available for public inspection.* — Copies of each approved program, as it is amended from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection. (1984, ch. 794.)

§ 8-1810. Programs adopted by Commission.

(a) *When Commission to adopt program.* — If a local jurisdiction fails to notify the Commission that it will develop a program, fails to submit a proposed program or changed proposal on time, or fails to obtain Commission approval of a proposed program or changed proposal that is submitted, the Commission shall prepare and adopt a program that satisfies the criteria adopted under § 8-1808 of this subtitle for the part of the Chesapeake Bay Critical Area in that local jurisdiction.

(b) *Public hearing; Commission program to supersede local law.* — Where a local jurisdiction fails to adopt or obtain Commission approval of a program, the Commission shall promulgate a program for that jurisdiction by adopting rules or regulations in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive, and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article. Before the

full Commission promulgates a program under this subsection, it shall appoint a panel of 3 of its members to conduct in the affected jurisdiction at least 2 public hearings at least 10 days apart on the proposed program, for which two weeks notice shall be published in a newspaper of general circulation in the local jurisdiction. A program promulgated by the Commission under this subsection shall supersede any inconsistent local laws, ordinances, or plans.

(c) *Local jurisdictions to enforce.* — If the Commission adopts a program for a local jurisdiction, the program shall be implemented and enforced by local authorities in the same manner as if the program had been adopted by the local jurisdiction itself.

(d) *Local program to supersede Commission program.* — If, at any time after the Commission has adopted a program for a local jurisdiction, the local jurisdiction submits an alternative program of its own that satisfies the criteria adopted under § 8-1808 of this subtitle and is approved by the Commission, the alternative program supersedes the program adopted by the Commission. (1984, ch. 794.)

§ 8-1811. Project approval.

(a) *Project consistent with program.* — From the effective date of a program approved or adopted by the Commission, a project approval that involves land located in the Chesapeake Bay Critical Area may not be granted unless it is consistent and complies with the program.

(b) *Projects requiring notice to Commission.* — (1) The Commission shall adopt regulations identifying those classes of applications for project approval of which it wishes to receive notice.

(2) From the date designated by the Commission in approving or adopting a program, an applicant for project approval or the local agency authorized to grant project approval on an application in any of the identified classes shall send to the Commission in accordance with the regulations and any other instructions of the Commission, a copy of every pending or new application for approval that is in any of the identified classes. Before the close of the next business day after receipt of a copy of an application from the applicant or the local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority. A failure of the Commission to send a timely notice shall render paragraph (3) of this subsection inapplicable as to that application.

(3) The local approving authority shall not process an application of which a copy must be sent to the Commission until it has received notice of receipt from the Commission, and any action of the local approving authority in violation of this paragraph shall be void. (1984, ch. 794.)

§ 8-1812. Commission chairman; authority regarding judicial proceedings.

(a) *In general.* — After the Commission has approved or adopted a program, the chairman of the Commission has standing and the right and authority to initiate or intervene in any administrative, judicial, or other original pro-

ceeding or appeal in this State concerning a project approval in the Chesapeake Bay Critical Area. The chairman may exercise this intervention authority without first obtaining approval from the Commission, but the chairman shall send prompt written notice of any intervention or initiation of action under this section to each member of the Commission. The chairman shall withdraw the intervention or action initiated if within 35 days after the date of the chairman's notice, at least 13 members indicate disapproval of the action, either in writing addressed to the chairman or by vote at a meeting of the Commission. A member representing the local jurisdiction affected by the chairman's intervention or action may request a meeting of the Commission to vote on the chairman's intervention or action.

(b) *Rules of procedure.* — Except as stated in this subtitle, the chairman is subject to general laws and rules of procedure that govern the time within and manner in which the authority granted in subsection (a) may be exercised.

(c) *Appeal authorized.* — The chairman may appeal an action or decision even if the chairman was not a party to or is not specifically aggrieved by the action or decision. (1984, ch. 794.)

