

Commission Meetings and Corresp. Dec 1984
NSA 51832-4



SJT

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

December 20, 1984

Mr. David Owens
Director, Coastal Management
State of North Carolina
P.O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Owens:

With reference to our recent phone conversation, I would like to extend an invitation to you to participate in the Maryland Critical Area Commission workshop on January 24 - 25, 1985 in Easton, Maryland. The workshop will be the first substantive session held by the newly formed Commission and is intended to provide them with information about existing coastal protection programs in other states and localities. Your role would be to participate in a panel discussion on the afternoon of the 24th and to act as a resource person to one of the working groups on the morning of the 25th. The panel will also include Jon Kusler as Chairman, Joe Petrillo from the California Conservancy and Terry Moore from the New Jersey Pinelands Commission. I'll be back in touch with you in the near future to discuss further details of the workshop. We will be able to pay your travel and per diem expenses.

For your information, I am attaching background information on the Maryland Critical Area Program.

Sincerely,

J. Kevin Sullivan
Scientific Advisor

JKS/ses

Dave - It would be desirable if you could be in Easton on the evening of the 23rd so that we can go over the panel discussion

REQUEST FOR USE OF THE CALVERT ROOM
(121 State House)

BY: DR. SARAH J. TAYLOR

DATE & TIME FRAME December 5, 1984 7:00 - 6:30

ACTIVITY (Please be specific): Meeting of the Chesapeake
Bay Critical Areas Commission

*HOW MANY PEOPLE: 55 total

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.

Dr. Sarah J. Taylor
SIGNATURE

DATE: 11/27/84

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)

CHESAPEAKE BAY CRITICAL AREAS COMMISSION

AGENDA

Calvert Room, Statehouse
State Circle, Annapolis, Maryland

December 5, 1984 4 p.m.

1. Approval of the Minutes of
November 14, 1984 Solomon Liss, Chairman
2. Presentation and Discussion of Draft
Work Plan for Criteria Development Sarah Taylor, Ex. Director
3. Presentation and Discussion of Seminar
for Commission Members Kevin Sullivan, Technical
Director
4. Discussion of Local Government Program
Development Cost Estimates Sarah Taylor, Ex. Director
5. Review of First Hearing for Criteria
Development, Elkton, Maryland Solomon Liss, Chairman
6. Announcement of New Meeting Place for
Commission Meeting in January Solomon Liss, Chairman
7. Old Business
8. New Business
9. Adjourn

Attachments: Minutes of November 14, 1984 meeting
Draft Work Plan and Time Table
Assessment of Local Government Program Development Costs
Package of Material Prepared for Hearings
List of Commission Members (names, addresses, phone #)
News clipping for Commission interest



SNT

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

December 28, 1984

Mr. Charles L. Siemon
Siemon, Larsen and Purdy
200 South Wacker Drive
Chicago, Illinois 60606

Dear Mr. Siemon:

Thank you for sending your reports for the Pinelands Commission. The policy issues that they raised have been helpful to us in organizing a workshop for our Critical Area Commissioners to be held in January of 1985.

I'll keep you informed of the Commission's progress over the next few months. Most of our work will be directed toward defining the criteria for development within the critical area which are required to be promulgated on June 1, 1985.

It was a pleasure to meet you and to participate in the C.F. workshop.

Sincerely yours,

J. Kevin Sullivan
Scientific Advisor

JKS/ses



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

December 20, 1984

Mr. Joseph Petrillo
Executive Director
California State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612

Dear Mr. Petrillo:

With reference to our recent phone conversation, I would like to extend an invitation to you to participate in the Maryland Critical Area Commission workshop on January 24 - 25, 1985 in Easton, Maryland. The workshop will be the first substantive session held by the newly formed Commission and is intended to provide them with information about existing coastal protection programs in other states and localities. Your role would be to participate in a panel discussion on the afternoon of the 24th and to act as a resource person to one of the working groups on the morning of the 25th. The panel will also include Jon Kusler as Chairman, Terry Moore and Dave Owens from North Carolina. I'll be back in touch with you in the near future to discuss further details of the workshop. We will be able to pay your travel and per diem expenses.

For your information, I am attaching background information on the Maryland Critical Area Program.

Sincerely yours,

J. Kevin Sullivan
Scientific Advisor

JKS/ses

Joe - It would be desirable for you to be in Easton on the evening of the 23rd so that we can go over the panel discussion.



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

December 20, 1984

Mr. Terrance D. Moore
Executive Director
Pinelands Commission
Box 7
New Lisbon, New Jersey 08064

Dear Mr. Moore:

With reference to our recent phone conversation, I would like to extend an invitation to you to participate in the Maryland Critical Area Commission workshop on January 24 - 25, 1985 in Easton, Maryland. The workshop will be the first substantive session held by the newly formed Commission and is intended to provide them with information about existing coastal protection programs in other states and localities. Your role would be to participate in a panel discussion on the afternoon of the 24th and to act as a resource person to one of the working groups on the morning of the 25th. The panel will also include Jon Kusler as Chairman, Joe Petrillo and Dave Owens from North Carolina. I'll be back in touch with you in the near future to discuss further details of the workshop. We will be able to pay your travel and per diem expenses.

For your information, I am attaching background information on the Maryland Critical Area Program.

Sincerely,

J. Kevin Sullivan
Scientific Advisor

JKS/ses

Terry - It would be desirable for you to be in Easton on the evening of the 23rd so that we can go over the panel discussion.



The Conservation Foundation

1717 Massachusetts Avenue, N.W., Washington, D.C. 20036
Telephone (202)797-4300 Cable CONSERVIT

December 15, 1984

Kevin Sullivan
Lee Epstein
Chesapeake Bay Critical Areas Commission
Tawes State Office Building, C-3
580 Taylor Avenue
Annapolis, MD 21401

Dear Kevin and Lee:

I was glad you were both able to join us last week for our gathering on critical area planning and implementation. I think that much of the observations and insights exchanged have relevance to the Chesapeake Bay effort and would be willing to get together with you at some point in the near future to discuss these more fully, and how The Conservation Foundation might be able to assist your program. If you have any questions or would like to pursue this further, please do not hesitate to give me a call.

Again, thanks for your participation.

Sincerely,

Michael Mantell
Senior Associate

cc: Sarah Taylor ✓

RECEIVED

DEC 21 1984

**COASTAL RESOURCES DIVISION
TIDEWATER ADMINISTRATION**



The Conservation Foundation

1717 Massachusetts Avenue, N.W., Washington, D.C. 20036
Telephone (202)797-4300 Cable CONSERVIT

November 27, 1984

Dr. Sarah Taylor
Executive Director
Chesapeake Bay Critical Areas Commission
Tawes State Office Building, C-3
580 Taylor Avenue
Annapolis, MD 21401

Dear Sarah:

I was glad we got a chance to talk last week. The Critical Areas Commission is off to an excellent start with you at the helm and we at The Conservation Foundation are quite excited about the opportunities that now exist for improving the Bay's environment.

Enclosed are the background packets for Lee Epstein and Kevin Sullivan for the December 6th workshop. I am sorry you will not be able to attend, but look forward to meeting with you sometime in the near future.

Sincerely,

Michael Mantell
Senior Associate

Enclosures

*Kevin & Lee got the packets
12/3/84*

RECEIVED

DEC 8 1984

**COASTAL RESOURCES DIVISION
TIDEWATER ADMINISTRATION**



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

December 21, 1984

MEMORANDUM

TO: Kevin Sullivan *KS*
FROM: Sarah Taylor *ST*
SUBJECT: Seminar for the Commission

Just wanted to let you know that several suggestions had been made to me for a glossary of terms to be available to the Commission members to help them better understand the information presented to them during the Seminar. Definitions such as threshold levels, policies, objectives and goals, and other items, perhaps floating zone to be included, might be suggested terms for a glossary.

Let me know what you think.

good idea
KS
I'll follow through

SJT/ses

*Commis
hearings*



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

Chesapeake Bay Critical Areas Commission

Minutes of Public Meeting held November 14, 1984

The Chesapeake Bay Critical Areas Commission held its second meeting on November 14, 1984 in the Calvert Room, State House, Annapolis, Maryland. The meeting was called to order by Chairman Solomon Liss at 4:10 p.m. A quorum existed, as 23 voting members of the Commission were present. Frank J. DeFrancis, Secretary of Economic and Community Development was represented by Assistant Secretary Ardath Cade and Parris Glendening, Prince George's County Executive was represented by Gene Lauer.

Chairman Liss adjourned the open session to a session closed to the public, for discussion of personnel matters, pursuant to State Government Article §10-508(a)(1). He then announced that he had appointed Dr. Sarah J. Taylor to be Executive Director of the Critical Areas Commission. Dr. Taylor has been serving for the past 4 1/2 years as the Director of Maryland's Coastal Zone Management Program and of the Coastal Resources Division, Tidewater Administration of the Department of Natural Resources. He also announced that he intended to hire Dr. Kevin J. Sullivan on a contractual basis to serve as Scientific Advisor to the Commission, and briefly discussed other staff positions. A motion was taken and seconded to approve Dr. Taylor's appointment, and the motion carried unanimously.

Upon reconvening the public session at 4:25 p.m., the minutes of the last meeting were moved, seconded and approved with the comment that future minutes list all attendees.

Chairman Liss made public the appointment of Dr. Taylor, and announced the attendance of the following members of the Legislative Oversight Committee: Del. Mike Weir, Del. Ron Guns, Del. Robert Kramer and Del. Bill Clarke and thanked them for attending the Commission meeting.

Discussion of Hearing Schedule - Chairman Liss said that all local papers would be notified and ads would be run, and if any Commission members had names of any groups or individuals who should be notified of the Commission hearings, he or Dr. Taylor should receive their name and address as soon as possible. The hearing schedule was reviewed by the Commission and it was noted that the location for the Baltimore County meeting had been changed from Pikesville to Essex in order to have a closer proximity to affected coastal area residents. There was a correction made on the location of the December 10th meeting in Salisbury. The meeting will be held in Room 106 of the Government Office Building and not in the County Council Chambers of that same building. Thomas Deming noted the changes to the meeting schedule

had been posted in the Maryland Register. Chairman Liss announced that he has arranged for a stenographer to be present at the hearings so that the Commission members will have opportunity to see full and complete testimony given at any of the meetings. It was asked whether formal presentations would be made at the public hearings and Chairman Liss said that brief presentations would be made on the role and purpose of the Commission and the intent of the meetings. It was also noted that the public would be provided with a handout prepared by the Chesapeake Bay Foundation indicating time lines for action by the Commission. The handout was also presented to the Commission.

Discussion of Draft Bylaws - The Chairman suggested that no official Vice Chairman be appointed, but that M's. Becky Kurdle should preside in the event of his absence. The suggestion was accepted.

Article 5, Quorum and Vote Required for Commission Action, was specifically discussed and it was agreed that the article be amended to read as follows: "A quorum shall be a majority of all the voting members. On all issues, other than amendment of the bylaws, a simple majority of the voting members shall decide the question." The amendment was approved as corrected. There was a motion made and seconded that the bylaws be adopted as amended. They were unanimously approved.

Discussion of Criteria Development and Commission Role in the Process - The Commission was presented with two options for work. One was for them to review the work of staff and to comment and finally promulgate the criteria as required in the Act. The second option was for the Commission members to form committees to work with Commission staff on the development of the criteria and then the work of the individual subcommittees would be reviewed by the entire Commission. It was also suggested that the subcommittees would work and meet with representatives of different interest groups, i.e., homebuilders, realtors, farmers, etc. Chairman Liss suggested that the second option be considered by the Commission and that three subcommittees which would follow the language of the law be formed; one on water quality, the second on fish, wildlife and plant habitat and the third on land use.

There was consensus among Commission members that there should be subcommittees, but there were several suggestions as to how they should be organized. Several local Jurisdiction representatives and planners suggested that the subcommittees focus on land use activities, i.e., zoning uses, stormwater management, agriculture, etc., rather than focusing on the impacts of activities as had been previously suggested. Bill Eichbaum suggested that the group be formed according to the substantive issues of water quality and habitat initially and then to later reorganize to deal with specific land use controls. It was agreed that the subcommittees would be formed, and the Chairman and the Director will decide on what they specifically will handle based on the comments made at the meeting.

Introduction of New Director - Dr. Sarah Taylor, Executive Director of the Critical Areas Commission, was introduced and she thanked the Commission for its vote of confidence and said that she looked forward to working with them.

Use of Consultant Services for Criteria Development - Dr. Kevin Sullivan was introduced and he described his anticipated role in working with the Commission on a contractual basis. He said that he could provide technical basis for development of the criteria by providing information to the Commission as they assess the impacts

of various activities. He also anticipates in the short-term, working on a briefing or conference in January which would provide information to the Commission on how similar land use laws have been administered in other states.

Status of Local Funding Letter - Becky Kurdle expressed concern about the fact that local governments will not be able to receive funding until fiscal year '87 and said that she thought that the local governments and municipalities shouldn't have to wait until FY '87 since many of them will initially begin work right away. She asked whether there was any potential for earlier funding. Ellen Fraites from the Office of the Governor said that there seemed to be two issues; one was the cost of program development and the other was technical assistance. She said that a request is going through the budget process for more technical assistance and that, if the Commission felt that more funds were needed, they could develop a recommendation for the Governor. Other representatives supported M's. Kurdle's comments with regard to initial work beginning in a more timely fashion. Dr. Torrey Brown suggested that the results of the letter to the Local Planning Directors be compiled and presented at the next meeting so that the Commission can know what funds have already been requested prior to their preparing a resolution.

