

Committee Meetings & Correspondence November 1992

USA-S-1832-100

J. J. Hearn *Judge North II* *Bill Bostian*
Sam Bowling *Bill Corkran* *Jim Lytman*
Dave Bourdon *Tom Jarvis* *Jim Peck*
Bob Schoeplein *Stella Phillips* *Paris Glendering*
Roger Williams

Chesapeake Bay Critical Area Commission
 Department of Housing and Community Development
 Crownsville, Maryland
 November 4, 1992
PRELIMINARY AGENDA

Peggy
my notes

Thep Kreech
Michael Whitson
Ron Hieburnall
Phil Barber
Louise Lawrence
Bob Price Jr.
Hal Kassoff
Bob Fitzgerald
Ron Young

SUBCOMMITTEES

- 9:00 a.m. - 10:00 a.m. MOU-MDOT Conf. Room C
 695 Toll Plaza
 Fitting into the SHA Process
- 10:00 a.m. - 11:00 a.m. Project Evaluation Conf. Room D
- 11:00 a.m. - 11:30 a.m. Special Issues Conf. Room C
 Nontidal and Forestry Legislation
- 11:00 a.m. - 12:00 p.m. Program Amendment Conf. Room D
 Growth Allocation
- 12:00 p.m. - 1:00 p.m. LUNCH

PLENARY MEETING

- 1:00 p.m. - 1:05 p.m. Approval of Minutes John C. North, II
 October 14, 1992 Chairman *unanimous approval*
- 1:05 p.m. - 1:20 p.m. WSSC Broad Creek Sam Bowling, Chair *unanimous approval*
 Pumping Station - VOTE Theresa Corless, Planner *w/ cond.*
- 1:20 p.m. - 1:35 p.m. Point Lookout State Sam Bowling, Chair *unanimous approval*
 Park/Shore Erosion Ren Serey, Planner *w/ condit*
 Control - VOTE
- 1:35 p.m. - 1:50 p.m. Sandy Point State Park Sam Bowling, Chair *unanimous approval*
 Boat Storage Building VOTE *w/ cond.*

PROGRAM AMENDMENTS & REFINEMENTS

- 1:50 p.m. - 2:05 p.m. Betterton Growth Pat Pudelukwicz, Planner *Refinement supported*
 Allocation (Betterton Bay Club) *Mr. Earl Jarvis attended.*
REFINEMENT
- 2:05 p.m. - 2:20 p.m. Baltimore County - Bob Schoeplein, Chair *approved*
 Mapping Mistake VOTE Pat Pudelukwicz, Planner *unanimous*
- 2:20 p.m. - 2:45 p.m. St. Mary's County Sam Bowling, Chair
 Growth Allocation Ren Serey, Planner

42 acres w/ growth

unanimous approval

G.A. Doris Co.
Tentative
Planner for January Mtg.

"POLICIES"

2:45 p.m. - 3:00 p.m.	Structures Over Piers Policy	Liz Zucker, Science Adv. Frank Dawson, Chief, Tidal Wetlands,
3:00 p.m. - 3:30 p.m.	Reconsideration <i>hold off for December mtg.</i>	Sarah Taylor, Exe. Dir. George Gay, AAG
3:30 p.m. - 3:40 p.m.	Forestry Legislation <i>do a comparison of weaker, stronger</i>	Sarah Taylor, Exe. Dir.
3:40 p.m. - 4:00 p.m.	Nontidal Wetlands Leg.	Elizabeth Zucker, Science Advisor <i>(Corkran) 1st approved</i>
4:00 p.m. - 4:15 p.m.	Procedures - Comp. Review	Pat Pudelkewicz, Planner
4:15 p.m. - 4:30 p.m.	Commission Meeting Procedures	Sarah Taylor, Exe. Dir.
4:30 p.m. - 4:45 p.m.	Public Hearing Procedures	George Gay, AAG
4:45 p.m. - 5:00 p.m.	LEGAL Updates	George Gay, AAG
5:00 p.m. - 5:10 p.m.	Old Business	John C. North, II, Chairman
	New Business	John C. North, II, Chairman

Handwritten notes on right margin

*Stanford Co Panel
Handouts - Trib +
Kit.*

*Maybe use the roof item as an exemption
Call Frank - see resp. prior to change.*

*FYI - Annexation
Chas City*

*Patou
Regina*

~~*Structures Over Piers
Reconsideration*~~

*Md DOT Hwy Co
Wetland
Mitigation
Vote!*

Liz Zucker

*Forestry Legislation
Commission Procedures
Public Hearing Procedures
Buffer Exemption for the
Project D.C.*

*Md. Rte. 150 Budge Claudia
Replacement - Jones.
Vote.*

Yants Mtg.

