

Committee Meetings & Correspondence March 1987

MSA 51832-31

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JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
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February 25, 1987

Dear Commission Member:

The March meeting of the Commission will be on the 11th at the Wye Woods Center, Aspen Institute beginning at 9:00 and ending around 4:00 p.m. A map is enclosed for your reference.

There are several purposes to be accomplished at the meeting. First of all, we anticipate that two papers will be available for presentation. They are:

- 1) A revised draft of the non-tidal wetlands guidance paper;
- 2) A draft paper on waterfowl staging and concentration areas and colonial water birds.

A copy of the non-tidal wetlands paper was provided to you earlier, and the staff hopes to be able to finalize the paper at the meeting so that it may be printed and distributed to the local governments for their use. A second purpose of the meeting will be to honor those members of the Commission who served from the very beginning. A lunch will be provided to all attending, at which time, former members and their contributions will be recognized. The third purpose of the meeting will be to welcome newly appointed members and to provide them with a briefing of Commission work to date.

CABINET MEMBERS

- Torrey C. Brown, M.D.
Natural Resources
- Wayne A. Cawley, Jr.
Agriculture
- William Eichbaum
Health and Mental Hygiene
- Ardath Cade
Economic and Community Development
- Constance Lieder
Planning

Commission Member
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I hope that all of you will be able to attend the entire day's session. An agenda of the day's events as well as a copy of the minutes are enclosed. Copies of the revised non-tidal wetlands paper and the water bird staging and concentration area paper will be available at the meeting. Please come prepared to discuss the non-tidal wetlands draft.

I look forward to seeing you at the meeting, and hope you can attend to welcome the new members and to honor those whom we were privileged to have as members.

Sincerely,



Solomon Liss
Chairman

SL/jjd

Enclosures

AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Aspen Institute at Wye Plantation
Queenstown, Maryland

March 11, 1987

9:00 - 4:00 p.m.

9:00 - 9:30:	Coffee and Donuts	
9:30 - 9:45:	Welcome and Introduction of New Members	Solomon Liss Chairman
9:45 - 10:00:	Process - How the Criteria Were Formulated	Solomon Liss Chairman
10:00 - 10:30	Questions on the Criteria	Solomon Liss Critical Area Staff
10:30 - 11:30	Current Status of Commission	Dr. Sarah Taylor
12:00 - 1:30	Lunch and Awards	
1:30 - 1:35	Approval of February 11 Minutes	Solomon Liss Chairman
1:35 - 2:00	Non-Tidal Wetlands, Colonial Water Birds, Waterfowl Staging and Concentration Areas	Dr. Kevin Sullivan
2:00 - 2:30	180-day Extensions and Status of Contracts	Dr. Sarah Taylor
2:30 - 3:00	Legislation and Other Updates	Solomon Liss Chairman
3:00 - 3:30	New and Old Business Anne Arundel County Panel	Solomon Liss Chairman
3:30	Social Hour	

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
February 11, 1987

The Chesapeake Bay Critical Area Commission met at the Department of Agriculture, Annapolis, Maryland. The meeting was called to order by Chairman Solomon Liss, with the following members in attendance:

Florence Beck Kurdle
Constance Lieder
Parris N. Glendening
Robert R. Price, Jr.
Albert W. Zahniser
Torrey C. Brown
Barbara O'Neill
Thomas Jarvis
Ardath Cade

William Bostian
James E. Gutman
Shepard Krech, Jr.
J. Frank Raley, Jr.
Ronald Hickernell
Samuel E. Turner, Sr.
Anne Sturgis Coates
William Eichbaum

The minutes of the January meeting were approved as written.

Chairman Liss introduced Donald MacLauchlan, Director of the Department of Natural Resources Forest, Park, and Wildlife Service, and Pamela Anderson, Assistant Attorney General, and Derek Richerson of the Maryland Natural Heritage Program. The proposed Threatened and Endangered Species Regulations and Background Information compiled by the Natural Heritage Program was distributed to the Commission. Ms. Anderson explained the background of the State's Non-game and Endangered Species Laws. She emphasized that the State Law is patterned after the federal law. A distinction was pointed out with regard to the requirement of "Critical Habitat" for federally designated endangered species. In particular, the federal law required the designation of essential habitat for listed species that occur on federal property. Analogous to federal Critical Habitat, is the Natural Heritage Area concept; however, NHAs are solely an ecological designation by the Secretary of the Department of Natural Resources, and currently, neither require special management nor preclude any otherwise lawful activity desired by the private property owner. Ms. Anderson emphasized that the endangered and threatened species listed were predominantly those that occur in the Critical Area, in order to expedite local program development, and that a cooperative management regime for these species is envisioned.