Discussion of Reimbursable Expenses - Sarah Taylor presented the guidelines and the State forms for reimbursement for Commission member activities.

Next Meeting Date - The date for the next Commission meeting was agreed to be December 5, 1984. It was also agreed that the first Wednesday in January, January 2, 1984, would also be acceptable to the Commission.

Other Business - It was suggested that the phone numbers and addresses of the Commission members be shared with the full Commission. Mary Walkup asked when the maps would be sent to the Counties defining the Critical Area ("Initial Planning Area") and suggested that they be available at the regional meetings. Thomas Deming, Assistant Attorney General, said that samples of maps for the initial planning area would be available for the meetings. Because only one full set of each maps will be available to a County, it is likely that samples will be brought rather than the complete maps. Some form of exhibit will be prepared and brought to the hearings.

It was also suggested that letters to County Commissioners and Administrators be sent inviting them to the regional meetings.

Public Comment - A citizen from Frederick County expressed an interest in working with the Critical Area Commission in any way possible.

A Presentation on the Environmental Protection Agency's Chesapeake Bay Study Findings and Recommendations - was presented by Joseph Macknis from the EPA regional laboratory.

There being no further business the meeting was adjourned at 6:40 p.m.

These minutes were prepared by Helene Tenner.

Jon Kusler
Box 528
Chester, Vermont 05143
802/875-3897

Chairman, Association of
State Wetland Managers

*Dave -
How would
this be
funded?
What level
when would it
start?
S*

Proposal
for a
Study

*Write up scope
of Study + make
it tight.*

Shoreland Corridor Management
for
The Chesapeake:
Lessons in Water Quality and Aquatic Resources Protection
From Other States

Submitted to

- * The U.S. Environmental Protection Agency
- * The Maryland Department of Natural Resources

by

The Association of State Wetland Managers, Inc.

1. GOALS OF THE STUDY: This study will describe and analyze state/local shoreland corridor management from other states (both coastal and inland), and suggest the possible applicability of these approaches to the protection of water protection in the Chesapeake. The resulting report will assist states in the Chesapeake watershed to

- (1) Formulate legislation for protection of the Chesapeake;
- (2) Formulate implementation strategies including plans, regulations, public education, and technical assistance efforts to improve implementation of existing legislation and new legislation which may be adopted.

The study will consider not only the legislation and regulations adopted in other states, but how legislation has been implemented.

Over the last twenty years, at least 13 states have adopted state or cooperative state/local shoreland corridor legislation to protect the water quality and aquatic resources of lakes, streams or coastal water. These efforts which apply to corridors 250 to 3000 feet wide around water bodies offer insights into the "workability" of various approaches which

can avoid problems and reduce costs.

2. AUDIENCE: State legislators; members of Congress; local governmental officials; agency personnel at federal, state and local levels; researchers; interest groups; concerned citizens.
3. BACKGROUND AND NEED FOR STUDY: Considerable experience has been gained in the last two decades in the west, midwest and northeast with shoreland corridor legislation of the sort now proposed for the Chesapeake. Based upon this experience, what are the most cost-effective implementation approaches? How can political and legal problems be avoided? What approaches are most workable?

Studies conducted by the U.S. Environmental Protection Agency, the National Science Foundation, and the states bordering Chesapeake Bay have repeatedly during the last two decades documented deteriorating water quality and aquatic resources in Chesapeake Bay -- the Nation's largest and richest estuary. Despite repeated calls for action to reduce both point and non-point sources of pollution (sediment; nutrients; toxins) and destruction of shore land and wetland habitat, only modest protection efforts have been adopted. Part of the problem has been cost and unwillingness of individual states to act without assured action by other states. Lack of information concerning workable and practical approaches have been another inhibiting factor. Finally, it has become clear in the last

several years that the Chesapeake cannot be approached like an open ocean environment with regard to pollution and aquatic systems protection. Rather, it more closely resembles an inland lake in some respects because of its large size, shallow depth, and limited flushing (particularly in the upper reaches) by tides and currents.

Indications that water quality problems may have now reached crisis proportions have prompted calls for action in Congress, by environmental groups, and by those who earn their living from the Chesapeake (e.g. Waterman). Legislation is pending in Maryland to create a shoreland commission and pollution abatement actions are proposed by other states.

As these activities progress, it will be important to draw upon experience from other states to avoid problems and adopt cost-effective and innovative approaches. The shoreland zoning and water-quality protection efforts of not only other coastal but inland states with Great Lake and smaller inland lake water quality problems are, to some extent, applicable to the Chesapeake. A survey of these other efforts can provide valuable inputs and precedents for action in the Chesapeake basin.

4. TOPICS ADDRESSED BY STUDY:

Programs from other states will be analyzed from several perspectives including (note, others may also be identified):

- (1) What mapping and other data gathering has been needed for implementation (e.g. shoreland corridor mapping, critical areas, wetlands). What map scales, base maps, and map distribution systems have been most satisfactory? What have the costs been?
- (2) What point source pollution controls including tertiary treatment requirements for domestic and industrial waste discharges have been adopted? Have they been effective? How have they been funded?
- (3) What regulatory and nonregulatory pollution controls for non-point sources of pollution such as sediment and nutrients have been adopted?
- (4) What regulatory "land use" standards have been adopted to protect water quality and aquatic systems

- (5) What efforts have been made, to define critical areas within shoreland corridors including wetlands, erosion areas, flood hazard areas, and similar areas? At what cost?
- (6) What planning requirements have been imposed on local communities and how communities have satisfied such requirements?
- (7) Is the status of court suits challenging state or local corridor legislation; how can legal problems be avoided?
- (8) What public education efforts through model ordinances, manuals, workshops, etc. have been undertaken?
- (9) What impact has regulatory controls had on inhibiting development or growth?

It is anticipated that, at a minimum, the following shoreland management programs will be examined:

- The San Francisco Bay Commission: California
- The Lake Tahoe Commission: California & Nevada
- Special Area Management Plan: Greys Harbor, Washington
- Special Area Management: Appalachicola Bay, Florida

- Coastal Setback Dunes: Hawaii, Florida
- Beach Protection Executive Order: Massachusetts
- Coastal Zone and Critical Area Programs: North Carolina
- Coastal Zone Program: California
- State Shoreline Management Program: Washington
- Shoreland Management Program: Maine
- Shoreland Management Program: Minnesota
- Shoreland Management Program: Michigan
- Wetland Protection Program: Massachusetts
- Wetland Protection Program: Michigan

5. METHODOLOGY: The study will investigate state shoreland corridor efforts through four approaches;

- (1) A literature review;
- (2) Use of questionnaires and telephone surveys;
- (3) Selected onsite data-gathering; and
- (4) An invitational workshop.

The following steps will be followed:

- (1) Appoint an advisory committee.
- (2) Prepare an overview issue paper describing state shoreland programs including approaches, costs, and problems and successes in implementation, and their possible applicability to the Chesapeake.
- (3) Conduct a 2-day workshop with technical program

managers from other states to explore the workability of various approaches.

- (4) Prepare more detailed memoranda concerning key issues identified by the advisory committee and in the workshop.
- (5) Distribute memoranda to the advisory committee for their review.
- (6) Prepare final report.

6. SCHEDULE:

Months 1-3: Select and appoint advisory committee; prepare issue paper. Review existing literature and statutes. Prepare detailed bibliography. Prepare a matrix of efforts in other states. Identify particularly innovative approaches; speakers for workshop.

Months 3-5: Set up workshop.

Month 5: Conduct workshop.

Months 6-9: Selected more detailed survey of states to investigate particularly innovative programs. Questionnaires, telephone surveys, and selected onsite visits will be used. Preparation of draft memoranda.

Months 9-12: Review of draft materials; further research; preparation of draft report. Review of draft report; preparation of final report; editing; formatting.

Month 12: Submission of final report.



*Pls make
a review.*

The Conservation Foundation

1717 Massachusetts Avenue, N.W., Washington, D.C. 20036
Telephone (202) 797-4300 Cable CONSERVIT

CRITICAL AREA PLANNING AND IMPLEMENTATION:

LEARNING FROM A DECADE OF EXPERIENCE

A Proposed Seminar

Sponsored by

The Conservation Foundation

August 16, 1984

Critical Area Planning and Implementation:
Learning From a Decade of Experience

In enacting the Chesapeake Bay critical area legislation, Maryland has launched on an important new initiative to conserve one of the nation's most valuable natural resources. The success of this measure hinges in large part on the effectiveness of the commission created to implement it in designing manageable planning goals and guidelines and in marshalling public support for them.

A significant step for the Bay, the legislation closely resembles laws passed in several other states to protect and guide development around sensitive environmental areas. Much activity has occurred in critical area planning and implementation over the last decade. For example, since 1977, 31 states, including Maryland, have adopted and implemented coastal zone management plans containing specific provisions on critical coastal environments. Under a variety of other authorities, several states and localities have developed various programs to guide development in coastal and inland wetlands, floodplains, and other sensitive lands. Special agencies and commissions have been largely responsible for planning and overseeing these programs: California established the San Francisco Bay Conservation and Development Commission in the 1960s to protect that unique resource; Oregon's Land Conservation and Development Commission developed state planning goals and guidelines, after extensive public input, for localities to follow in land-use

planning and decision-making; New Jersey, with the assistance of the federal government, established the Pinelands Commission in the late 1970s to plan for the future management of that critical area; and in 1971 New York established the Adirondack Park Agency to protect the 2 million plus acre Adirondack park and accomodate existing land uses in the region.

The past decade of experience with these measures has much to inform the implementation of the Chesapeake Bay critical area initiative. As the Chesapeake Bay Critical Area Commission and its staff get underway, learning how other agencies have fared in similar endeavors throughout the country could help to prevent mistakes and pave the way for quick progress. What types of goals have emerged from these other efforts? What has been successful in critical area planning and what has not? How have commissions in other jurisdictions dealt with affected local governments and other state agencies? How have staff-commission working relations been structured? What procedures have been most effective in allowing commissions to work effectively while providing for adequate public input?

These and other relevant questions would be addressed in a seminar on critical area planning and implementation convened by The Conservation Foundation. Persons who have played key roles in various state critical area programs would be invited to discuss their observations and insights in an exchange of views with Maryland officials working on the Chesapeake Bay Critical Area Commission. The group would be limited in size to allow for thorough, frank discussion of a wide range of practical issues,

including ones of both substance and procedure. Persons who would be asked to participate might include: Joseph Bodovitz, former Executive Director of the California Coastal Commission and the San Francisco Bay Conservation and Development Commission; Terrence Moore, Executive Director of the New Jersey Pinelands Commission; David Owens of the North Carolina Department of Natural Resources and Community Development; John Banta, Director of Planning for the Adirondack Park Agency; and Jon Kusler, a nationally known consultant on state critical area programs.

The Conservation Foundation

The seminar would be convened and sponsored by The Conservation Foundation, a nonprofit research and communications organization dedicated to improving the quality of the environment and to promoting wise use of the earth's resources. Based in Washington, D.C., the Foundation conducts interdisciplinary research and communicates its findings to a broad spectrum of leaders in business, government, academia, other conservation groups, and the press. Since its founding in 1948, The Conservation Foundation has been an advocate characterized by reason and balance, recognizing the importance of a healthy social and economic climate to the achievement of conservation goals. The Foundation seeks to ensure that environmental policies are based on rigorous factual analysis and public understanding.

For over a decade, the Foundation has played a prominent

role in analyzing, influencing, and monitoring major land-use and coastal zone initiatives throughout the country. The President of The Conservation Foundation, William K. Reilly, and several members of the staff prepared The Use of Land, A Report of the Task Force on Land Use and Urban Growth, in 1973, which identified a "new mood" toward land use in the United States, stimulated public interest in land-use issues, and pointed to innovative approaches in growth management available to state and local governments throughout the country. At present, the Foundation is updating and revising this seminal work by evaluating current land-use initiatives throughout the country.

In recent years, Foundation staff have been actively involved in monitoring the California Coastal Commission, the Adirondack Park Agency, the land planning systems in Florida, Vermont and Hawaii, flood hazards and natural resources protection, and the federal Coastal Zone Management program. In addition, it has published well received works on each of these areas.

In 1982, the Foundation completed a major study of the unique land-use planning, development, and conservation program in Oregon, a place where--much like the Chesapeake Bay--a state agency is involved in monitoring and ensuring local implementation of state approved, locally drafted plans. As in Maryland's critical area process, the state must approve local plans and review their implementation. In fact, in drafting plans, localities in Oregon must conform to the planning goals and guidelines issued by a state agency, a situation quite

similar to Maryland. One result of the Foundation's study is a book, Managing Oregon's Growth, which evaluates state and local accomplishments under the program and recommends ways to improve it.

During the 1970s, through research and working with various levels of government, The Conservation Foundation helped pioneer the application of scientific principles to the management of ecologically sensitive lands. For example, the Foundation's Coastal Environmental Management: Guidelines for Conservation of Resources and Protection Against Storm Hazards, released in 1981, presents a comprehensive set management policies and development guidelines for seven types of coastal environments, including coastal watersheds, saltwater wetlands, foodplains, and beaches--types of areas that are present in the Chesapeake Bay.

Other recent work of The Conservation Foundation bears on areas and issues relevant to the Chesapeake Bay critical area initiative. Foundation staff are currently completing a three year project on the National Park System, which has looked in depth at many of the innovative parks such as Santa Monica Mountains, Cuyahoga, and Cape Cod. Like the Chesapeake, these areas involve overlapping institutional arrangements designed to provide protection to critical natural systems and historic resources while allowing for compatible economic development. The Chesapeake Bay Critical Area Commission can benefit from the many approaches federal, state, and local governments have used in these areas.