*I would keep
separate notes
on arrival +
departure
times.*

Chesapeake Bay Critical Area Commission Meeting
Department of Housing and Community Development
100 Community Place, Conference Room 1100 A
Crownsville, Maryland
November 4, 1992
Minutes

The regular monthly meeting of the Chesapeake Bay Critical Area Commission was held at the Department of Housing and Community Development in Crownsville, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

Barker, Phillip	Bostian, William
Bourdon, David	Bowling, Samuel
Fitzgerald, Robert	Corkran, William
Glendening, Parris (arrived 1:15)	Gutman, James
Hearn, J. L., MD. Dept. of Environmt.	Hickernell, Ronald
Jarvis, Thomas	Kassoff, Hal, MD. Dept. of Transportation (arrived 1:18)
Krech, Dr. Shep	Peck, Jim, MD. Dept. of Natural Resources
Lawrence, Louise, Md. D. of Ag (left 2:30)	Schoeplein, Robert, DEED
Phillips, G. Steele	Williams, W. Roger
Price, Robert R., Esquire	
Whitson, Michael J. (left 2:58)	
Young, Ronald, MD. Office of Planning (arrived 1:40)	

The Minutes of October 14th were read and approved as written.

Planner, reminded the Com
project in Pri

*unanimously
approved.*

Chesapeake Bay Critical Area Commission Meeting
October 14, 1992
J. Millard Tawes Museum
Crisfield, Maryland

The regular monthly meeting of the Chesapeake Bay Critical Area Commission was held at the J. Millard Tawes Museum in Crisfield, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

- | | |
|---------------------------------------|--------------------------------------|
| Barker, Phillip | Bostian, William |
| Krech, Dr. Shep | Corkran, William |
| Gutman, James | Hickernell, Ron |
| Jarvis, Thomas | Blake, Russell |
| Lawrence, Louise, DOA | Phillips, Steele |
| Hearne, J. L., DOE | Schoeplein, Robert, DEED |
| Ambridge, Anthony | Carolyn Watson for Parris Glendening |
| Williams, Roger | Ronald Young, MOOP |
| Elbrich, Joseph | Fitzgerald, Robert S. |
| Wheeler, Charles for
Jim Peck, DNR | |

The Minutes of September 2nd, 1992 were read and approved as written.

Chairman North welcomed the newest member elect of the Critical Area Commission representing Somerset County, Mr. Robert S. Fitzgerald. Mr. Fitzgerald has been selected and approved by the Governor's office but must be approved by the Senate.

Commission Counsel Gay reported on the Pepco Memorandum of Understanding. He stated that Pepco is the owner of a power generating facility in Prince George's County known as Chalk Point. The railhead and the railway access at the facility are in need of repair and are located in the Critical Area Buffer. Pepco officials have sought Governmental review of their proposed repair development activity at this site. Prince George's County, upon review of the application, has suggested that the Critical Area Commission is the appropriate governmental body to review the development activity for compliance with the Criteria and/or the local program. Commission's Counsel suggested that the Prince George's County should conduct the review of the development activity. Pepco is caught between two governmental bodies. In an effort to resolve the review issue a Memorandum Of Understanding has been developed, proposed, and reviewed by the Commission's Special Issues Subcommittee. The gist of the Memo is that all parties, Pepco, Prince George's County and the CAC agree that the ultimate issue of who should exercise jurisdiction is unresolved. In the meantime, the CAC will undergo review of the project and Prince George's County will acknowledge that the Commission's review satisfies all of its review procedures that may or may not be applicable. Pepco agrees to this process, at its own risk, and to take action in light of whatever the Critical Area Commission's determination may be.

Commissioner Gutman stated that the subcommittee has considered the proposed MOU and believes that it should be handled expeditiously. He moved that the Draft MOU provided to the Commission be deemed acceptable and be forwarded to all signatories. The motion was seconded and carried unanimously.

Claudia Jones, CBAC Planner, gave an informational report on the four span concrete Bridge Replacement over Middle River proposed by the State Highway Administration. Ms. Jones told the Commission that currently there is no specific stormwater management plan proposed. The project area is designated as 75% LDA and 25% IDA on county maps. However, Ms. Jones stated that she would recommend and IDA classification since the project is on State land. She said that after review of the project, staff recommendation was for approval with the following conditions: a) that the project area is classified as an area of Intense Development; b) that a 10% reduction in existing pollution be achieved; c) that SHA submit a stormwater management plan to Commission staff for review and approval prior to construction. This project will come for a vote once the conditions are addressed. Ms. Jones introduced Mr. Ali Chaharbaghi, SHA project engineer, who briefed the Commission on the history of the project and described the plans.