§ 8-1813. Prior project approval.

(a) *Specific findings required.* — From June 1, 1984 with regard to any subdivision plat approval or approval of a zoning amendment, variance, special exception, conditional use permit or use of a floating zone, affecting any land or water area located within the initial planning area identified in § 8-1807 (a) of this subtitle, for which application is completed after that date, the approving authority of the local jurisdiction in rendering its decision to approve an application shall make specific findings that:

(1) The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; and

(2) The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

(b) *Information required from applicant.* — With regard to any application for project approval described in subsection (a) of this section, a local approving authority shall require such additional information from an applicant as is necessary in order to make the findings required by subsection (a).

(c) *Section in effect until program effective.* — This section shall remain in effect in a local jurisdiction until such time as an approved program becomes effective.

(d) *Exception.* — This section does not apply to any application initially filed prior to March 1, 1984. (1984, ch. 794.)

§ 8-1814. Commission approval of certain projects; applicability of other laws.

(a) *Approval of local agency projects.* — After 760 days have elapsed from the date upon which criteria adopted by the Commission become effective, any State or local agency that proposes development which has not been subject to project approval by the local jurisdiction under an approved program, including buildings, treatment plants, roads, railroads, and airports, in the Chesapeake Bay Critical Area shall, before it begins the development, receive the approval of the Commission in accordance with procedures or exceptions set forth in regulations adopted by the Commission using the standards set forth in § 8-1808 (b) (1) through (3) of this subtitle. These regulations shall be promulgated on or before September 1, 1987, and only after consultation with affected State and local agencies.

(b) *Consistency determinations.* — The Secretary shall consult with the Commission in making consistency determinations under the Federal Coastal Zone Management Program.

(c) *Applicability of other laws.* — This subtitle is not intended to relieve any obligation otherwise imposed by law or regulation to obtain licenses, permits, or approvals from State and local regulatory agencies or to comply with applicable State and local regulatory prohibitions or restrictions. (1984, ch. 794.)

§ 8-1815. Enforcement.

(a) *Violators subject to prosecution or suit.* — Violators of the provisions of programs approved or adopted by the Commission shall be subject to prosecution or suit by local authorities, who may invoke the sanctions and remedies afforded by State or local law.

(b) *Referral to Attorney General.* — Whenever the chairman has reason to believe that a local jurisdiction is failing to enforce the requirements of a program applicable to a particular development, the chairman shall serve notice upon the local enforcement authorities. If within 30 days after service of such notice, the local authorities have failed to initiate an action to remedy or punish the violation, the chairman may refer the matter to the Attorney General.

(c) *Sanctions — Remedies available to local jurisdiction.* — Upon referral of an alleged violation under subsection (b) of this section, the Attorney General may invoke any sanction or remedy available to local authorities, in any court of competent jurisdiction in which the local authorities would be authorized to prosecute or sue the violator.

(d) *Same — Equitable remedies.* — In addition to any other sanction or remedy available, the Attorney General may bring an action in equity to compel compliance or restrain noncompliance with the requirements of approved project plans, and to compel restoration of lands or structures to their condition prior to any modification which was done in violation of approved project plans.

§ 8-1816

NATURAL RESOURCES

(e) *Action to restrain violation.* — Notwithstanding any other provision of this section, whenever a development in the Critical Area is proceeding in violation of approved project plans and thereby threatens to immediately and irreparably degrade the quality of tidal waters or fish, wildlife, or plant habitat, the Attorney General, upon request of the chairman, may bring an action to restrain the violation and, as appropriate, to compel restoration of any land or water areas affected by the development. (1984, ch. 794.)

§ 8-1816. Commission to prepare report.

In consultation with State and local agencies involved in planning, acquiring, and managing open space and recreational lands, the Commission shall, by January 1, 1987, prepare a report to the Governor and the General Assembly recommending State policy and goals for:

- (1) The provision of public access along the shoreline of the Chesapeake Bay and its tributaries; and
- (2) The reforestation of land within the Critical Area, and the preservation of forested land within the Critical Area. (1984, ch. 794.)