The Foundation is currently working with the state of

Florida on the implementation of that state's Area of Critical State Concern program in the Florida Keys. As part of its work in Florida and the Use of Land Project, the Foundation has agreed to hold a seminar for a few state officials on experiences in other state critical area programs, similar to the one described above. If the seminars are combined, Maryland participants would be able to gain insights from the Florida critical area experience as well.

The experience gained by Foundation staff in these and other projects would be part of the seminar. Michael Mantell and Christopher Duerksen, Senior Associates at the Foundation with extensive experience in land use and coastal zone matters, would direct the seminar.

The Seminar

The Conservation Foundation proposes a one-day gathering running from approximately 9:30 a.m. until 4:00 p.m., with lunch included. This would allow time for short presentations by the panel of outside speakers and informal discussion among the participants. To help focus discussion, the Foundation would prepare an information packet for the participants containing a brief background paper on the issues to be covered and additional reading materials on programs in various other states.

The seminar should be structured to achieve two important objectives: a free flowing, open discussion and a relatively inexpensive gathering. These could be accomplished by combining the Maryland and Florida seminars and limiting the session to

about 20 participants. Attendees would be among the following:

- o 3 to 4 representatives of the Chesapeake Bay Critical Area Commission, including staff;
- o 4 to 5 invited speakers who have worked on state critical area programs;
- o 3 to 4 Florida officials working on that state's critical areas program;
- o 3 staff members of The Conservation Foundation; and
- o 2 to 3 Maryland Department of Natural Resources and Chesapeake Bay Foundation staff.

Under this format, The Conservation Foundation, as part of its Use of Land project, would provide the meeting facility and lunch and allocate some of its staff time in preparing the background materials. Florida would pay for its officials to attend and contribute to the costs of preparing the background materials. Funds to pay for the costs incurred by the invited speakers--transportation, lodging and the like--would be sought from the Chesapeake Bay Critical Area Commission. They are estimated to be around \$2,000. The full membership of the Critical Area Commission and its staff would be briefed at a subsequent meeting by those members attending the workshop.

We have explored an alternative to this workshop, one aimed at including the entire Chesapeake Bay Critical Area Commission and staff. This would involve approximately 40 people. While this format would allow for the full Critical Area Commission to participate, various obstacles lead us to conclude that it would

not be a worthwhile option from the Foundation's perspective. The increased size would make an open, give-and-take discussion quite difficult, if not impossible. The meeting would become a more formal conference with lectures and less a seminar with exchanges of ideas and observations. Because of the orientation toward Maryland, Florida would not be able to contribute funds. With the loss of Florida's support, The Conservation Foundation would need to seek support for preparing the background materials and running the meeting. Other costs would also increase. For example, the size of the group would require a separate meeting facility, which presumably would require additional funds to secure.

Because of the Foundation's Use of Land project and current commitments, it is able to contribute staff time and project funds to the smaller seminar outlined above to the Critical Area Commission. If the Commission is more interested in a format involving the entire agency, The Conservation Foundation would be pleased to participate in some fashion, but would not--because of various constraints--be able to assume responsibility for sponsoring and managing it.

The Conservation Foundation has worked in many places to help achieve the successful design and implementation of critical area programs. It looks forward to devoting its expertise and harnessing that of others to help the important Chesapeake Bay initiative fulfill its promise.

*file
3rd Mtg.*



Harry Hughes
Governor
Joseph Curran, Jr.
Lt. Governor

Wayne A. Cawley, Jr.
Secretary
Hugh E. Binks
Deputy Secretary

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE

November 15, 1984

MEMORANDUM

TO: Solomon Liss, Chairman
FROM: Wayne A. Cawley, Jr. *WAC*
SUBJECT: December 5th Meeting of Critical Areas Committee

Unfortunately due to a schedule conflict, I will not be able to attend the meeting of the Critical Areas Committee on the above referenced date. I have asked my Deputy, Dr. Hugh Binks, to attend in my place. He has been informed that he will not be a voting member.

Good luck with the meeting and sorry that I can not be with you.

WAC/pb

cc: Hugh E. Binks

TELEPHONE NUMBER (301) 841- 5880
50 HARRY S. TRUMAN PARKWAY, ANNAPOLIS, MARYLAND 21401

HEARING PACKET

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Solomon Liss, Chairman

*The purpose of this hearing and the five to follow is to receive input from interested individuals and groups that will guide the Commission in the development of these criteria.

* These hearings are required under the Act, so therefore they must comply with a formal hearing format. These hearings are open to all who wish to participate. (reference the hearing schedule which is a handout).

* There is a court reporter who will produce a hearing record that will be open for public inspection at the Commission offices at the Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland.

* If you wish to submit a statement after the hearing tonight, please send it to me by December 5th, 1984.

* The hearing record will be kept open until December 10th, 1984, whereupon all statements made tonight, plus written statements sent in by Close of Business on December 10th will be entered and made a part of the record.

* Tonight, there will be ample time for statements, but for the courtesy of those in the room the following will be observed:

* oral statements should be made in 5 minutes or less, and they should be made without comment or question from others unless a clarification is needed after the person has spoken

* if you have a written statement, please hand it to the court reporter to be added to the record after you have spoken;

* if there is more than one speaker for one group, and the group is rather large, please select a spokesperson from your group in order to save time in presentation.

*As I know there has been concern over the function of the Commission and its work, I will leave about 15 minutes after the Summary of the Act for questions and answers, whereupon we will then commence into the time for statements.

I. WELCOME

- * Whatever you feel inclined to say

II. INTRODUCTION OF MEMBERS

- * Whoever shows up could introduce themselves to the public or you could
- * I suggest that Commission members sit in the audience so it does not look like a formidable group at the front of the room
- * I also suggest that Lee Epstein, Tom Deming and I sit up front with you to field questions and to take notes.

III. OPENING REMARKS/PURPOSE/CONDUCT

- * The Chesapeake Bay Critical Area Commission was formed with the passage of the Chesapeake Bay Critical Area Protection Program Law during the last session of the General Assembly.
- * It is comprised of 25 members representing a mix of local governments, interest groups and State agencies
- * The Commission is not a super zoning board because it does not have that power given to it.
- * The Commission is not comprised solely of State members, so it is not a State instituted group that will impose State restrictions on local governments.
- * The Commission has no power to intervene on projects, and will not be able to do so until several years from now.
- * The Commission has an immediate charge under the Law and that is to develop criteria that will guide local governments in the establishment and implementation of programs for a designated critical area in and around the tidal waters of the Bay.

IV. SUMMARY OF THE ACT

- * There are three handouts that will assist you in following along in the presentation. They are: 1) a summary of the Act, 2) a timetable of events, and 3) a membership list of the Commission.
 - * The Commission was formed so that a joint local/State approach could be taken to minimize further adverse impacts to water quality and natural habitats of the Bay's shoreline areas (see membership list). The Commission members were appointed by the Governor with the advice of local governments and interest groups.
 - * The critical area being focused upon consists of: (reference county maps with 1000 foot delineation):
 - * all waters and lands under the Bay and its tributaries to the head of tide. The State Wetlands Maps are the official map bases being used for the delineation.
 - * all State and private wetlands designated under the wetlands portion of the State Code and
 - * all land and water areas within 1000 feet beyond the landward boundaries of State or private wetlands and the heads of tide designated by the State Code.
- (If anyone has a question as to how their property is affected, the planning departments from Harford, Cecil and Kent Counties are here with the Wetland Maps to address your concerns after the hearing).
- * The criteria and local programs developed for this 1000 foot area will need to address three goals of the Act: 1) to minimize adverse impacts on water quality from point and non-point sources; 2) to conserve fish, wildlife, and plant habitats, and; 3) to establish land use policies for development which provide for growth but recognize that development may be accompanied by secondary impacts which must be minimized.

* For the next several months, the Commission will be working with various groups around the Bay to develop these criteria.

* By June 1985, the criteria will need to be drafted for another round of hearings (July-August, 1985) such as this hearing tonight before they are submitted for consideration and approval by the General Assembly in its 1986 session (refer to the timetable as a handout).

*If the criteria are approved, it will be up to the local governments to take them and develop a program based on the criteria. This will take around 3 or 4 years for the development and eventual approval of the programs by the Commission.

* For your information, examples of criteria could be very similar to those already in place at the local government level in this part of the Bay such as: 1) the establishment of shoreline setbacks for development which Cecil County has enacted, or 2) the establishment of a special natural resource protection district which Harford County has enacted, or 3) limitations on piers and docks and how far they can extend out into the water which Kent County has enacted. All of this remains to be seen, but there are examples that already exist around the Bay.

* When local governments develop their programs, they will have to, at a minimum provide:

* A map designating the critical area for their jurisdiction

* A comprehensive zoning map for the critical area

* New or amended provisions of their subdivision regulations, comprehensive or master plan, zoning ordinances or regulations, provisions relating to enforcement, and provisions relating to the grandfathering of development at the time of program approval

*Provisions requiring that project approvals be based on findings that they are consistent with the standards stated in the Act.

* 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

*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

* Minimum setbacks for structures and septic fields along shorelines

*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

*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

*Provisions requiring that all harvesting of timber in the critical area be in accordance with plans approved by the District Forestry Board

*Controls in a program which are designed to prevent runoff of pollutants except where the topography prevents runoff from directly or indirectly reaching tidal waters.

* In the meantime, during this interim period (from June 1, 1984 until programs are adopted by the Commission), local jurisdictions must make specific environmental findings based on the applicant's information for any subdivision plat approval or approval of a zoning amendment, variance, special exception, conditional use permit or use of a floating zone within the critical area. Because of the focus for approval at the local level, I encourage you to work with your local planner should you need to apply for any of the above mentioned items (subdivision, variance, rezoning, special exception, conditional use permit, floating zone).

Editorial

Loose Talk

The Year of the Bay, remember that? After a decade or more of study and finger pointing and denial, the cleanup of the Chesapeake Bay was at the top of everyone's political agenda. Everyone agreed that the Chesapeake really was in trouble—even President Reagan said so.

Everyone also agreed it was time to stop talking and start acting. And they did. Politicians in Annapolis, Washington and Richmond were scrambling over each other to push through clean-up programs. The most innovative and far reaching came from Annapolis.

It was a time when the environmental problems that St. Mary's County watermen, politicians and others had been yelling about were being taken seriously—when national attention was focused on our corner of the world.

All this happened within the last year.

Now there is a backlash, and some of it is coming from St. Mary's County. Now we're hearing watermen and politicians and others saying that there's been too much publicity about the problems of the Chesapeake and that the water is already clean, or that there are plenty of rockfish.

That kind of a backlash is expected, and to hear some of it coming from St. Mary's Countians is also expected. Some of these plans to clean up the Chesapeake hurt; you can't keep a rockfish you catch in Maryland waters starting next year and sport fishermen are going to have to buy a license to fish in saltwater. Then there are the impending development restrictions on waterfront property.

Last week watermen successfully kept the Potomac River Fisheries Commission, which regulates fishing in the Potomac independent of state government, from following Maryland in banning the taking of rockfish.

get to members 30 cent

Last year the commission imposed the first limits on rockfish in the entire Chesapeake.

Last week a tourism advisory group complained that publicity about the Chesapeake's problems was ruining Maryland's reputation, and County Commissioner Richard Arnold said Maryland's clean-up effort was a waste of money and that the Potomac was cleaner than it had been in years.

How quickly things change. Not so long ago Arnold and others were shouting about the state's inaction on the Chesapeake's problems. Local politicians sued the state and federal government, at taxpayer expense, over policies that hurried the deterioration of the Patuxent River.

Back then, the man who was then head of the Maryland Department of Natural Resources said, "I think the reputation of the Patuxent River is unjustly tarnished by lawsuits and loose talk." He was roundly ridiculed in Southern Maryland for that statement. Now we have St. Mary's County leaders saying the same kind of thing about the Chesapeake Bay.

We can understand opposition to some aspects of the Bay cleanup. We can understand disagreeing with the rockfish ban, as many St. Mary's County officials from congressman to county commissioner may for both legitimate or political reasons. There are legitimate questions about how effective such a ban will be especially since Virginia is not going along with it.

When St. Mary's County officials start agreeing that the Bay's problems are a mirage concocted by the news media they've suddenly switched places with all those bullheaded federal and state officials they were suing five years ago.

Disagreeing with specifics is one thing—repudiating the entire Bay cleanup is tearing down a movement that Southern Marylanders spent more than a decade helping to build.

Chesapeake Bay Critical Areas Commission Hearing

Elkton Hearing 11/26/84 - 7:30 P.M.

The following Commission members were present: Dr. Sarah Taylor, Executive Director, Donald T. Hutchinson, Harry T. Stine, Robert R. Price, Jr., Barbara O'Neill, Florence Beck Kurdle, William Eichbaum, Chairman Solomon Liss.

A preliminary statement of the purpose of the hearing was made by Chairman Liss.

Martin Ogle a resident of Aberdeen, Maryland who is working on a bald eagle study in the northern Bay. He called the attention of the Commission that its goals of habitat preservation was already required by the provisions of the Endangered Species Act. The Commission is required to consider the health of the total system of the Bay. Criteria controlling growth should be very strict. The Commission must also be concerned with what happens outside the critical area zone as defined in the Act. What happens in the areas beyond the critical areas materially affect the critical areas. (R.p. 18-19).

F. W. Spellman representing the Bi-County Council, the Sassafras River Community Council and a number of other organizations elected to file a written statement which is to be made part of the record. (See appendix E, H, I).

Dr. Lowe asked whether the Commission had identified the principal or secondary cause of the trouble with the Bay.