Chairman North announced that there was some concern among the panel members following Mr. Chaharbaghi's presentation at the subcommittee that morning with respect to the problem of surface runoff. He stated that the runoff would be exacerbated by the closing over of the area between the two bridges and removing grass medians on each side of the bridges. However, the slopes that go down from the sides of the bridges into the water are very steep with an increased amount of surface runoff and the concern was to whether or not the sharply sloped areas could take that runoff without being eroded and whether simple vegetation could deal with that problem. Commissioner Gutman asked when a completed set of sediment control plans would be available to the Commission. Mr. Chaharbaghi stated perhaps by October 20th. Mr. Gutman moved to table the matter to further discussion until the appropriate documentation is received. The motion was seconded and carried 14 in favor with Commission Bostian standing opposed.

John Lipman, former intern with the Critical Area Commission, gave a presentation to the Commission on Uses In The RCA. He distributed to the Commission members a Draft policy entitled An Analysis of Permitted Land Uses in the Resource Conservation Area and Proposed Guidelines for Jurisdictional Decision Making. Dr. Sarah Taylor, Executive Director CBCAC, stated that this booklet sets out the Commission staff's perspective on Uses in the RCA which could serve as guidance to local jurisdictions. She said that this booklet would be shared with the Maryland Association of Counties for their input and she solicited the input of the Commission members. At the request of Mr. Gutman a tentative date of December was set to accomplish the goal of developing the Draft into a Guidance Booklet.

Theresa Corless, CBCAC Planner, apprised the Commission that Talbot County has made an amendment to their program which they would like considered a refinement. She said that Talbot County implements its critical area program through an overlay zone. There are three underlying zones within the LDA. The proposal is to change the zoning ordinance to allow changes within these zones without bringing them before the Commission as there will be no change in the Critical Area designation only in the underlying zones. The Chairman deemed this to be a refinement and the Commission supported the Chairman's determination.

Thomas Ventre, CBCAC Planner, informed the Commission that Dorchester County has requested Commission approval of changes to its local Program maps and to total-acreage estimates in its Limited Development Area classification. These changes are made necessary by the recent annexation by the City of Cambridge of

Chesapeake Bay Critical Area Commission
Minutes - October 14, 1992

18.125 acres of County land. This County request for Program refinement is the complement to the City's Program refinement, approved last month by the Chairman with the Commission's concurrence. The Chairman's determination of this request was a refinement and the Commission supported the decision.

Patricia Pudelkewicz, CBCAC Planner, gave an informational report to the Commission on Baltimore County's request for mapping mistake for the First National Bank of Maryland at 809 Eastern Avenue in Essex. She told the Commission that a public hearing is scheduled for October 27, 1992. A vote is anticipated at the November Commission meeting. Chairman North appointed a panel for this hearing consisting of Phil Barker, Ron Hickernell, Anthony Ambridge, J.L. Hearn, and Bob Schoeplein, Chairman.

Ms. Pudelkewicz reported that Chestertown has proposed to incorporate a 15-acre parcel of land into their Critical Area Program. When the original program was adopted in 1989, this parcel of land was inadvertently left out of the Critical Area Program, not mapped or incorporated, but development is now proposed for this land. She said that the Town is proposing to incorporate the parcel as LDA as it meets the mapping criteria for LDA. A public hearing was held on October 1st. Commissioner Shep Krech moved to approve Chestertown's mapping proposal. The motion was seconded and carried unanimously.

Ms. Pudelkewicz stated that the second request of Chestertown has been deemed a program refinement by the Chairman. This is a growth allocation area specifically mapped out in the local program as a program refinement. The Town has requested 43 acres as growth allocation. It is identified in the Chestertown Critical Area Program as a growth allocation area and the entire property will convert from RCA to IDA. The Commission supported the Chairman's decision.

Ren Serey, CBCAC Planner, gave an informational report to the Commission on St. Mary's County Growth Allocation requests. The requests were for St. Winifred's Estates, 15.2 acres to be deducted; Windward Cove, 6 acres to be deducted; Christmas Hill, six acres to be deducted. A panel hearing was held October 1st and a Commission vote is expected at the November 4th Commission meeting.

Ms. Elizabeth Zucker, CBCAC Science Advisor, discussed legislative alternatives for bridging inconsistencies between the Critical Area criteria and the Department of Natural Resources' regulations for protecting nontidal wetlands. Because the Nontidal Wetlands Protection law of 1989 does not include the Critical Area within its purview, nontidal wetlands within the Critical Area are regulated under criteria that are separate and different from the DNR nontidal regulations. Regulatory inconsistency and confusion has resulted from the implementation of two different sets of standards, particularly where wetlands encompass both sides of the Critical Area boundary. To eliminate or minimize inconsistencies between the two programs, the Critical Area Commission, in conjunction with DNR is reviewing three possible legislative alternatives. Alternative I: Amend the 1989 Nontidal Wetlands Protection Law to include the Critical Area (with no additional text changes). The Critical Area criteria for nontidal wetlands would be repealed.