Cross reference. — See Editor's note to § 8-1801 of this article.

COMMISSION CALENDAR: OCTOBER, 1984 TO JANUARY, 1986

October 22, 1984	1st Commission Meeting
November, 1984	2nd Commission Meeting
November - December, 1984	6 regional public hearings held prior to criteria development
January - May, 1985	Meetings of Commission relating to criteria development
June 1, 1985	Publish draft criteria in <u>Maryland Register</u>
Mid-June, 1985 - July, 1985	6 regional public hearings held on draft criteria
August, 1985 - September, 1985	Meetings of Commission to revise draft criteria
October 1, 1985	Publish final draft criteria in <u>Maryland Register</u> (45 day comment period to follow)
December 1, 1985 or before	Promulgate final criteria
January, 1986	Submit criteria to General Assembly for approval by joint resolution

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
CHESAPEAKE BAY CRITICAL AREAS

Honorable James C. Simpson, Co-Chairman
Honorable Michael H. Weir, Co-Chairman
Honorable William Amoss
Honorable Frederick C. Malkus, Jr.
Honorable Dennis F. Rasmussen
Honorable Gerald Winegrad
Honorable William A. Clark
Honorable Ronald A. Guns
Honorable Robert G. Kramer
Honorable Daniel M. Long



TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING
ANNAPOLIS 21401

JOHN R. GRIFFIN
DEPUTY SECRETARY

July 10, 1984

Dear Local Planning Director:

The purpose of this letter is to further acquaint you with the immediate requirements of Chapter 794, Laws of 1984, the Chesapeake Bay Critical Areas Law, which became effective June 1, 1984. A copy is enclosed for your use.

Under Chapter 794, a "critical area" of land around the Chesapeake Bay and its tidal tributaries will be established through the joint efforts of affected local governments and the Chesapeake Bay Critical Area Commission. Special criteria for land use control in the critical area will be designed to minimize adverse impacts of development on water quality and to conserve fish, wildlife, and plant habitat, while accommodating growth. The process set forth in the legislation, which includes development of the criteria by the Commission, submission of the criteria to the General Assembly, designation of the final critical area and development of a program of land use controls by each local government, and approval of area designations and programs by the Commission, will take a minimum of four years to complete from the effective date of the Act.

In order to afford protection of Chesapeake Bay water quality and habitats during this four-year period of program development, Chapter 794 requires that, beginning June 1, 1984, the planning and zoning authorities of the tidewater counties, and of municipalities with planning and zoning authority, make specific findings in approving certain applications for subdivision plats, zoning amendments, variances, special exceptions, conditional use permits, and applications of floating zones. These findings must be made as part of any such decision affecting any land or water area located in the initial planning area established by §8-1807(a), which consists of the Chesapeake Bay and its tidal tributaries, wetlands, and all areas within 1,000 feet landward of the wetlands boundaries indicated on the State wetlands maps. The findings which you will need to make concern the impacts of proposed projects on water quality and on fish, wildlife and plant habitats. They are described and discussed later in this letter.

The requirement to make these findings does not apply to any application initially filed prior to March 1, 1984. With regard

to applications filed after March 1, 1984, if the application is deemed to have been completed prior to June 1, 1984, then the findings need not be made in approving such an application. The findings must be made for any application filed after March 1, 1984, which was still incomplete as of June 1, 1984. We believe that an application was "complete" on June 1 if all of the information which the applicant had been required to submit in support of the application, under local law and procedures before June 1, had been submitted.

For applications to which the requirements of §8-1813 apply, you will need to determine if an applicant has furnished you with sufficient information to make the required findings. Specific authorization to local governments to require such information is provided in subsection (b) of §8-1813, and no additional legal authority in terms of a local ordinance or regulation need be promulgated.