Clint Rosenberger, President of the Cecil County Board of Realtors, expressed the willingness of that group to assist in solving the problems of the Bay. He suggested that a balance be maintained between property owner's rights and any damage which the exercise of these rights might make to the Chesapeake Bay and its tributaries. The speaker suggested that Cecil County was fortunate in having an excellent well-rounded Planning and Zoning Department as well as a first-class Department of Public Works. He felt that a minimal rewriting and addition to the zoning codes would meet most of the criteria would be influenced or restructured by the recent announcement of Senator Mathias that six Federal agencies had joined together in an effort to clean up the Bay. He also expressed concern that under a state -issued permit there is a Baltimore area group dumping industrial and sewer sludge along the banks of the C&D Canal. This is being done by a private vendor under contract to the Corps of Engineers, under a permit issued by the State of Maryland. What is required is co-operation between the State, Federal, and local authorities to see that no damage is done. (R.p. 25-28).

Robert Porter as an interested citizen appealed for a rule of reason to be applied by the criteria, and that they be sufficiently clear to be obvious as to the intent and requirements of the criteria adopted.

Mildred Ludwig appeared as a resident of Cecil County living in the Sassafras River area. She was particularly concerned about the condition of the Grove Neck Wildlife Sanctuary located about a mile from her home. She stated the sanctuary is regularly vandalized and abused. She urged the Commission to develop plans to ensure the protection of Maryland's biological resources; particularly the plant and animal habitat and the preservation of the unique and sensitive areas. She urged the restriction of development in areas which have slopes and highly erodable soils. She suggested that the Commission look to the

following sources for the development of natural resource assessment standards and protection standards in the Nationwide River Inventory prepared by the National Park Service in 1982, and the Maryland Scenic River Study of 1983. The criteria for the protection of these rivers she contended, are spelled out in these studies. (R.p. 29-31).

William Jeans, Vice President of the Upper Chesapeake Watershed Association, spoke concerning the fresh-water areas of the Chesapeake Bay. He praised the efforts being made by the State of Pennsylvania to clean up the Susquehanna River and the efforts to re-vitalize the propagation of shad in that river. It is the contention of his association that the problems in the Upper Chesapeake are traceable to other factors than the State of Pennsylvania, these include the dredging at the C&D Canal, the activities at the Aberdeen Proving Grounds, and the dams on the Susquehanna River. A substantive portion of the marshland where rockfish spawn has been destroyed because of the dumping of dredge spoil into the marshes without regard for its effect on the survival of the marsh (R.p. 31-33).

Ted Haas, County Agent for Cecil County associated with the University of Maryland Cooperative Extension Service praised the farmers of Cecil County where production is almost entirely on the basis of no-till production. The extension has also pioneered in an innovative program on nutrient retention. Mr. Haas complained of the proposed sludge dumping on the C&D canal banks which is clearly within the 1,000 ft. critical area. (R.p. 33-36).

Sharon Vaudry, resident of Kent County, expressed her concerns about storm water management. She urged that paving be required to be impermeable material to assist the earth in absorbing run-off. She also urged a management program to maintain vegetative cover. (R.p. 36-38).

Steve Bunker, Senior Staff Scientist for the Chesapeake Bay Foundation addressed the Commission concerning three broad areas in which his organization felt the criteria should be concentrated. They are: (1) strict standards for development in the critical areas, (2) the identification and protection of unique areas from development and (3) the use of incentives to encourage the maintenance of land in the critical areas in its existing use. In the first category Mr. Bunker urged the criteria provide for strict sediment/erosion control by minimizing the amount of area disturbed during construction, maintaining maximum vegetative cover, and restriction of development on steep slopes or highly erodible soils. In the second category of criteria, provision should be made for strict stormwater management minimizing impervious surfaces, maintaining vegetative cover, maximizing infiltration capability, maintaining pre-development run-off rates and volumes and recharging rainfall to ground water. Number three should require set-backs along streams and open water for impervious surfaces, septic tanks, and all structures except those necessary for access to the water. Number four, should require buffer strips along streams and open water of natural vegetation or grass for agricultural and development activities. Number five, the criteria should minimize impervious surfaces along the critical area by placing limits on percent coverage and encouraging the use of porous pavements and surfaces. Number six, plant and animal habitat should be protected by providing for continuity and diversity of habitats and the disturbance of tidal or non-tidal wetlands should be prohibited. Local jurisdictions should be required to identify sensitive natural areas and prohibit development of these areas to protect unique plant and animal habitats. Incentives should be proposed to landowners who prefer not to subdivide or develop their land.

The criteria should include tax incentives, easements, and transferrable development rights to encourage landowners to maintain their land in its natural state. Cluster development and the maintenance of open space in the critical areas should be encouraged rather than waterfront development. (R.p. 38-41).

A. Ford Hall, Sr., owner of Georgetown Yacht Basin, Inc. located on the Sassafras River since 1949 generally supported the aims of the Commission. He expressed concern however, that marinas under the criteria adopted would continue to provide Bay access to recreational boaters, and that the owners of existing marinas be assured of their right to develop their existing facilities when age or other circumstances require their replacement.

Fred McKee, President of Maryland Association of Realtors, who endorsed generally the aim of environmental preservation which he perceived the principal tasks of the Commission. He cautioned however, that equally important are the regulatory limits on how they may use the land they own.

Vernon Terry, President of the Harford County Board of Realtors and Reginald Cooper, Past President of the Kent County Board of Realtors supported Mr. McKee's Statement. (R.p. 45-48).

Mike Pugh spoke on behalf of the Cecil County Board of Commissioners. He noted that in 1976, Cecil County enacted the first shoreline protection ordinance in Maryland which created a 150' buffer in its subdivision regulations. In 1979, Cecil County is now engaged in a study of shore erosion, identifying structural and non-structural methods of management. He urged that the State not usurp land use decisions from the local subdivisions. State agencies should provide technical expertise and a resource source for data collection. He predicted that the criteria adopted would require additional man-power and staff requirements in the local jurisdictions. He noted that the weakness in the present state of the laws is that they are not enforced because of a shortage of staff to require compliance with the many good laws already on the books. It is important, he felt, that the Commission not be perceived as being created to severely slow or stop waterfront development. (R. 48-45).

Cy Liberman state that roofing also be considered as impervious material and that "business as usual" must take second place.

Harland Williams urged that the Commission mitigate its action with those of adjoining states in the Chesapeake area. He proposed the establishment of an inter-state inter-jurisdictional authority for total management of the Bay's resources (R. 56-50).

Bill Jeans, Jr., farmer and waterman a brief statement.

Bob Hugger, farmer agreed that the Amish farmers who do not subscribe to no-till and conservation may be at last contributing to the pollution of the river leading into the Patspsco.

Robin Tyler urged that the criteria adopted be rigidly enforced.

George Schehan, represented the Bata Shoe Company and urged that reasonable time limitations be imposed upon State agencies who are required to review and approve development plans.

The following written statements were seasonably filed by the persons or organizations indicated and are included at the end of the record.

1. Mayor and City Council of Havre de Grace - Department of Public Works.
2. Log Pond Group
3. Martin Ogle
4. Mildred D. Ludwig
5. Sassafras River Community
6. Green Valley Group (Maggie Duncan)
7. Cecil County Board of Realtors
8. Floyd E. Spellman
9. Floyd E. Spellman
10. Walter Brunner
11. Margaret H. Jones

Chesapeake Bay Critical Areas Commission Hearing

Easton Hearing 12/3/84- 7 P.M.

Senator Malkus' principal contention was that Baltimore City, the areas adjacent to the Patapsco River, the Susquehanna flats and the Patuxent were the principal polluters of the Bay and were using the Eastern Shore as the "whipping boys". He contended that these polluters are exempt from the law and indicated he would introduce legislation in the coming session of the General Assembly who bring back those exempted from the operation of the law (Rp 7.)

Jay Dayton (Rp.18) proposed that all farmers should be required to have a grass or ground cover buffer between plowed fields and any drainage ditches equaling a minimum footage of between 10-15 feet. All secondary drainage ditches should be required to be planted with fast growing grass. He further recommended that the state or county governments should cut the drainage ditches shallower with less steep walls and fast growing grasses should be planted in the ditches to minimize the possibility of the ditches caving in or washing away (Rp. 19). The witness also charged that the agencies responsible for the maintenance of the roadways have been using defoliants instead of cutting the growth and as a result, the pollutants have been permitted to drain directly into the drainage ditches. The witness also urged that construction permits issued for any construction should require the recipient to include some sort of erosion and drainage clauses providing for immediate planting of any exposed areas to prevent any unwarranted run-off resulting from the construction. He also urged that all eroding shorelines be encouraged to be riprapped or bulkheaded. Anything amounting to a part of the watershed or drainage area whether within or beyond the 1,000 foot area designated in the statute should be controlled (Rp. 7).

The chairman, (Judge Liss) gave examples of criteria already adopted: (1) guidelines for the development of marinas and other commercial water uses as adopted in Talbot County; (2) construction setbacks from wetlands as required in Queen Anne's County; (3) and construction setbacks from wetlands as required in Caroline County. (Rp. 22).

James Price spoke on behalf of the Chesapeake Bay Acid Rain Foundation and offered their services to the Commission.

Richard Hutchinson appeared on behalf of the Talbot County Farm Bureau whose President and Vice-President were engaged in Hagerstown, Maryland at the Maryland Farm Bureau convention. Mr. Hutchinson read a prepared statement of the Board of Directors of the Talbot County Farm Bureau. Mr. Hutchinson declared that the agricultural community was willing to contribute its share toward the preservation of the Chesapeake Bay but urged that the Commission recognize the individuality of each farm. The witness urged we rely on individualized farm best-management conservation planning (Rp. 26).

Herb Andrew, President of the Talbot County Council, read a prepared statement filed with the commission (Rp.). He argued that Talbot County had adopted well-planned zoning regulations over a long period of time and

had adhered to a comprehensive zoning plan developed with a great deal of citizen input. It was his opinion that the control over land use should remain a local responsibility and the State should not assume that responsibility (Rp. 27). He agreed, however, that a mutually cooperative relationship be adopted with each county. The remainder of his statement contains several well-stated and well thought out points and a copy of the statement will be furnished to each of the Commissioners (Rp. 27-33).

Kevin Day appeared on behalf of the Maryland State Board of Realtors and the Queen Anne's County Board of Realtors.

Susan Debnun urged that the existing agencies such as Soil Conservation Department of Agriculture, Forest Service, and Department of Natural Resources, should develop regulations and standards which are consistent with each other. Query for the Commission: Are there, in fact, regulations which are inconsistent and differently enforced by the several agencies? What is to be done about sediment and chemical run-off which comes from interior farmlands, delivered to the Bay by the system of creeks and rivers? (Rp. 37)

Jack Brody appeared on behalf of the forestry industry in Dorchester, Talbot, Caroline and Wicomico Counties. He complained that there is presently a statute which requires that if land has 25 percent or more of pine on it, that the harvester must either re-forest the area, leave seed trees or submit a plan. He noted there is presently a proposal by DNR and Water Resources that if the land is within 50 feet of any stream or any current quadrangle sheet that the manager of the area be required to submit another plan governing the affected area. All of the areas are conceded to be within the 1,000 limits of the Critical Area. Mr. Brody urged that consideration be given in writing criteria to not require the submission of three plans to three different agencies for the same property (Rp. 38).

Charles Collins testified on behalf of the Chesapeake Bay Foundation. He urged (1) the drafting of strict standards for development, (2) the identification and protection of sensitive areas from development and (3) the use of incentives to encourage the maintenance of open space. As to the first issue, it should concern itself with sediment and erosion controls during development by minimizing the amount of disturbed area during construction; maintaining maximum vegetative cover; prohibiting development on steep slopes or highly erodible soils; and strict enforcement of State Sediment and Erosion Control regulations; provide for strict stormwater management by minimizing impervious surfaces, maintain pre-development rates and volumes of run-off; recharging rainfall to groundwater; require setbacks along streams and open water for paved areas and other impervious surfaces, septic tanks and all structures except those necessary for water access; require naturally vegetated buffer strips along streams and open water for agricultural and developmental activities, minimize impervious surfaces within the Critical Area by placing limits on percent of coverage and encouraging use of porous pavement and surfaces; protect plant and animal habitat by preserving as much natural vegetation as possible; provide for continuity of habitat and movement of wildlife between habitats; prohibit the disturbance of tidal or non-tidal wetlands; encourage cluster development to require maximum permissible density to be developed away from water areas and streams. Local jurisdictions should identify unique natural areas existing within the Critical Areas. Development on these lands should be prohibited to protect unique plant and animal habitat. Incentives should be used to maintain open space areas. These should include tax incentives, conservation easements,

and other innovative techniques such as transferrable development rights, state should accept donations of land by private individuals or private agencies or acquire critical land by purchase (Rp. 36-42).

Clark Holscher representing Izaak Walton League suggested the following be included in the proposed criteria of the Critical Areas program: (1) the application of best farming practices to keep soil in place and encourage filtration of water into ground, (2) buffer strips along waterways, drainage ditches, number harvest areas and developments, (3) encourage rip-rapping and bulkheading where there is active shoreline erosion, (4) plant trees along waterfronts, (5) minimize construction areas, (6) prohibit highway department from removing hedge rows and shrub cover adjacent to drainage ditches or from roadside ditches, (7) restrict development of steep slopes and highly erosive soils, (8) maintain maximum vegetative cover in Critical Areas Zone, (9) prohibit disturbance of tidal and non-tidal wetlands, (10) encourage reforestation and management of existing forests as a permanent land use. Several additional suggestions made by Mr. Halscher were similar to those of Mr. Collins (Rp. 42-45).