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Alternative II: Incorporate the Critical Area into the DNR Nontidal Wetland Protection Law with a provision that regulations specific to the Critical Area be established by DNR to address the most important differences between the two programs. The Critical Area criteria for nontidal wetlands would be repealed. Alternative III: Modify the Critical Area criteria to make them compatible with the DNR regulations. The advantages and disadvantages of each alternative were discussed. Mr. Charles Wheeler, Water Resources Administration, DNR, spoke to the merits of a State administered program for managing wetlands geared to eliminate the coordination with the Federal Government - U.S. Army Corps of Engineers. Dr. Sarah Taylor stated that whatever alternative is chosen by the Commission will be introduced to the General Assembly by the Legislative Oversight Committee as the window of opportunity for the Commission to introduce legislation has closed. Alternative I has already been submitted by the DNR through the Water Resources Administration. Alternative II has also been accomplished by DNR. Dr. Taylor told the Commission that the Oversight Committee has been working with the Critical Area for and is relying on them to choose the direction to go. On the 28th of October there will be a meeting with the Oversight Committee and they will be apprised of the alternatives. She said the MACCO is interested in simplifying the nontidal wetlands issue and input would be solicited from the local jurisdictions as well. Mr. Gutman expressed interest in having a general consensus of the Commission before going to the Oversight Committee.

Dr. Sarah Taylor, Executive Director, told the Commission that another piece of legislation involves amending the Critical Area criteria to provide for consistency with the "Forest Conservation Act". Suggested changes in regulations to improve coordination between the Critical Area Criteria and the Forest Conservation Act were discussed, e.g., definitions of "Forest" and "Reforestation". Dr. Taylor said that conceptual approval will be sought at the November meeting.

Counsel Gay updated the Commission on pending legal actions. He said that the Court of Special Appeals ruled in favor of the Commission in the matter of the Wharf at Handy Point in Kent County. Subsequent to that, the developer filed a Petition for Writ of Certiorari and the Court of Appeals has not decided whether or not to grant the Petition.

Mr. Gay explained the case of Mr. Pollock vs. the DNR involving Black Marsh in Baltimore County. He stated that the Critical Area Commission rendered a decision to allow concept plan approval of a DNR proposed development action in Baltimore County on State lands. Neighboring property owners appealed the Commission's approval. He said that the Commission is not now a party to the Appeal, but rather a disinterested bystander that made a call in accordance with its regulations. The parties to that action are DNR and the neighboring property owners. The Commission's record has been filed in the Circuit Court. The neighboring property owners must now file their brief explaining why the decision of the Commission was incorrect and DNR must file a brief explaining why the Commission's decision was correct.

Counsel Gay advised that the Severn River Bridge Declaratory Judgement suit

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has been brought against Judge John C. North, II, Chairman, Chesapeake Bay Critical Area Commission and Dr. Torrey C. Brown, Secretary, Department of Natural Resources. An answer to the complaint has been filed. The matter is awaiting a court date. Meanwhile, construction of the bridge is ongoing.

OLD BUSINESS

Dr. Sarah Taylor reminded the Commission of the Draft Policy for Reconsideration which describes the circumstances wherein reconsideration to a former decision made by the Commission could be given. This Draft has been reviewed by Counsel Gay. She disseminated a Draft copy to the Commission members for their review and stated that it would be on the agenda in November for a discussion.

NEW BUSINESS

Mr. Hugh Smith, CBCAC Public Affairs Officer, briefed the Commission on the events of the Commission retreat which would follow the Commission meeting at the Museum in Crisfield on October 15th.

Chairman North announced that about 10 or so days ago Commissioner Kathryn Langner had suffered a serious fall and was confined to the hospital in Elkton. Dr. Taylor stated that Mrs. Langner is on the mend and is at home now except that she is still in some pain. Flowers with a speed recovery note were sent to Kay from the Commission.

There being no further business, the meeting adjourned at 3:45 p.m.