Section 8-1813 establishes the findings described below as mandatory prerequisites to a legally valid approval of a subdivision plat, zoning amendment, variance, special exception, conditional use permit, or use of a floating zone, affecting any land or water area within the initial planning area established by §8-1807(a). This means that any party to a land use decision, or the Department of State Planning, exercising its powers of intervention under Article 88C, §2(r), may challenge the legality of local government actions under §8-1813. There will be some applications for which a statement that "there are no possible impacts on water quality or habitats" will suffice to meet the requirements of this section. However, such perfunctory statements should only be used where there are clearly no impacts, since findings based on such statements would be subject to challenge if a party to the proceeding felt that evidence existed demonstrating a possible impact on water quality or habitats which should have been considered.

Several representatives of local government and affected business and citizens' groups have posed questions as to the proper interpretation and application of the interim findings now required by Natural Resources Article, §8-1813. We cannot anticipate and address all of the questions which will arise as specific projects are reviewed by local land use approval authorities, but we hope the following general comments will be of assistance.

An obvious, overriding issue of concern is the scope of inquiry into the impacts of proposed projects on water quality and habitats which applicants are required to make. A model for reasonable interpretation of a statute requiring assessment of environmental impacts is found in judicial decisions interpreting

the scope of the environmental impact statement requirements of the National Environmental Policy Act of 1969. As the United States Court of Appeals for the District of Columbia Circuit stated in 1972:

The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible, given the obvious, that the resources of energy and research -- and time -- available to meet the Nation's needs are not infinite. [Natural Resources Defense Council, Inc. v. Morton, 458 F.2d 827, 837 (1972); construing section 102 of NEPA, 42 U.S.C. §4332]

In the interpretations of NEPA, it is said that this "rule of reason" governs both the range of alternatives which an agency must study and the extent to which they must be studied. The common sense approach applied in interpreting NEPA is equally applicable to the questions of which impacts on water quality and habitats must be studied by an applicant under this new section and how extensively they must be studied and taken into account.

Turning to the specific findings required, subsection 8-1813(a)(1) requires a finding that:

The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands.

Information submitted by the applicant to support this finding should include the extent and types of pollutants likely to be released to the environment from the proposed project. Given the identification of such pollutants, the applicant should also indicate the measures which can be taken to minimize adverse impacts on the quality of receiving waters and demonstrate through the design of the proposed project that adverse impacts will be minimized.

Thus, for example, let's consider a zoning change to permit the construction of a shopping center in a portion of the initial planning area established by §8-1807(a). Prior to requesting rezoning for a shopping center the applicant should consider the water quality impacts of various development alternatives. In the event of a shopping center proposal, the increased run-off which would result from covering large land areas with buildings or paving would be one of the water quality impacts to be seriously evaluated. Pollutants which would run off from parking areas alone could include sediment, oil and grease, and toxic

materials such as asbestos which are shed by automobiles in the normal course of operation. To minimize adverse impacts the shopping center design might include locating the buildings and parking area as far away from the water's edge as possible, assuring an area of vegetation is provided between them and the water, and installing other measures such as ground infiltration of run-off from rooftops, and porous paving in parking areas to demonstrate that water quality impacts had been minimized, and the statutory standard satisfied. The Office of Environmental Programs of the Department of Health and Mental Hygiene is a source of water quality and pollution data.

Subsection 8-1813(a)(2) requires a finding that:

The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

This finding has two steps. First, habitats for fish, wildlife and plants which may be adversely affected by the proposed development must be identified. The "rule of reason" discussed above would suggest that the habitat of every organism no matter how small which could be affected by a project need not be identified. This requirement should be read in conjunction with other provisions of the Natural Resources Article which define "fish" and "wildlife". Thus §4-101(f) defines "fish" as "finfish, crustaceans, mollusks, and amphibians and reptiles which spend the majority of their life cycle in water and any . . . egg, offspring . . . of any of these species". Section 10-101(aa) defines "wildlife" to mean "every living creature, not human, wild by nature, endowed with sensation and power of voluntary motion and including mammals, birds, amphibians, and reptiles which spend a majority of their life cycle on land or any . . . egg, offspring . . . of any of them". It is clear that, at a minimum, these classes of fish and wildlife, if they may be adversely affected must be identified. The applicant should also identify adversely affected habitats of such classes of plants and such lower classes of fish and wildlife as may be inextricably associated with habitats of the classes of fish and wildlife described in §4-101(f) and §10-101(aa).