Royden N. Powell, one of five supervisors of the Queen Anne's soil conservation district, spoke of the importance of agriculture in the state's economy. He stated that Bay studies have documented the decline of the Bay as evidenced by the shellfish catch, declining aquatic life, and declining water quality. The decline has been identified as beginning at the headwaters of the Bay and proceeding southward. Our neighbors to the North must participate in a program at least equally progressive as that ultimately adopted by Maryland if the Bay is to be saved.

Ralph Brown spoke as district Vice-President of the Maryland Association of Realtors concerned that the right of property owners along the Bay not be infringed upon and if they are, what compensation will be paid for the loss of these rights and by whom paid.

Linda Nabb the County Planning Director for Dorchester County made three basic comments: (1) criteria should distinguish between small relatively insignificant activities in the Critical Area versus major developments. Criteria should not necessitate a program that cannot realistically be implemented, (2) some recognition must be taken of the geographical differences which exist in the Bay area. For example, Dorchester County has large areas of flat wetlands, other counties have steeper grades and smaller wetland areas. Criteria should reflect these differences. Finally, some clarification is needed for the responsibility of state, and local agencies in the regulation and implementation of any criteria adopted. Overlapping and adoption of conflicting criteria must be avoided and responsibilities of local agencies must be clearly spelled out. Where the Bay initiative activities require the development of local programs, the cost of staffing and funding on the local level must be provided by the State and Federal authorities. (R. 51-54).

Ms. Spurry: this thirteen year old young lady spoke of her schools' project which requires the acquisition of a HEWAC which is being explored by several of the agencies assigned to the Commission.

Carol Kahler, Natural Resources Chairman of the League of Women Voters of Talbot County, urged that the Talbot County setback regulations for buildings along the shoreline be made part of the Critical Areas criteria, that sediment control measures be observed during construction of roads and buildings. Ms. Kahler recommended specific criteria items which should be included in the

criteria adopted by the Commission.

T. Hewlitt on behalf of the Maryland Chapter of the Nature Conservancy. Advised the Commission that it is a privately funded non-profit land conservation organization devoted to the preservation of the natural areas of the country for almost 30 years. The Conservancy has more than 1,000 acres divided into three preserves located in the Critical Areas: Choptank Wetlands, Third Haven Woods and Atwell Woodland. They harbor the endangered Delmarva Fox Squirrel, rare old growth forests, and tidal marshes. The witness urged the adoption of two general rules: that there be a presumption against the development of natural areas along the Bay; and that wherever possible the density of development near existing natural areas of critical concern should be kept low. The Conservancy further urged the Commission to adopt the following criteria: (1) Lands and non-tidal wetlands in the Critical Area which provide habitat for specific rare species or species in danger of being extirpated should be protected from uses which would interfere with their viability; (2) lands; non-tidal wetlands and tidal wetlands in which uncommon or unique natural communities occur, should be designated and protected from uses which interfere with their ecological health. Information for the identification of these areas are available from DNR's Natural Heritage Program, and the Forest and Wildlife Administration (Rp. 64-67).

Kenneth Russ representing the oil industry at the water terminal level waived oral statement and elected to file a written statement.

Howard Wood representing the Queen Anne's Conservation Association elected to do the same.

Hank Speice, a farmer from Talbot County, suggested that an important part of the erosion of farmland is caused by traffic on the Wye River. He estimated that 25,000 tons of dirt had been washed away by this use in the last eight years.

James Milliken, County Agricultural Agent for Kent County urged that best management practices which have been researched and approved through the University system be administered through the Soil Conservation Districts. He also warned against any mandatory reduction in the use of fertilizers and/or pesticides on the land draining into the Bay because of the threat of reduction of production and profits (R. 70-74).

Henry Jenkins spoke in behalf of the Critical Areas Act.

Peter Rice, Director of Echo Hill Outdoor School, spoke of the environmental and ecological programs offered by the school to several thousand children over the last 12 years. Overpopulation of the waterfront was the greatest threat to water quality in Mr. Rice's opinion. He urged the Commission to encourage zoning requiring a much lower density than now permitted and the adoption of innovative easement programs encouraging waterfront owners to leave part of their property open, and to encourage the acquisition of open space. (R. 76-78).

Henry Truitt Jr. and a Mr. Hicus waived oral statements and proposed filing written statements.

Edward Farley is a waterman who dredges oysters from a skipjack. He spoke, movingly of the drop-off in the production of oysters, noting a continued downtrend which threatens the survival of the industry. He pointed out that unless Pennsylvania and New York, which empty into the Susquehanna River, from which approximately 66% of the Bay waters come, cooperate with the programs evolved by the Commission and the local authorities, nothing can be accomplished. (R. 79-83).

Chesapeake Bay Critical Area Commission Hearing
Prince Frederick Hearing 12/6/84 - 7:30 P.M.

Louis Eberle (Rp. 16) spoke concerning a proposed new development in St. Mary's County on the Patuxent, Patuxent River Farms. He emphasized the importance of the county's efficient monitoring of site development by a qualified engineer.

Joanne Roberts (Rp. 18) was concerned that sedimentation controls be considered when regulations or criteria are developed, and more generally that open areas and wildlife be protected for future generations.

Karen Goodman (Rp. 20) - testimony unrecorded due to machine malfunction.

Janet McBain (Rp. 20) - testimony unrecorded due to machine malfunction.

Frank Gerred (Rp. 20), director of planning and zoning for St. Mary's County, expressed two concerns: that the ultimately adopted criteria be able to be easily administered; and that the Commission should consider whether their criteria should be applied to entire watersheds, rather than to just the 1,000 foot initial planning area.

Mark Milbury (Rp. 21) noted that his concerns had just been adequately addressed by Mr. Gerred.

J. Bowling (Rp. 21), a private landowner, expressed: difficulty with the concept of upland owners not having to take some clean-up measures; the extent of existing bureaucracies; her belief that controls over 1,000 feet from the water will include most of some counties' land. Ms. Bowling also stated that although the water and habitat in her area continue to deteriorate, she did not wish to give up to the State her rights to develop her property.

Gene Piotrowski (Rp. 25), appearing on behalf of the Maryland Forest, Park and Wildlife Service, noted that forest land could significantly benefit Bay cleanup efforts -- especially through the use of forest buffers as natural filters. He recommended criteria that would: 1) require local zoning and subdivision regulations aimed at retaining forest lands, especially those adjacent to shorelines and tributaries; 2) require forest management plan approval for any cultural operation on forest land in the critical area; 3) encourage the establishment of forest buffers in currently open, non-forested areas adjacent to shorelines and tributaries; 4) adopt the current standard in use for determining adequate width of forest buffers; and 5) use the entire critical area as a wildlife habitat maintenance and enhancement area.

Frank Jaklitsch (Rp. 29), director of planning and zoning for Calvert County, noted the protective effects of current Calvert County regulations including, for example, large lot requirements, a town center concept, both wetland and conservation districts and, under those concepts, such matters as setbacks, clustering, minimum lot sizes, and marine facility regulations. He noted that pollution comes from a much greater area than the 1,000 feet, and from threats in addition to new development, such as industry, sewage treatment plants, road construction, and agriculture.

Sam Bowling (Rp. 32), a waterfront property owner from Charles County, asked that the reasonable use of private property by the small landowner not be prevented, and that waterfront land not be made a preserve for the rich or big developer. He also noted the need for strict enforcement at the State level, and for interstate cooperation.

Alan Swann (Rp. 34), a farmer from Lower Marlboro, stated his concerns about a blanket 1,000 foot buffer policy that doesn't take slope, soil type, and current use into consideration. Mr. Swann felt that upland areas must also "pay the price", and he objected to the possibility of being told how to farm within the 1,000 foot area.

Robert Yolanowicz (Rp. 37), of the Chesapeake Biological Laboratories, associated with the University of Maryland, noted that his colleagues have identified excessive nutrients from nonpoint sources as the chief problem in the Bay, and further, offered his support for the thrust of the legislation.

Henry Jenkins (Rp. 38) from Baltimore County, talked about sedimentation in the Bay and the fact that in fairly recent history sedimentation has increased dramatically over older historical rates. He asked for strong shoreline management plans to protect the Bay, within which management areas farmers can get technical assistance regarding soil conservation practices. Mr. Jenkins also mentioned the use of cluster development and transfer of development rights as important.

Karen Miles (Rp. 41), representing the Maryland Chapter of the Nature Conservancy, noted that organization's successful private preservation efforts. Ms. Miles urged two general "rules" and a number of criteria. The rules: a presumption against indiscriminate destruction of natural areas along the Bay; and, whenever possible, keep the density of development near existing natural areas of critical importance low. Recommended criteria: 1) habitat areas for rare and endangered species should be delineated, dedicated primarily to preservation, and protected from possibly interfering uses; 2) lands, tidal and nontidal wetlands (and particularly areas in the freshwater intertidal zone) in which unique natural communities occur should be treated similarly. Identification of special natural areas can be made through the use of DNR's Natural Heritage Program.

Finally, examples of such natural areas include bald eagle and colonial water bird nest sites, the best occurrences of old growth forests, and freshwater wetlands.

James Dutton (Rp. 45) waived any statement.

James Hancock (Rp. 46) generally commented on private property rights and the need to switch to non-gasoline fuels.

Robert Jarboe (Rp. 48), president of the St. Mary's County Farm Bureau expressed concern that if a 1,000 foot buffer is approved, some farms would virtually be eliminated. Mr. Jarboe suggested that criteria permit farm-by-farm approaches and not impose some unworkable, blanket-type plan.

Mr. VanLandingham (Rp. 50) waived his statement in favor of his group's spokesman.

Mr. Catlett (Rp 50) waived any statement.

Mr. Allen (Rp. 51) noted that his points had already been addressed.

Jack Witten (Rp. 51), president of the Potomac River Association and public member of the Chesapeake Bay Commission, noted that wise husbandry of the land was required to save the Bay. Mr. Witten recommended changes in State Code Article 66B [zoning and planning enabling legislation for non-charter counties] as well as criteria ideas: more public participation and adequate advertising of proposed changes, for example, on radio; all zoning negotiations a part of the public record; requirements for completion bonds dealing with stormwater management, erosion and runoff control, etc.; fee structure related to size of project so as to recoup costs of enforcement, etc.; criteria governing new development in upland urban areas; threshold where the state can intervene; dealing, as Calvert County has done, with floating homes.

Mr. Havens (Rp. 59), St. Mary's Chamber of Commerce, read a statement of its president supporting the work of the Commission but expressing concern for the possibly adverse impact on continuing waterfront development.

John Prouty (Rp. 61), a Patuxent River farmer, asked that farmers already in good practice be considered carefully, and that each farm be treated on its own merit for any application of further nonpoint source controls.

Steven Bunker (Rp. 63), Senior Staff Scientist, Chesapeake Bay Foundation and Calvert County resident, noted that the criteria should require strict standards for new development, including such matters as stormwater management, sediment/erosion control, setbacks, vegetative buffers, and limitations on impervious surfaces. They should also provide for the identifica-

tion and protection of sensitive or unique areas, such as lands not suitable for development due to steep slopes or poor soils. And, land preservation through such incentives as exist in the Agricultural Preservation Program should be encouraged. Second, Mr. Bunker noted that the Commission might learn from the experiences of other states which have successfully instituted similar programs, for example, Oregon, Florida, North Carolina, California, and regions of New York and New Jersey. Finally, input from local planning officials should be solicited as the criteria are being developed.

James Raley (Rp. 65) waived any statement.

Eleanor Cofer (Rp. 65), president St. Mary's County branch of American Association of University Women and property owner near Point Lookout, expressed a general concern with overdevelopment in her area due to potential sewerage, and asked that the Commission encourage local governments to listen to their citizens rather than just real estate developers.

William Johnston (Rp. 68), a southern Calvert County resident along the Patuxent, expressed fears concerning runaway population growth and its increasing environmental costs. Mr. Johnston also questioned the right of sewage treatment plants to expand, thereby providing for more urban growth. Finally, he submitted a paper comparing forested with grassed buffer strips and concluding that the former is much more effective.

Voice 1 (Rp. 73), an unidentified Calvert County farmer, noted that some statistics on runoff pollution from farms may not be reliable, and asked for the development of adequate information.

Closing statement by Chairman Liss.

Other submissions:

- 1.) Peterjohn and Correll, "Nutrient Dynamics in an Agricultural Watershed: Observations on the Role of A Riparian Forest," Ecology 65(5), 1984, pp. 1466-1475.
- 2.) Editorial, "On Marine Eutrophication", Marine Pollution Bulletin, 1984.
- 3.) Horton, "Nitrogen issue spurs debate on bay plans", Baltimore Sun, November 25, 1984.
- 4.) Ripley & Witten, "Notes on Sewage Permit Hearings and Impacts on the Patuxent", Calvert County Recorder, November 9, 1984.
- 5.) Patuxent River Association, "The Shad and Herring Which Spawn in the Patuxent River must also Be Saved", N.D.; "Nitrogen Primarily Controls Total Algae and Low Dissolved Oxygen", N.D.

6.) Testimony given by Karen Miles before the Chesapeake Bay Critical Areas Commission.

7.) Letter from Robert T. Jarboe, St. Mary's County Farm Bureau, December 8, 1984 (noting that agriculture is not the major contributor of pollutants; that blanket restrictions on 1,000 foot buffers could "wipe out" some farms from production; that land so removed should be considered for reduced tax rate or tax credit; and that a farm-by-farm approach be adopted that uses farm plans developed in cooperation with the local Soil Conservation Service office).