Submitted by:

Peggy Mickler, Commission Secretary

Chesapeake Bay Critical Area Commission

COMMISSION MEMBERS

- ~~North, II, John C., Chairman~~
~~Ambridge, Anthony, Baltimore City~~
~~Barker, Philip, Harford County~~
~~Blake, Russell W., Worcester County~~
~~Bostian, William J., Talbot County~~
~~Bourdon, David G., Calvert County~~ — no vote
~~Bowling, Samuel Y., Charles County~~
~~Fitzgerald, Robert S., Somerset County~~ — no vote
~~Corkran, William H. Jr., Talbot County~~
~~Elbrich, Joseph J. Jr., Anne Arundel County~~ — will not attend
~~Glendening, Parris, Prince George's County~~ — 1:15 arrived
~~Gutman, James E., Anne Arundel County~~
~~Hearn, J. L., MD Dept. of Environment~~ — late
~~Hickernell, Ronald, Baltimore County~~
~~Jarvis, Thomas L., Caroline County~~
~~Kassoff, Hal, Department of Transportation~~ — 1:18
~~Krech, Dr. Shepard Jr., Talbot County~~
~~Langner, Kathryn D., Cecil County~~
~~Lawrence, Louise, Department of Agriculture~~ — left 2:30
~~Little, J. Rodney, DHCD~~
~~Peck, Jim, Department of Natural Resources~~
~~Phillips, G. Steele, Dorchester County~~
~~Price, Robert R. Esquire, Queen Annes County~~
~~Schoepflein, Robert, DEED~~
~~Whitson, Michael J., St. Mary's County~~ — left 2:58P
~~Williams, W. Roger, Kent County~~
~~Young, Ronald, Maryland Office of Planning~~ — (h. Duket) — 1:40 arrived

STAFF

- Sarah J. Taylor, Executive Director ✓
Hugh Smith, Public Affairs Officer ✓
George Gay, Commission Counsel ✓
Liz Zucker, Science Advisor ✓
Pat Pudelkewicz, Chief Program Amendments ✓
Ren Serey, Chief Project Evaluation ✓
Claudia Jones, Planner ✓
Tom Ventre, Planner ✓
Dawnn McCleary, Planner ✓
Theresa Corless, Planner ✓
Veronica Nicholls, Administrator ✓
Peggy Mickler, Commission Secretary ✓
Jennifer Delve, Commission Secretary ✓
Bonnie Bjornstad, Commission Receptionist ✓
Lisa Hoerger, Secretary ✓

CBCAC Circuit Riders

- Carolyn Watson, CA Coordinator, P. G. County ✓
Larry Duket, CA Coordinator, State Planning ✓
Janet Gleisner, Circuit Rider ✓

Rohery Hurley

Toni McGowan ✓
Christi ✓

Attendees

Chesapeake Bay Critical Area Commission
November 4, 1992 Meeting
Department of Housing and Community Development
Crownsville, MD

COMMISSION MEMBERS

North, II, John C., Chairman

Barker, Philip, Harford County

Bostian, William J., Talbot County

Bourdon, David G., Calvert County

Bowling, Samuel Y., Charles County

Fitzgerald, Robert S., Somerset County

Corkran, William H. Jr., Talbot County

Glendening, Parris, Prince George's County

Gutman, James E., Anne Arundle County

Hearn, J. L., MD Dept. of Environment

Hickernell, Ronald, Baltimore County

Jarvis, Thomas L., Caroline County

Kassoff, Hal, Department of Transportation

Krech, Dr. Shepard Jr., Talbot County

Langner, Kathryn D., Cecil County

Lawrence, Louise, Department of Agriculture

Peck, Jim, Department of Natural Resources

Phillips, G. Steele, Dorchester County

Price, Robert R. Esquire, Queen Annes County

Schoeplein, Robert, DEED

Whitson, Michael J., St. Mary's County

Williams, W. Roger, Kent County

Young, Ronald, Maryland Office of Planning

STAFF

Sarah J. Taylor, Executive Director

Liz Zucker, Science Advisor

Pat Pudelkewicz, Chief Program Amendments

Ren Serey, Chief Project Evaluation

Claudia Jones, Planner

Tom Ventre, Planner

Dawnn McCleary, Planner

Theresa Corless, Planner

Peggy Mickler, Commission Secretary

CBCAC Circuit Riders

Carolyn Watson, CA Coordinator, P. G. County

Larry Duket, CA Coordinator, State Planning

Janet Gleisner, Circuit Rider

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX



WESTERN SHORE OFFICE
45 CALVERT ST., 2ND FLOOR
ANNAPOLIS, MARYLAND 21401

SARAH J. TAYLOR, PhD.
EXECUTIVE DIRECTOR
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EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

November 11, 1992

Dear Commission Member:

We missed you at the Commission meeting on November 4, 1992 and hope to see you at the next meeting scheduled for December 2, 1992 at the Department of Housing and Community Development in Crownsville, Maryland. To keep you up to date with the decisions that have been made by the Commission the following is provided:

- 1) The Minutes of October 14, 1992 were approved unanimously;
- 2) The WSSC Broad Creek Pumping Station project was approved unanimously with conditions (see enclosed report);
- 3) The Point Lookout State Park Shore Erosion Control project was approved unanimously with conditions (see enclosed report);
- 4) The Sandy Point State Park Boat Storage Building project was approved unanimously with conditions (see enclosed report);
- 5) The Betterton Growth Allocation for the Betterton Bay Club refinement was supported. Staff recommended that 42 acres be deducted from the Growth Allocation of the Town of Betterton which allowed the Commission to make the decision up to 70 acres;
- 6) The Baltimore County Mapping Mistake was approved unanimously (see enclosed report);
- 7) The St. Mary's County Growth Allocation Amendments for St. Winifred's Estates, Windward Cove, and Christmas Hill were approved unanimously with conditions (see enclosed report);



- 8) A presentation was made by the Water Resources Administration concerning changes to the regulations that they are trying to promulgate. These regulations relate to Structures Over Piers. As you will recall, the Commission approved a policy that was reflective of the regulations being developed in that boat houses, gazebos, etc. were not to be placed on piers over the water. When the Board of Public Works addressed the regulations being proposed by the Water Resources Administration, the Comptroller suggested and asked that the regulations be changed to allow for the placement of a shade type structure out on the pier tee (i.e. no more than 200 square feet in area comprising only a roof, with no sides and no walls). As a result, the Commission will need to take a look at the policy that we approved and sent to the local governments as guidance. Staff believes that we need to wait until the Regulations have been promulgated before we make another round of changes to our policy;
- 9) The Reconsideration Policy went through further change by the Assistant Attorney General's Office, therefore it was not distributed or discussed. A revised draft will be sent in the mail for presentation at the December 2nd meeting;
- 10) The changes in the forestry criteria to be more reflective of the Forest Conservation Act and Forest Conservation Manual were discussed but not approved. The Commission asked for a comparison of the criteria with the Forest Regulations to assess which was more restrictive and to propose changes based on that type of analysis rather than on the previous analysis which only discussed differences between the two pieces of legislation;
- 11) The nontidal wetlands legislation proposals were reviewed and Alternative II was voted on and approved with certain items agreed upon to be included in the nontidal wetlands regulations;
- 12) The Procedures for Comprehensive Review were discussed and everyone seemed pleased with them as proposed;
- 13) The Commission Procedures were discussed and a few suggestions were made for additions to the process. The changes will be made and distributed prior to the Commission meeting in December for endorsement;

Commission Members
November 11, 1992
Page Three

- 14) The Public Hearing Procedures were not able to be presented at the meeting as George Gay had to be in Court in Salisbury that day. They will be presented at the December meeting;
- 15) The Wharf at Handy Point Case was settled in that the Court did not hear the Appeal and the decision of the lower Court has held in the Commission's favor;
- 16) A Panel for the Harford County Program was appointed;
- 17) Material for the Tributary Strategy of the State was distributed. A copy is enclosed.

I hope that these items are informative and help to keep you current with the decisions that have been made and with the topics that are still in discussion. If you have any questions with respect to the materials, please do not hesitate to contact me or Dr. Sarah Taylor. We hope that we will see you in December.

Very Truly Yours,

John C. North, II
Chairman

JCN/jjd

Enclosures

cc: George E. H. Gay, Esq.
CAC Planners

out
|

STAFF REPORT

PROJECT: MD 150 over Middle River
Bridge Replacement-Baltimore County

COMMISSION: Vote

Description

The State Highway Administration proposes to replace an existing four span concrete bridge. The existing bridge consists of two 38' wide roadways consisting of two lanes with shoulders in each direction separated by an open median. To meet current safety standards, SHA proposes to close and pave the median and to replace the existing bridge with a two span bridge which will carry two 56' 5" wide roadways, each consisting of two lanes, and an acceleration and deceleration lane in each direction. The construction will increase impervious surface by 2,000 square feet. The stream will be diverted during a portion of the construction to allow for removal of the replacement of existing bridge abutments and piles.

The project area is designated as LDA (approximately 75%) and IDA (approximately 25%) on the county maps. However, since the project is on state land, I would recommend that the project area be classified as Intensely Developed (state land is to be classified as either Intensely Developed or not Intensely Developed). On either side of the river are mixed residential/commercial areas. Currently there is no treatment of stormwater as it comes off of the bridge and roadway. It is obvious where the stormwater leaves the road and flows down an unvegetated embankment. No specific stormwater management has been proposed at this time.

There are nontidal wetlands adjacent to the project, but they are not to be impacted. Middle Branch is an anadromous fish spawning stream for yellow and white perch. No in-stream work will be allowed from March 1 through June 15.

The staff recommends approval of the project with the following conditions:

- that the project area is classified as an area of Intense Development.
- that a 10% reduction in existing pollution be achieved.
- that SHA submit a stormwater management plan to Commission staff for review and approval prior to construction.