The second step of the finding is that the development is designed so as to protect any of these habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves. Certainly if there are habitats present of any species on the Federal or State lists of

threatened or endangered species, these must be protected. However, subsection 8-1813(a)(2) was intended to include more species than those formally designated as threatened or endangered; a simple incorporation by reference of the threatened and endangered lists would have sufficed if such were the legislative intent. Rather, the requirement of subsection 8-1813(a)(2) is for habitat protection where necessary to help Bay resources maintain themselves, regardless of whether the administrative step of designation as threatened or endangered has been taken.

Which species are in need of such protection? Again, the "rule of reason" applies: an applicant for land use approval cannot be expected to finance basic research into the state of peril of all species which may be affected by proposed development. But on the other hand, there is information available, from the Maryland Department of Natural Resources, from the U.S. Fish and Wildlife Service, and from private organizations such as the Maryland Nature Conservancy, the Audubon Society, and the National Wildlife Federation, which identifies species whose sustained population levels are threatened by habitat loss. An applicant should demonstrate a diligent effort to identify whether species which could be affected by the proposed project are in danger. For any such species, the design must indicate how the habitat is to be protected. We would note that provision of viable replacement habitat would appear to be a means of "protection" consistent with the legislative intent.

Other questions have focused on how a local agency may determine whether a property for which approval of a land use change is sought lies wholly or partly within the initial planning area identified in section 8-1807(a). Section 8-1807(a) includes within this initial planning area:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of this article; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tide designated under Title 9 of this article.

The wetlands boundary maps are on file among the land records in each county. While the copies must not be removed from the land records office, they should be readily accessible for reference and use. The Department of Natural Resources is prepared to provide reproductions of sets of existing maps to local governments, but fulfilling requests will take time. Requests to the

Department's Wetlands Section (269-3871) will be honored in the order received, as quickly as possible.

The Department of Natural Resources is also preparing to establish on its master wetlands maps a line marking the landward limit of the initial planning area, i.e., 1,000 feet landward of the wetlands boundaries. This will be a time-consuming process, since there are about 2,200 maps. The Department of Natural Resources expects to provide, hopefully this Fall, a set of prints from these revised master maps for the use of each local planning authority. In the meantime, the question of whether a given parcel lies wholly or partly in the initial planning area can be resolved by locating the parcel on the appropriate wetlands map, and determining if it is within 1,000 ft. of the wetlands boundary. The boundary is indicated on each map by a heavy blue line. If the site or any part thereof is within the 1,000 ft. area then the findings of S8-1813 must be made in conjunction with the action for which application has been made.

The Department of Natural Resources is the lead agency of State government concerning implementation of the Critical Areas law, and inquiries should be addressed to the Office of the Secretary (269-3041). The Department of State Planning continues to be the lead agency on intervention decisions, under Article 88C, S2(r). Inquiries about intervention should be addressed to Larry Duket of State Planning (383-5680). An interdepartmental team will be reviewing applications to and decisions of local governments under S8-1813.

Also, the Department of State Planning, in conjunction with the Departments of Natural Resources and Health and Mental Hygiene, is developing a handbook for use by local governments in making the findings required by S8-1813. This should be available by January, 1985.