8.) Letter from Thomas L. Courtney, Ridge, Maryland, December 14, 1984 (asking for better identification of the true sources of pollution -- such as upland areas; and noting that in order to keep our present standard of living, we will have to live with some pollution, the appropriate amount of which requires further study.)

Chesapeake Bay Critical Area Commission
Crofton Public Hearing
12/11/84 - 7:30 P.M.

Thomas Cardaci (Rp. 17), president of the Prince George's County Board of Realtors, expressed the hope and belief that the Commission should follow a course that both protects the environment as well as private property rights.

John Leak (Rp. 19), waived an oral statement in favor of a future written one.

Debi Lee (Rp. 19), a resident of Annapolis and both a planner and developer, noted that strong criteria would be good for all, including developers, because of their positive effects on good planning and design. Her suggestions included: eliminating the right to develop on the shoreline, and implementing a setback and buffer requirement; reducing or minimizing runoff and erosion via buffer strips, porous paving, not building on steep slopes or highly erodible soils; and using such innovative planning techniques as planned unit development and clustering. Finally, Ms. Lee asked that any review process that is instituted be reasonable in terms of time.

Kathy Ellett (Rp. 23), president of the League of Women Voters of Maryland, supported strong criteria, especially as regards sedimentation control, water quality management, and agricultural practices. Ms. Ellett suggested that preservation of natural vegetation, buffer strips, and forest land be given special consideration, and that enforcement of the criteria and zoning would be especially important in the future.

John Cochran (Rp. 25), a resident of Hillsmere Shores and local Sierra Club chair, urged the development of strong criteria, and noted that their group would be submitting a written statement.

Robert McWethy (Rp. 25), speaking for the Weems Creek Conservancy, echoed the need for strong criteria. Also mentioned were concerns about construction on unsuitable land, inappropriate timing of construction projects, and large parking areas.

Ronald Holland (Rp. 27), a resident of Davidsonville, supported Commission efforts and cited the need for strong enforcement measures being included in the criteria, as well as disallowing grandfathering and providing for [retro] fitting measures on polluting activities.

Buz Winchester (Rp. 28), Executive Vice President of the Anne Arundel Trade Council, noted the importance of developing a concensus among all interested groups, while strong regulations are still intended. Mr. Winchester urged the Commission to work with the development community.

Donald Patterson (Rp. 30), a resident on the South River, favored strong but creative approaches being taken (such as are used in North Carolina, Oregon, California), that include buffer strips, shore-water management, open space, and erosion control, to help stem the sedimentation problems currently evident in the South and other rivers.

Mitch Nathanson (Rp. 32), representing the Marine Trades Association (Anne Arundel and Maryland), noted concerns with setbacks, buffer strips, stormwater management, and sediment and erosion control, and that as a water-dependent use his membership will be affected by these matters. Mr. Nathanson offered his group's assistance.

Robert Milligan (Rp. 33), representing a golf course, asked not to be too severely restricted concerning application of fertilizers, etc., and also asked the Commission to get expert assistance in this area from the University of Maryland.

Karl Reiblich (Rp. 34), of Baltimore County and affiliated with the National Association of Realtors, encouraged the use of soils maps in the Commissioner's work, and asked when controls would extend to non-tidal wetlands.

Bill Perry, Jr. (Rp. 35), urged the adoption of strong criteria.

Marshall Leland (Rp. 36), an Eastport, Annapolis resident, on Back Creek, noted the destructive activities of a marina developer and that the "the thousand foot rule" would have prevented such.

Thomas Gire (Rp. 36), appeared for the Audobon Naturalist Society, and appealed for the preservation of natural habitats in and around the Bay. The Chesapeake Bay Foundation's recommendations were supported, in particular preservation of native vegetation, providing for a continuity among habitats, and prohibiting the disturbance of both tidal and non-tidal wetlands. Mr. Gire asked for strict development standards and for open land preservation through incentives.

Joseph Elbrich (Rp. 39), of Anne Arundel's Office of Planning and Zoning, noted that County's general administrative environmental progress, but also noted the difficulty in implementing the S8-1813 interim reviews with respect to habitat protection (because of limited resource data and the necessity of field investigations). Mr. Elbrich stated that his office might well utilize the criteria beyond the 1,000 foot limit.

Chandler Robbins (Rp. 41), a wildlife biologist representing the Maryland Chapter of the Nature Conservancy, made three observations and four recommendations. First, that migratory birds are good indicators of environmental quality; that many species of nesting birds have disappeared from portions of P.G. County; and that a list of important sites in the County should be made and efforts made to protect them. The four recommendations are: 1.) seek expert help, especially the Maryland Natural Heritage Program, to identify critical areas; 2.) give special consideration to endangered or threatened species; 3.) assure that those critical areas are recognized and treated accordingly; and 4.) designate appropriate buffer zones. Mr. Robbins offered his technical assistance in these matters.

Billy Goodall (Rp. 45), president of the Anne Arundel County Board of Realtors, expressed his pleasure at hearing that there would not be a state zoning and planning board; and noted that some county officials may not be qualified to do environmental assessments. Mr. Goodall expressed his organization's support.

Mr. Rhonemus, a Back Creek, Annapolis resident, was concerned with the actions of a marina operator who caused destruction of a bank as well as much erosion and sedimentation, and hoped the Commission's guidelines will address this

problem. Mr. Rhonemus noted other construction near the top of the creek, within the 1,000 foot line, that was causing severe siltation problems.

Senator Winegrad (Rp. 50), noted both commercial and pleasure use interests in the Bay, and the severe or critical problem that the Bay's living resources -- its fisheries -- are dying off: rockfish, oyster, shad and herring. The Senator also noted the critical nature of treating land use and burgeoning growth properly beyond the 1,000 foot area, and not continuing to lose vast acreages of forest, farm, and non-tidal wetlands that has occurred in the recent past. The clearing of trees for any purpose needs to be addressed in the criteria, perhaps by mandating a forest management plan. The Senator further noted that even with good development practices, urban runoff would contain many times more pollutants than non-urban; that many urban areas should not qualify, on a wholesale basis, for exclusion because of large undeveloped areas within them -- for example, Annapolis Neck Peninsula.

Mary Anne Todd (Rp. 65), expressed concern over oyster and crab declines, and asked for strong criteria to reduce both point and non-point source pollution so that submerged aquatic vegetation (SAV) can recover. Ms. Todd also suggested strict and reasonable criteria to protect habitats, tidal and non-tidal wetlands, and native vegetation.

Leonard Wrabel (Rp. 67), representing the Maryland Forest, Park, and Wildlife Service, reiterated testimony given by the Service at several of the other hearings.

Blossom Holland (Rp. 70), inserted a paper into the record.

Martin Zehner (Rp. 70), for R. Graydon Ripley, president of the Davidsonville Area Civic Association, expressed continuing concern over discharges from sewage treatment plants, and asked for a "no discharge in critical areas" criterion, along with encouragement of land treatment.

Clifford Falkenau (Rp. 73), representing Anne Arundel's Environmental Advisory Commission and the Severn River Association, supported the idea of carefully managed and controlled growth, cluster development, and increased enforcement efforts. Continuous bulkheadings, Mr. Falkenau continued, is not the sensitive way to protect the shoreline.

Liz Vanden Heuvel (Rp. 75), of Hillsmere Shores, expressed concern over the projected growth for Annapolis Neck Peninsula, and urged criteria that would deal strictly with setbacks, buffer strips, sediment and erosion control.

Anne Swanson (Rp. 77), for the Chesapeake Bay Foundation, offered that the criteria must be clear, strong, and include an adequate implementation mechanism to assure compliance. Two aims are required: the regulation of poorly-planned development, and the protection of wetlands and critical areas. Concerning the former: 1.) standards for shoreline area development must be clear so that developers know in advance what they must do; 2.) they should include sediment and erosion controls, stormwater management, limits on impervious surfaces, prohibitions for steep slopes and erodible soils, maintenance of vegetative cover, maximization of infiltration capacity, maintenance of pre-development runoff rates and volumes, and specified building and septic tank setbacks. Currently discrete permitting programs can be drawn into a comprehensive effort, to avoid overlap and duplication. Secondly, some areas

simply should not be developed at all: wetlands, unique/sensitive habitats, prominent open spaces. Finally, the impacts of upland development, adjacent to wetlands, should be considered.

Paul Foer (Rp. 82), a professional yacht captain and marine educator from Annapolis, expressed his desire for strong and sensible regulations to sustain the Bay as a viable recreational resource, with special attention to land use control of shoreline and waterfront. Minimizing runoff, erosion, and general degradation of shorelines is essential. There are right and wrong ways to develop marinas, boatyards, and other waterside uses, and in some places there should be no development at all. This should all be reflected in the criteria.

Karl Neidhardt (Rp. 86), stressed several areas: that the criteria require new development to meet strict standards; that land preservation be encouraged through economic incentives — especially at the field level of development; that stormwater management should be an essential element; that the wetlands exclusion be examined carefully; and that on-going monitoring be included in the criteria.

Richard DeSeve (Rp. 90), president of the Maryland Conservation Council, expressed a real concern with growth in this area, and noted a desire that all interests — environmental, real estate, etc. — need to work together on the problem. Enforcement of current sediment control and stormwater management regulations should be addressed, as well as anything to be added.

Elinor Gawel (Rp. 94), waived an oral statement, to submit a written one.

Charles Rechner, Jr. (Rp. 94), asked whether the criteria would be limited to presently undeveloped land or would also apply to existing development or the building of homes on existing lots. Further, since people cause pollution, the ultimate solution is to control immigration and population growth here.

Written submissions

- 1.) Land Use Data for the State of Maryland, N.D.
- 2.) "Choices for the Chesapeake, An Action Agenda", Workshop Recommendations, N.D.
- 3.) Statement of Thomas A. Cardaci to the Chesapeake Bay Critical Area Commission, December 11, 1984.
- 4.) Statement of Mitch Nathanson, Anne Arundel and Maryland Marine Trades Association, N.D.
- 5.) Statement of the Audobon Naturalist Society of the Central Atlantic States, December 18, 1984 (delivered by Thomas Gire).
- 6.) Where lawn chemicals fall within a list of toxics, submitted by Robert Milligan, N.D.
- 7.) Testimony Given By Chandler Robbins Before the Chesapeake Bay Critical Area[s] Commission, N.D.

- 8.) Statement of Leonard Wrabel for the Maryland Forest, Park, and Wildlife Service, December 11, 1984.
- 9.) Statement of R. Graydon Ripley, Davidsonville Area Civic Association, December 11, 1984, with press release attachment re sewage treatment discharges into the Patuxent River; attachment of letter from Civic Association to Department of Health official with responsibility for sewage discharge permit; attachment of petition for declaratory ruling on discharge permits of Patuxent Mobile Estates and Wayson's Mobile Court, Inc., by the Association; attachment of public hearing comments of the Association on such permits.
- 10.) Statement of Liz Vanden Heuvel to the Commission, December 11, 1984.
- 11.) Letter from Blossom Holland, President, League of Women Voters of Anne Arundel County, supporting strong criteria, December 18, 1984.
- 12.) Letter from William Hatchl, Chairman, Black Walnut Creek Commission, December 17, 1984, with detailed coverage of the following matters: pre and post-development runoff must be equivalent in terms of quantity, rate, and quality and this requires pre-development testing for a determination; storm-water management and sediment control devices are essential, even for single lot development; enhance the citizen participation process to involve citizenry at earliest time in development process and throughout, and make sure developer knows requirements even before platting lots; make local jurisdictions require rectification of environmental problems in existing subdivisions within five (5) years; centralize control over water in one state agency; implement minimum 100 foot buffer zones, and have them deeded to the community association for adequate care and control, and have local governments become parties to the deeds to enforce them; wider buffer zones for sensitive areas; the wetlands exclusion should be rarely permitted by the Commission, and assurances of no detrimental impacts thereto need to be gained first; expand the current endangered and threatened species list to include species that are valuable Bay area assets, and expand protection for all habitats; authority to waive any requirements should be vested solely in the Governor; a density of two dwellings per acre should be the maximum permitted in the critical area, and development should be prohibited where inappropriate due to soils, slopes, etc.
- 13.) Letter from James Titus to the Commission, December 20, 1984, expressed concern that the criteria should account for expected sea level rises and possible effects on the water/shoreline therefrom, perhaps by basing a buffer line location on some future year's prediction of sea level elevation.
- 14.) Letter from Christian Rhonemus to the Commission, December 27, 1984, refining his statement at the hearing to read that the upper part of Back Creek is ruined, in part due to the City's non-control of development there, and asking therefore that the City not be exempted/excluded from the regulations under the potential exclusion provision of the Act.
- 15.) Letter from Hermann Gucinski, Director, Environmental Center, Anne Arundel Community College, December 18, 1984, recommending elements for, or an awareness of certain factors in, the Commission's criteria: recognition that the ideal unit for dealing with water quality problems is the entire watershed;