She then proceeded to explain the structure and content of the proposed regulations. Discussion ensued concerning particulars of the various sections. It was explained that the category "Endangered Extirpated" included those species for which no extant sites exist in Maryland and for which no records subsequent to 1950 exist. It was also pointed out that the Natural Heritage Area Summaries were not available at this time,

but would be distributed to the Commission members as soon as possible.

Chairman Liss asked when promulgation and hearing dates are for these regulations. Ms. Anderson answered that the regulations have been submitted to the AELR Committee, and are scheduled to appear in the March 13th edition of the Maryland Register. A 45-day period has been scheduled for public comment.

Mr. Raley asked what the criterion was for listing Rare and Endangered Species. Ms. Anderson answered that the listing for each category of species is presented in detail in the Regulations.

Dr. Krech asked if any species had been removed from the list when it was updated. Ms. Anderson answered that the status of some species has changed (population, etc.), but none have been removed at this time.

Dr. Brown said that the Regulations were designed for clarity, and for the first time, provide a procedure for the public to petition the Department of Natural Resources to add and/or remove species and/or NHAs from the State List. He also complemented the Natural Heritage Program and Department of Natural Resources' TES Committee for their efforts on the Regulations.

Mr. MacLauchlan then stated that there are 32 proposed Natural Heritage Areas, nine of which are solely on public lands, approximately 15 are in public and private ownership, and the remainder are on private lands. He emphasized that DNR's policy for protecting these species and Natural Heritage Areas is one of "cooperative conservation"; that is, DNR does not intend to regulate, mandate, or require restrictions of land use on private property, but desires to foster positive relations with property owners throughout the State.

Ms. Cade was then asked to report on the status of the draft State and Local Development Regulations. The changes submitted to the Subcommittee by other State agencies were distributed to the Commission for discussion. The draft regulations are to be voted upon by the Commission for approval to submit to the AELR Committee and then forwarded for inclusion in the late March or early April edition of the Maryland Register. The Commission discussed the entire set of regulations in detail, and voted to accept the regulations subject to revision in accordance with its instructions. The vote was 15:3 in favor.

Dr. Sullivan reported that the staff is working on the preparation of a draft Memorandum of Understanding with the Maryland Port Administration, and other agencies, that will facilitate the review of their agency programs in the Critical Area. The Commission will need to review and give approval to such memoranda.

Dr. Taylor was then asked to give a report on the status of the 180-day extensions for local programs. She reported that, 35 jurisdictions had requested the 180-day extension and that letters from the remaining jurisdictions were being sent. One particular situation however, involved the Town of Oxford which had not yet selected a consultant by the February 7th deadline.

She said that a letter was sent by Ms. Carolyn Adams for the Commissioners of the Town of Oxford to inform the Commission of their efforts since November 1986, to receive bids for a consultant for program development.

Dr. Taylor then read the intended correspondence from Chairman Liss to the Town requesting that a date be adhered to by the Town in submitting its paperwork for program development. Chairman Liss asked for discussion and vote as to whether the Commission should send the letter. This was agreed to by the Commission unanimously, however, certain suggestions for changes in the letter were made, and Chairman Liss was instructed to send a modified letter to the Town of Oxford.

Chairman Liss asked that there be a motion to grant the extensions so far requested. The motion was made and seconded, and all approved. Chairman Liss was also granted the authority to approve 180-day extension requests from jurisdictions sending letters after the date of the Commission meeting.

Under New Business, Mr. Epstein stated that two suits have been filed in St. Mary's County regarding the constitutionality of certain actions the County has taken, pending completion of its Critical Area Program. The Commission was sent copies of the suits and copies were also sent to the Department of State Planning. The Department of State Planning and the Department of Natural Resources' Attorneys General discussed the matter and recommended that the Commission not get formally involved, but suggested that the Attorney General's Office be requested to act in accordance with its own powers under the Declaratory Judgement Act. A motion to that effect was made and approved.

There being no further business, the meeting was adjourned.