To assist you in exercising your responsibilities under S8-1813, the following departmental contacts can provide you with available data concerning water quality and habitats:

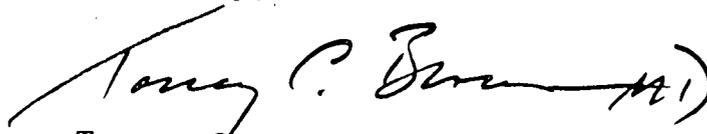
DHMH	Kenneth McElroy	383-2743
DNR	Bernard Halla	269-3415

We must emphasize, however, that the Departments of Health and Mental Hygiene, Natural Resources, and State Planning are not responsible for making determinations or even recommendations on questions of the adequacy of information submitted by an applicant, of the correctness of the conclusions drawn by an applicant or by the local government about impacts on water quality or habitat, or of the adequacy of a proposed design to minimize adverse impacts on water quality or to protect

habitats. These State agencies will serve as sources of information and expertise, but any decisions arising under §8-1813 are the responsibility of the local land use approval authorities.

We hope this information is of assistance to you. We look forward to working with you as we move ahead in carrying out this important part of the Chesapeake Bay initiatives.

Sincerely,



Torrey G. Brown, M.D., Secretary
Department of Natural Resources



Constance Lieder, Secretary
Department of State Planning



Adele Wilzack, Secretary
Department of Health and
Mental Hygiene

Enclosure

Chapter 794 imposes three main tasks on this Commission, to be undertaken sequentially over the next several years. The first task facing us is to develop and promulgate on or before December 1, 1985, the criteria under which local governments will prepare and the Commission will approve programs of land use controls for implementation in the Critical Area. Later in this meeting, our schedule leading up to December 1, 1985 will be discussed in detail.

Our second task will commence after the General Assembly has approved our criteria. Let me emphasize at this point that we must work with all interested persons and groups, and with our legislative Joint Committee, towards the goal of having our criteria approved in the 1986 session. Otherwise, more than a year's delay will occur in the implementation of this important resource protection program for the Bay.

If the criteria are approved in the 1986 session, preparation of programs by local governments will commence in 1986. Over a period of two years following the effective date of legislative approval, the local governments around the Bay, or the Commission acting for any local governments which choose not to participate, will be developing ^{and submitting to this Commission for approval} programs of special land use controls to be applicable in the Critical Area and designed to protect water quality and natural habitats in the Bay against the adverse impacts which traditionally have resulted from land development.

I wish to interject here an important point. The criteria which we are to promulgate, and the local programs to be

developed under those criteria, will not be designed to stop development and growth in the critical area. Rather, we are commanded by the law to accommodate growth, while controlling the impacts of continued growth on the water quality and natural habitats of the Bay. In developing our criteria in the coming months, we will have to learn how this can be done, from technical experts, from government officials in other jurisdictions which have attempted similar programs, and most importantly from concerned interests around the Bay, including the local authorities, real estate developers, environmental groups, and all who use and enjoy the quality and bounty of the Bay. I have no doubt that we can develop criteria which will protect the Bay while accommodating growth in the Critical Area.

The third phase of this Commission's work will follow approval of local programs. From that point on, we are to be notified of projects pending approval before the local authorities, and will have the right to initiate or intervene in administrative or judicial proceedings, so as to assure that the programs are applied consistently with our criteria. If it appears that a program is not being followed, the law authorizes initiation of legal proceedings by the Attorney General to insure compliance.

Let us understand clearly, however, that the law intends that the local jurisdictions will bear primary responsibility for protection of the Bay through land use controls in the Critical Area. A significant portion of you represent various local jurisdictions from around the Bay, and will bring their concerns

to bear in our development of criteria. We must also consult with each affected local jurisdiction during criteria development. As noted above, local governments will develop the programs under our criteria. And finally, implementation and enforcement will be a local responsibility, subject certainly to our oversight, but certainly not to our control. We are not a super zoning board for the Chesapeake Bay Critical Area, but rather a unique vehicle for cooperative effort between State and local governments. I know that all local governments in the Chesapeake Bay region recognize its importance to them, and are eager to unite efforts towards its protection. This Commission will be the means to that end.