- 8.) Statement of Leonard Wrabel for the Maryland Forest, Park, and Wildlife Service, December 11, 1984.
- 9.) Statement of R. Graydon Ripley, Davidsonville Area Civic Association, December 11, 1984, with press release attachment re sewage treatment discharges into the Patuxent River; attachment of letter from Civic Association to Department of Health official with responsibility for sewage discharge permit; attachment of petition for declaratory ruling on discharge permits of Patuxent Mobile Estates and Wayson's Mobile Court, Inc., by the Association; attachment of public hearing comments of the Association on such permits.
- 10.) Statement of Liz Vanden Heuvel to the Commission, December 11, 1984.
- 11.) Letter from Blossom Holland, President, League of Women Voters of Anne Arundel County, supporting strong criteria, December 18, 1984.
- 12.) Letter from William Hatchl, Chairman, Black Walnut Creek Commission, December 17, 1984, with detailed coverage of the following matters: pre and post-development runoff must be equivalent in terms of quantity, rate, and quality and this requires pre-development testing for a determination; storm-water management and sediment control devices are essential, even for single lot development; enhance the citizen participation process to involve citizenry at earliest time in development process and throughout, and make sure developer knows requirements even before platting lots; make local jurisdictions require rectification of environmental problems in existing subdivisions within five (5) years; centralize control over water in one state agency; implement minimum 100 foot buffer zones, and have them deeded to the community association for adequate care and control, and have local governments become parties to the deeds to enforce them; wider buffer zones for sensitive areas; the wetlands exclusion should be rarely permitted by the Commission, and assurances of no detrimental impacts thereto need to be gained first; expand the current endangered and threatened species list to include species that are valuable Bay area assets, and expand protection for all habitats; authority to waive any requirements should be vested solely in the Governor; a density of two dwellings per acre should be the maximum permitted in the critical area, and development should be prohibited where inappropriate due to soils, slopes, etc.
- 13.) Letter from James Titus to the Commission, December 20, 1984, expressed concern that the criteria should account for expected sea level rises and possible effects on the water/shoreline therefrom, perhaps by basing a buffer line location on some future year's prediction of sea level elevation.
- 14.) Letter from Christian Rhonemus to the Commission, December 27, 1984, refining his statement at the hearing to read that the upper part of Back Creek is ruined, in part due to the City's non-control of development there, and asking therefore that the City not be exempted/excluded from the regulations under the potential exclusion provision of the Act.
- 15.) Letter from Hermann Gucinski, Director, Environmental Center, Anne Arundel Community College, December 18, 1984, recommending elements for, or an awareness of certain factors in, the Commission's criteria: recognition that the ideal unit for dealing with water quality problems is the entire watershed;

the problems are the decline of biological resources, changes in diversity, and the increasing extent of anoxic conditions — runoff, sedimentation merely contribute to them; thus, the criteria's focus should be on the problems; the criteria by which activities are examined should allow for the ranking of problems, alternatives and solutions; and some direct mechanism for population/growth control should be reflected as well.

Chesapeake Bay Critical Area Commission
Salisbury Public Hearing 12/20/84 - 7:30 P.M.

Appendices of statements and correspondence filed after hearing consisting of 29 exhibits at beginning of transcript, identified by letters of alphabet from A through Z and AA, BB, and CC.

The meeting was opened by a statement from the Chairman of the Critical Area Commission and the introduction of the fourteen members of the Commission present at the hearing.

Senator Fred Malkus made an opening statement similar in nature to his remarks in Easton. He was especially critical of the portion of the bill which he claimed named the areas which are exempted from the bill; particularly Baltimore City. (See Mayor Schaefer's statement read at hearing in Essex, Baltimore County.)

Louis Davis, Jr., President of the Willards' Town Council spoke of the expense of implementing the program and its impact on small towns. He also expressed concern over the adoption of more stringent agricultural regulations and storm water management.

Mrs. Ernest Gluser urged that the criteria adopted be strong enough to save the Bay.

Mrs. Illia J. Fehrer represented the Worcester Environmental Trust which supports strong guidelines which will result in upgrading water quality by both point and non-point pollution control. The criteria should protect the viability of fish, wildlife and plant habitat. Provision should be made to require adequate set-backs along streams and open water for man-made structures. Serious Bay-wide tidal flooding threatens Cambridge, Crisfield, Pocomoke, Rock Hall, Snow Hill, St. Michael's and Tilghman's Island. The Baltimore District Army Corps of Engineers has recently conducted a study of this problem. Buffer strips and open water requirements would allow natural vegetation to hold the soil and prevent runoff and erosion. The requirement of trees and shrubs would absorb the impact of heavy rain. Buffer strips would also strain out sediments which carry excess nutrients and farm chemicals into the Bay. Impervious surfaces which increase runoff should be set back from streams and open water. Maximum infiltration of storm water into the soil should be encouraged.

Innovative zoning such as cluster housing, the use of easements, the transfer of development rights should be included in area zoning codes. Unique and sensitive areas where unstable soils or endangered species are found should be protected. Tidal and non-tidal wetlands are important as flood buffers and nutrient filters. The criteria developed should minimize damage to water quality, fish, wildlife and plant habitat from land based activities (Rp. 20-25).

Marie Leonard endorsed the previous witness' statement.

Russell Cooper expressed his concern for the land use policies which were threatening his use of his land and asked whether the State would compensate him for the restrictions on his land.

Robert Davis of the Wicomico Soil Conservation District called attention to the fact that the land on the Eastern Shore was different from that on the Western Shore and that that fact should be considered when criteria were being considered.

Robert Hawkins, Chairman of the Planning and Zoning Commission in Pocomoke recommended that the small towns close to the Pocomoke River should be exempted because the 1000' area includes all of downtown Pocomoke, and part of its residential and recreational areas.

George Phillips of Hebron, Maryland asked whether any samples had been taken at Quantico Creek or at the Wicomico River to determine whether there has been pollution in this area because of runoff of agricultural pesticides, fertilizers or sewage.

Edward Ralph, Executive Secretary of Delmarva Poultry Industry, Inc., expressed concern that impractical and unnecessary regulations should not be imposed on general agriculture in order to "save the Bay." He contended that good conservation practices such as no-till crop production, the use of cover crops and the most efficient use of fertilizers were the most practical way to reduce runoff and pollution. What is required is increased coordinated effort between the Maryland Department of Agriculture, the research and extension personnel from the University of Maryland, the Soil Conservation Service and Districts, Maryland Farm Bureau, Maryland State Grange, Maryland Agricultural Commission, and the Delmarva Poultry Industry to arrive at sound resource management decisions in the agricultural portion of the effort to protect the Bay (Rp. 33-37).

Robert G. Miller appeared as spokesman for the Chamber of Commerce of the Greater Salisbury Area and expressed the concerns of the farmers in the area. He pointed out that in order to spread the unit cost of machinery over as large as possible an area of land the prudent farmer has been required to accumulate more and more land over the years. Cost of land has skyrocketed and purchases have been made with borrowed money. They are now faced with possible restrictions on the use of land within the critical area. He urged that any restrictions placed on the usage of land be realistic and sensitive to the needs of the present owners of the land whose obligations may be an important portion of his family's financial planning (Rp. 38-41).

Langford Anderson spoke on behalf of the Somerset County Farm Bureau and read a resolution adopted by the Somerset County Farm Bureau.

Max Chambers spoke on behalf of the oystermen.

Milton Malkus read a statement in the absence of the President of the Dorchester County Farm Bureau which suggested that part of the problems of the Bay were caused by a failure to enforce the regulations already on the books. He also urged that, in the event the criteria impose a severe burden on agriculture, some effort to establish cost-sharing for implementation of the criteria be instituted in which the land owner, the State and the locality would share the cost of cleaning up the Bay (Rp. 44-46). He also urged that those exempted from the law be brought back under the terms of the law.

Wilson Lorre, a farmer of approximately 312 acres, gave the Commission a run-down of his experience with the use of chemicals for fertilizer, soil treatment and control of grass and weed killers.

Michael Weisner appeared as President of the Coastal Board of Realtors and urged the Commission to consider the contribution of industry and the City of Baltimore to the decline of the Bay. Lower Bay should not be required to bear the brunt of unbalanced regulation and control. Support the goals of the Commission, but regulations must be fair and equitable.

Norman Brittingham represented Wicomico and Worcester County Farm Bureaus. He discussed the economic as well as the land use problems of agriculture in the proposal for criteria. Regulations cannot be uniform because "one shoe does not fit every foot."

Wayne Asplen represented the Division of Environmental Health for the Dorchester County Health Department. His statement is found in the record beginning at p. 56 and continuing through page 58. He also filed a written statement which is included as an exhibit. The record includes the four recommendations made for the adoption of criteria. They are worth considering.

Mr. Harcum objected to the proposed regulations (not yet proposed).

Edward Halloway a farmer, objected to regulation.

Paul Twining, farm owner adjoining the Manokin River, urged the Commission consider the economic impact land use restrictions will have on the regulated areas. Land owners should be compensated for any loss in land value caused by regulation. Where possible, the Commission should utilize existing regulations. Severe restrictive regulations should not be imposed on agriculture in the State of Maryland.

Mrs. Lester Coggeshall complained that more than half of the major industrial discharges are operating with expired permits. The same thing is true of municipal discharges. Lagoon systems in Maryland do not consistently maintain their water quality standards and the laws presently on the books are not enforced (Rp. 65-67).

John Jordan spoke on behalf of the Maryland Forest, Park and Wildlife Service, an agency within DNR. He urged adequate forest buffers to intercept runoff, trap sediment loads and decrease nutrient loads (See Rp. 68-70).

John Finegan of the Delmarva Agricultural Chemical Association stated that the critical areas legislation was an unfair burden on the farmers. Buffer strips are unnecessary. The same result for conservation is achieved by no-till and the use of cover crops.

Francis O'Donnell urged the Commission to talk to the farmers, especially the younger ones, who have invested heavily in land and capital improvements and to adopt criteria which will give sufficient time to the farmers to adjust to the recommended changes.

William Livingston, Director of Planning for the Salisbury - Wicomico Planning Commission, complained the statute's impact was primarily on the non-metropolitan areas of the State and in the metro area of their undeveloped areas. He urged that the Commission distance itself from the Department of Natural Resources. He suggested the criteria be directed to match the problems of the geographic areas of the State and that they recognize that the problems in Maryland and the Chesapeake Bay vary from area to area. The programs adopted should leave some room for flexibility and should recognize that the amount of land covered by

development and the problems of pollution are related. The rules and regulations governing development are dependent on the laws governing each jurisdiction. The governance of rezoning is different in Wicomico County which is a charter county than it is in Salisbury which operates under Article 66B. Financial assistance should be made available to the municipalities and the counties in order to secure the technical staff and expertise necessary to comply with the criteria (Rp. 73-82).

Tex Sultenfuss, Commissioner for Queen Anne's County spoke of the erosion of the Chesapeake Bay shoreline at the rate of about 30' a year.

SL/ses
1/30/85

Chesapeake Bay Critical Areas Commission Hearing
Essex Public Hearing 1/3/85 - 7:30 P.M.

Norman Lauenstein (Rp. 14), Baltimore county Councilman, commented that farming and fishing are endangered in the Bay area, and that all Bay area jurisdictions are responsible for making this law work. Updating pollution controls on treatment plants and industry will help, though State funding is a necessity. Baltimore County has already adopted practices that should help comply with the eventual critical area criteria, for example: prohibiting development on wetlands, flood plain protection, encouragement of good stormwater management (capturing the first inch of rain), sediment control programs prior to development, the use of certain resource conservation zones, water and sewer plans, an agricultural preservation plan, septic regulations, open space program, marina development demonstration that water quality will not be degraded. 15% less development within the 1000 foot area should result in a contribution of 85% less pollution to the Bay.

Councilman O'Rourke (Rp. 20), of Baltimore County, offered encouragement to the Commission's work, and noted that any penalties for violation of criteria that are set out should be civil penalties so that tough enforcement is not hindered.

George Francos (Rp. 23), President of the Essex Middle River Civic Council, noted three important factors in the Bay's deterioration: local government development policies, sewage treatment facilities, and industrial and hazardous waste disposal. State, County and Federal Governments might consider creating a land bank to ease development pressures around the Bay. The Commission should also seek to have sewage treatment plants improved. Finally, the Commission should seek to establish criminal action against industrial and toxic polluters.

Nancy K. Matthews (Rp. 27), government relations liaison for the Greater Baltimore Board of Realtors, expressed concern that no representative of their industry sat on the Commission. Mrs. Matthews also noted their support for reasonable growth procedure, but opposition to unreasonable government restrictions affecting private development rights.

Mark Wasserman (Rp. 28), speaking for Mayor Schaefer, noted that the City of Baltimore did not intend to exempt itself from the Critical Area Program. One thing the city, in cooperation with County and Federal officials, is doing, is seeking to significantly upgrade the Back River Wastewater Treatment Plant, at a cost of \$400 Million. Funding, of course, is critical. Through improved erosion and sediment control laws and stormwater management, the city will be cooperating in the Bay's cleanup. Concerning the habitat goal, wetlands and parkland creation, revegetation, and similar efforts are on-going. Gaining public access and waterfront open-space might be an important

component for the Commissioner's criteria, especially as this affects urban areas. Finally, the State must recognize that local governments will need existence--personnel and financial--to make this Program work, also regarding the Commissioner's review process down the road, a streamlined one not producing undue delay, would be helpful.

Nancy Brewster (Rp. 36), representing the Maryland Chapter of the Nature Conservancy summarized Conservancy testimony given at previous hearing.

Joseph Gunner (Rp. 39), a resident of Sue Creek, commented that the drains from developments along the rivers are a major service of pollution and need to be dealt with in some way.

Al Clasing, Jr. (Rp. 40), President of the Back River Neck Peninsula Community Association, noted his community's concern for the polluted Back River and Middle River. The central point is that some rural areas, such as that in the Back River Area, must remain that way. Purchase is one way to assure that. The Commission must look carefully at existing local regulatory practices as well, to see how they're actually working or not working--for example, concerning a proposed 600 home development on Sue Creek.