Staff contact: Claudia Jones

Sheet No.	8	of	10
Scale	SEE TITLE SHEET		

GENERAL NOTES

SPECIFICATIONS

SHA SPECIFICATIONS DATED JANUARY, 1982, SUPPLEMENT TO SPECIFICATIONS DATED JANUARY, 1980, SUPPLEMENT TO THE JANUARY, 1988 SUPPLEMENT TO SPECIFICATIONS DATED FEBRUARY, 1990, REVISIONS THEREOF AND ADDITIONS THERETO AND SPECIAL PROVISIONS FOR MATERIALS AND CONSTRUCTION.

AASHTO STANDARD SPECIFICATIONS FOR HIGHWAY BRIDGES DATED 1988 FOR DESIGN INCLUDING ALL INTERIM SPECIFICATIONS THROUGH 1990.

CONCRETE DESIGN SERVICE LOAD DESIGN METHOD $f_c = 1200$ PSI EXCEPT THAT IN BRIDGE DECK SLABS SUPPORTED BY STRINGERS IT SHALL BE 1300 PSI.

REINFORCING STEEL DESIGN $f_y = 24,000$ PSI.

STRUCTURAL STEEL DESIGN ELASTIC DESIGN METHOD.

LOADING

HS 25 WITH PROVISIONS FOR FUTURE 2" WEARING SURFACE AND 15 lb/ft² FOR USE OF BRIDGE DECK FORMS.

CONCRETE

ALL CONCRETE FOR ABUTMENT BACKWALLS AND PARAPETS AT ADJUSTMENTS AND ENTIRE SUPERSTRUCTURE SHALL BE MIX NO. 6 (4500 PSI), ALL OTHER STRUCTURE CONCRETE SHALL BE MIX NO. 3 (3500 PSI).

REINFORCING STEEL

REINFORCING STEEL SHALL CONFORM TO ASTM A 615, GRADE 60. ALL SPLICES, NOT SHOWN, SHALL BE LAPPED AS PER BAR LAP CHARTS. MINIMUM COVER FOR ANY BAR SHALL BE 2" UNLESS OTHERWISE NOTED, WITH THE EXCEPTION OF BARS AT THE TOP OF PIERS AND AT THE BOTTOM AND SIDES OF ALL FOOTINGS WHICH SHALL HAVE 3" MINIMUM COVER.

FOR TIES AND STIRRUPS STANDARD ACI BENDING TOLERANCES ARE MODIFIED TO PLUS (+) ZERO INCHES, MINUS (-) NORMAL ACI BENDING TOLERANCES.

ONLY GRADE 60 CAN BE USED ON THIS PROJECT. REINFORCING STEEL IN THE FOLLOWING AREAS SHALL BE EPOXY COATED:

- ENTIRE SUPERSTRUCTURE INCLUDING PARAPETS
- ABUTMENT BACKWALLS
- ALL BEARING SEAT PADS
- ABUTMENT BRIDGE SEAT WALLS
- PARAPET PORTION OF WING WALLS

KEYS

ALL KEYS ARE NOMINAL SIZE.

STRUCTURAL STEEL

STRUCTURAL STEEL SHALL MEET ASTM A 709 GRADE 50, INCLUDING THE ADDITIONAL REQUIREMENTS FOR CHARPY V-NOTCH TESTING OF AASHTO M 270 FOR PRIMARY LOAD CARRYING MEMBERS.

EXISTING STRUCTURES

ALL DIMENSIONS AFFECTED BY THE GEOMETRICS, AND/OR LOCATION OF THE EXISTING STRUCTURES SHALL BE CHECKED IN THE FIELD BY THE CONTRACTOR, BEFORE ANY CONSTRUCTION IS DONE, AND BEFORE ANY REINFORCING STEEL, ETC., IS ORDERED OR FABRICATED. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO SUPPLY THE ENGINEER WITH ALL FIELD DIMENSIONS REQUIRED TO CHECK DETAIL DRAWINGS. THE (+) MARKS SHOWN WITH DIMENSIONS AND STATIONS DO NOT INDICATE ANY DEGREE OF PRECISION, THESE (+) MARKS INDICATE EXISTING DIMENSIONS AND STATIONS THAT MAY VARY AND DO REQUIRE FIELD VERIFICATION BY THE CONTRACTOR.

EXISTING STRUCTURE SHOWN IN LONG DASHED LINES.