John Gontrum (Rp. 45), an attorney in Baltimore, has represented clients in the past whose properties are effected by the Critical Area law. Mr. Gontrum requested that the criteria be flexible enough to reflect the localized nature of land, environment, and pollution. Solutions aren't the same for all properties. For example, some wetland development can enhance pollution control capability. Second, the Commission should consider the opportunities that off-site mitigation can have for improving the Bay. Third, controlled public access to these areas (wetlands) is an important goal toward which to work, rather than total prohibition of the public. Finally, the State should become a full partner in the development review process, rather than merely acting as a veto mechanism.

Delegate Weir (Rp. 51), expressed thanks to the County for adopting the basic concepts of what the Commission is trying to accomplish. Delegate Weir called for dedicated effort to save the Bay.

Norman Gerber (Rp. 52), Director of Planning and Zoning for Baltimore County addressed three concerns: local authority, criteria, and funding. First, the State must provide the framework within which local governments are to take regulatory action and give technical assistance toward that end. Second, flexible yet

firm criteria in five areas are necessary (see detail at pp. 54-55): preservation of coastal habitats and vegetation; sediments and erosion control using setbacks, sensitive land prohibitions, and buffers around water bodies; stormwater management techniques including infiltration, maximum coverage, and post-equal-to pre-development runoff rates; retrofitting existing industry; marina regulation; and significant enforcement improvements. Finally, local governments need the state's financial help to undertake this ambitious program.

Bruce Stover (Rp. 57), representing the students of Parkville Senior High School, Baltimore County, presented several of their concerns: unnecessary pollution going into the Bay, dredging, military testing, shoreline erosion, and Calvert Cliffs Nuclear Facility. Stricter enforcement of litter laws and of industrial pollution, as well as more monitoring, are required.

Ann Gaius (Rp. 59), General Counsel for the Chesapeake Bay Foundation, presented three major ideas; that standards for development should be strict in the critical areas, including such matters as buffer zones, stormwater management, erosion control, minimization of unpevious surfaces, and open space conservation; total protection of sensitive or unique areas; and the use of incentives to help landowners such as tax incentives, easements, or transferable development rights, as well as speeding outright acquisition of lands in these areas by State or private entities.

Robert Pollard (Rp. 63), Chairman, Baltimore Environmental Center Club first invited audience and Commission to the Club's annual meeting where a discussion of "Toxics in the Bay" would take place. Mr. Pollard suggested adequate funding assistance and the creation of a resource bank of technical expertise from the State, to provide on-going assistance to local governments in the biological sciences and other fields. Second, he noted that while growth needs to be accomodated, it should generally be diverted from the critical area.

Anneke Davis (Rp. 67), of the Maryland Ornithological Society, made a special plea for preservation of wooded wetlands, which are much rarer than grassed wetlands, and are extremely valuable habitat for a variety of birds and plants. Second, Ms. Davis expressed a concern over the cumulative impacts of development which are often ignored, and thus asked the Commission to very carefully consider any applications for inclusions. The less development along the shoreline, the better. Finally, Ms. Davis suggested that the Commission contact the City of San Francisco Bay Association for their insight.

Lee Miller (Rp. 73), a local resident, suggested that ways be explored for testing pollutant emissions of watercraft engines. Secondly, the Corps of Engineers needs to be more mindful of the Bay impacts of its decisions, such as permitting marinas, than it has in the past.

Judith Kremen (Rp. 76), of the Baltimore County League of Women Voters, asked that efforts continue to improve wastewater treatment facilities noted that research into habitat protection from the potential impacts of increased salinity and decreases in SAU remain important; and that land use planning and control tools be used to best effect--such as low density zoning. Adequate local and State funding of these efforts is required. Finally, the League encourages agricultural organizations in their education efforts concerning best management practices.

Guido Guarnaccia (Rp. 78), related several personal incidents exemplifying the pollution problems of the Bay in general and the Back River in particular. There, public outfalls, illegal pollution by Eastern Steel and disruption of beach areas, has all caused significant deterioration. Unlawful dumping practices must stop, enforcement must increase.

Brian-Hartman (Rp. 83), a senior at Parkville High School, recommended setting aside more wetlands for waterfowl and other wildlife, as well as improving existing habitat, increasing clean-up crews, monitoring hazardous pollution, and restricting real estate development.

Janet Wood (Rp. 84), representing the Maryland Waste Coalition, suggested that intense development that creates urban runoff pollution needs to be curbed or at least the development must be more sensitive to those impacts. Point source discharges by industrial polluters must receive the State's attention and increased enforcement of laws is vital.

Evan August (Rp. 86), a senior at Milford Mill High School, stressed the importance of dealing with sedimentation, retention of forest-vegetated areas in development projects, and the avoidance of wetlands if at all possible or regulations specifying the amount of wetlands that can be used, and better control of industrial waste discharges.

Kathy Quinlan (Rp. 89), President of the student government of Towson High School, used Cape Cod's fairly recent spate of poorly planned development as an example of what not to allow in this region. Certain specific standards, such as erosion control and vegetative buffers, are important, as is the protection of certain delicate areas, endangered plants and animals. Finally, the control of density within the thousand foot "buffer", by purchasing easements and tightening restrictions, is necessary.

Glen Novotny (Rp. 91), student president of Chesapeake High School, recommended restrictions on chemical factories which discharge into the Bay, and keeping good counts of each year's fishery. The young people should be involved.

John Jones (Rp. 92), a senior at Kenwood High School, noted his personal experience as a waterman which allowed him to see declines of shell-fish quantity and quality over the past two years. He

blamed overharvesting of females, destruction of marshes, reduction submerged grass beds and decreased salinity due to large freshwater flows. Mr. Jones suggested some remedies, such as: a minimal size mesh in crab pots that permits smaller crabs to escape; two escape rings for the same purpose; a limit on females that can be harvested; a moratorium on the taking of mature female crabs; an agreement with Virginia concerning lower bay harvest limitations; and reductions in freshwater runoff by reducing the amount of cultivation right to the water's edge, destruction of woods and meadows in the critical area for development, and destruction of marshes which can absorb runoff and sediments.

Doris Kuhar (Rp. 96), representing Baltimore County Citizen's improvement Association, recounted the problems of landfills adjacent to the Bay's tributaries, and how their leachate and runoff often finds its way into the rivers and the Bay. Similarly, junkyards, auto shops, and other non-water-dependent uses should not be located along rivers and creeks. Ms. Kuhar also asked for a moratorium on waterline development, with strict standards for other development.

Pearl Gintling (Rp. 99), withdrew her request to speak in favor of a later written statement.

William Wilson (Rp. 99), a Baltimore resident, spoke on behalf of the Maryland Conservation Council, and asked for strict standards for new development in critical areas; identification and protection of sensitive and unique areas; strict soil conservation practices for land under cultivation in critical areas; identify incentives which will encourage private preservation in critical areas.

Robert Christopher (Rp. 101), warned against "watering down" the 1000 feet to anything less, as well as making sure the State doesn't work at cross purposes with itself, where one agency is trying to preserve and another to develop. Mr. Christopher suggested an education criterion be included.

Michael Davis (Rp. 103), for Congresswoman Bentley, expressed support for the protection that a 1000 foot area in which development would be severely restricted, would offer the Bay - especially in the Back River Neck Peninsula area. This area should be targeted as a major preservation project. Secondly, an improved sewage treatment plant situation, or alternative systems, should be investigated and implemented, and the Back River Plant, to be upgraded soon, should be sure to be of sufficient capacity into the next century.

Mr. Wrightson (Rp. 107), withdrew his request for oral remarks and offered to submit comments in writing.

Jolen Markovich appeared as a representative of the Maryland Forest, Park and Wildlife Service, a unit of the Department of Natural Resources, which provides expertise and technical assistance in the management of those resources. Forest land covers 42 percent of Maryland's land area. Forest buffers along all the tributary streams

leading to the Bay are nature's most efficient filtering system. They intercept runoff and trap up to 100 percent of sediment loads and decrease nutrient loads. The following recommendations were made: (1) require local jurisdictions to include in their programs, zoning ordinances and subdivision regulations, a requirement for the retention of forest land; (2) forest land adjacent to the Bay shoreline and to tributaries of the Bay should receive the highest priority for retention and protection ; (3) a criterion should be adopted that would require a forest management plan be approved for any cultural operation on forest land in the critical areas and; (4) forest buffers should be required in non-forested areas adjacent to the Bay shoreline and tributaries draining to the Bay, (5) the steeper the slope of the land used, the wider the buffer that should be required and (6) that the existing wildlife habitats encompassed in the critical area in its entirety be considered for maintaining existing wildlife habitats and for creating additional ones (Rp. 108-110).

Daryl Braithwate, program coordinator of the Maryland Office of the Clean Water Action Project stated that population growth and subsequent development together with the decline of protective land uses have caused a great reduction in the quality and productivity of the Bay watershed, she recommended that in developing areas, the use of land should be permitted only in limited areas and in the most environmentally sound manner, including ample setbacks for septic tanks along streams and shorelines; maximum use of porous pavement; maintenance of vegetative and timber cover; enforcement of sediment control during construction, development should be prohibited in areas of unique and sensitive habitats, steep slopes and easily erodable soils or where disturbance of tidal or non-tidal wetlands could occur.

For the rural and undeveloped areas, open space should be preserved by providing incentives for easements and land acquisition. Where areas are now enjoying high density zoning beyond what is now being used, the areas should be down-zoned. In agricultural areas, buffer strips should be required to protect the waterway from run-off of nutrients from farmland. Local pollution control has failed because of a lack of money, staff and low priority from the local subdivisions (R110-113). The witness also filed with the Commission a copy of the statement of Henry Koellein, President of the Metropolitan Council of the AFL-CIO.

Daniel Beck, President of Baltimore County Waterman's Association recommended an immediate moratorium on any future development in the area designated as critical areas "until the criteria are developed". All existing sewer plants and systems should be immediately upgraded. Annapolis, Havre De Grace, and Chestertown as well as Calvert, Prince George's, Anne Arundel, Baltimore, Harford, Cecil, Kent and Queen Anne's Counties sewer systems are inadequate to serve the areas they are supposed to serve.

Daniel O'Toole, President of the Maryland White Lung Association complained of a diversity of enforcement responsibility parceled out to a number of State agencies with no one central authority being responsible for the strict enforcement of the rules and regulations. He also suggested stiffer penalties for violations of the law.

Fred Haleicht objected to the proposals for central sewage on the Back River Peninsula because it urbanizes what is still a rural area. He suggested the use of alternative systems experimenting with new technologies which are funded by EPA and the State of Maryland.

Kathy Martin appeared as a property owner on the Gunpowder River which is one of the tributaries of the Chesapeake Bay who was upset by the run-off of sediment from businesses, farms and developments which make the river a reddish, mucky color. The development where she presently lives has been allowed to build within 100' of the stream bank with very steep slopes up to 60 to 70 degrees. Existing vegetation has not been preserved and severe erosion has occurred.

Judy Johnson read a statement prepared by the Natural Resources Defense Council and by the Committee to Preserve Assateague, both of which can be found at pp. 125-131 of the record.



*Comm
mtg*

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

December 24, 1984

Dear Commission Member:

The fourth meeting of the Chesapeake Bay Critical Area Commission will be on January 2, 1985, at 4:00 p.m. in the conference room of the Maryland Department of Agriculture Building. The conference room is on the ground floor of the building, and directions are enclosed showing the building location in Annapolis.

Action items enclosed with this letter are:

- 1) the minutes of December 5, 1984 which will need your approval;
- 2) an expanded work plan which will need your endorsement as well as the establishment of the beginning work dates for each subcommittee.

Other items for your information include:

- 1) a revised subcommittee listing based on the responses received by Commission members;
- 2) a revised name, address, and phone listing of Commission members.

Finally, based upon a request by one of the Commission members, Lee Epstein, Commission Attorney, prepared a memorandum on "criteria" and examples of criteria for your use.

Wishing you the best of holidays and looking forward to our meeting on the 2nd of January.

Sincerely,

Solomon Liss
Chairman

SL/ses
Enclosures



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

RECEIVED
1984 DEC 26 JUDGE SOLOMON LISS
CHAIRMAN

DNR-005

CAE

You are scheduled.

December 24, 1984

Dear Commission member:

good

The fourth meeting of the Chesapeake Bay Critical Area Commission will be on January 2, 1985, at 4:00 p.m. in the conference room of the Maryland Department of Agriculture Building. The conference room is on the ground floor of the building, and directions are enclosed showing the building location in Annapolis.

Action items enclosed with this letter are:

- 1) the minutes of December 5, 1984 which will need your approval;
- 2) an expanded work plan which will need your endorsement as well as the establishment of the beginning work dates for each subcommittee.

Other items for your information include:

- 1) a revised subcommittee listing based on the responses received by Commission members;
- 2) a revised name, address, and phone listing of Commission members.

Finally, based upon a request by one of the Commission members, Lee Epstein, Commission Attorney, prepared a memorandum on "criteria" and examples of criteria for your use.

Wishing you the best of holidays and looking forward to our meeting on the 2nd of January.

Sincerely,

Solomon Liss

Solomon Liss
Chairman

SL/ses
Enclosures



TORREY C. BROWN, M.D.
SECRETARY

JOHN R. GRIFFIN
DEPUTY SECRETARY

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

November 26, 1984

Mr. R. Franklin Burris
Administrator
Central Services Office
Maryland Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

Dear Mr. Burris:

This is to request and confirm the use of the conference room for January 2nd, 1985 at 4:00 for a Chesapeake Bay Critical Area Commission meeting.

The Commission meeting should last 2 1/2 hours.

I would like to have the room arranged classroom style with tables up front enough to hold the 25 members.

Thank you for reserving the room for us.

Sincerely,


Sarah J. Taylor
Executive Director

SJT/dcw