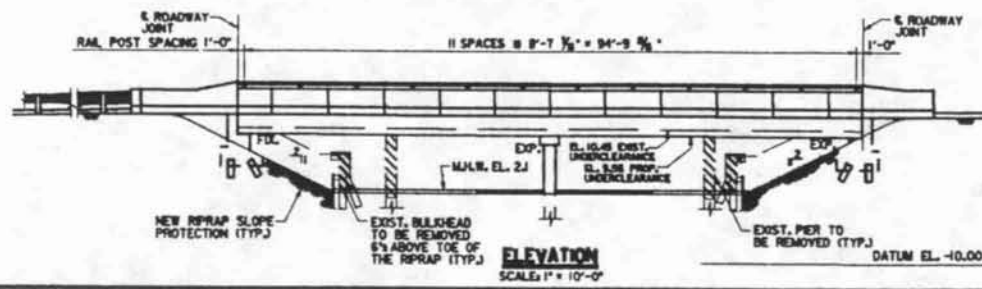
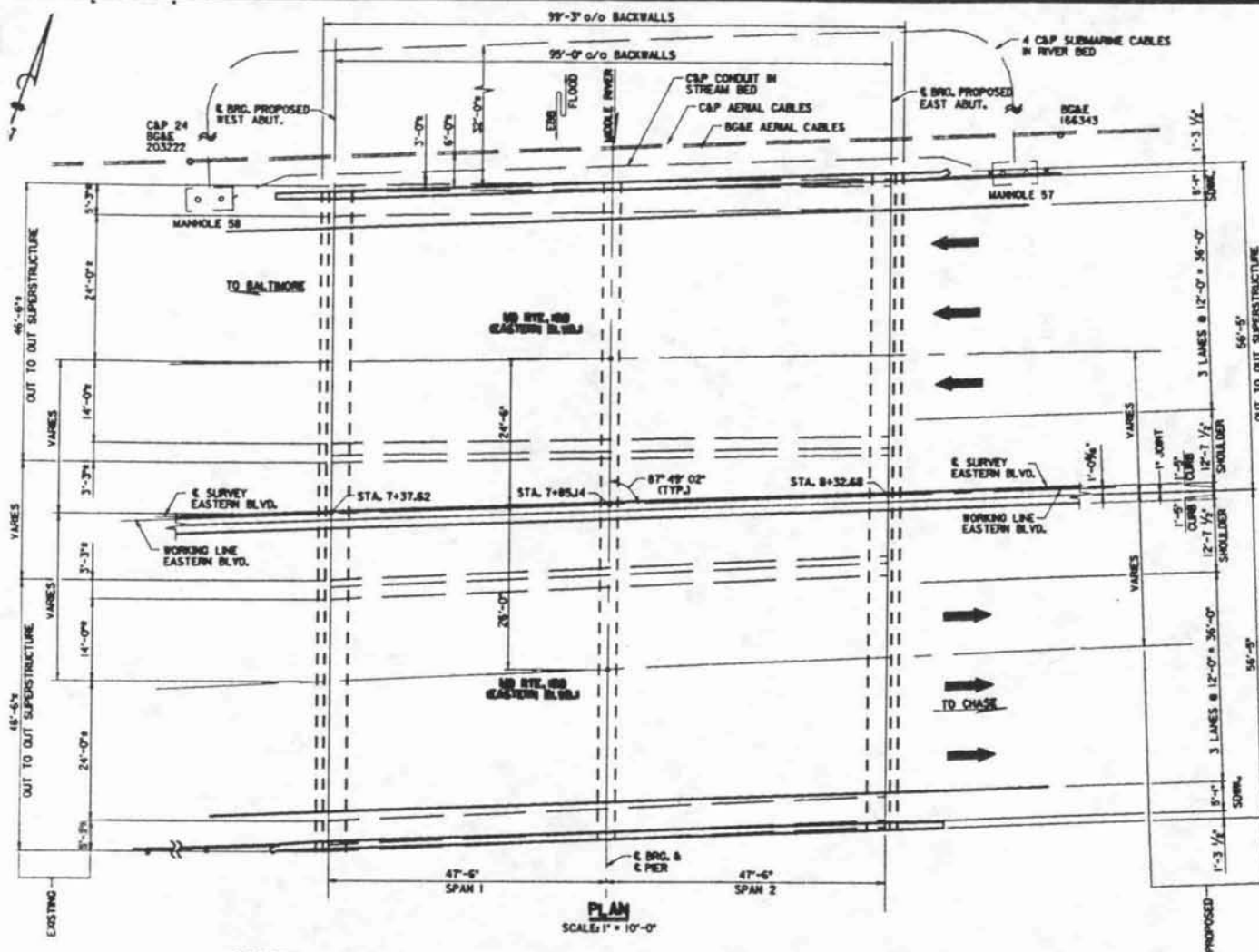
PORTIONS OF EXISTING STRUCTURES SHOWN HATCHED, TO BE REMOVED.

HYDROLOGICAL & HYDRAULIC DATA

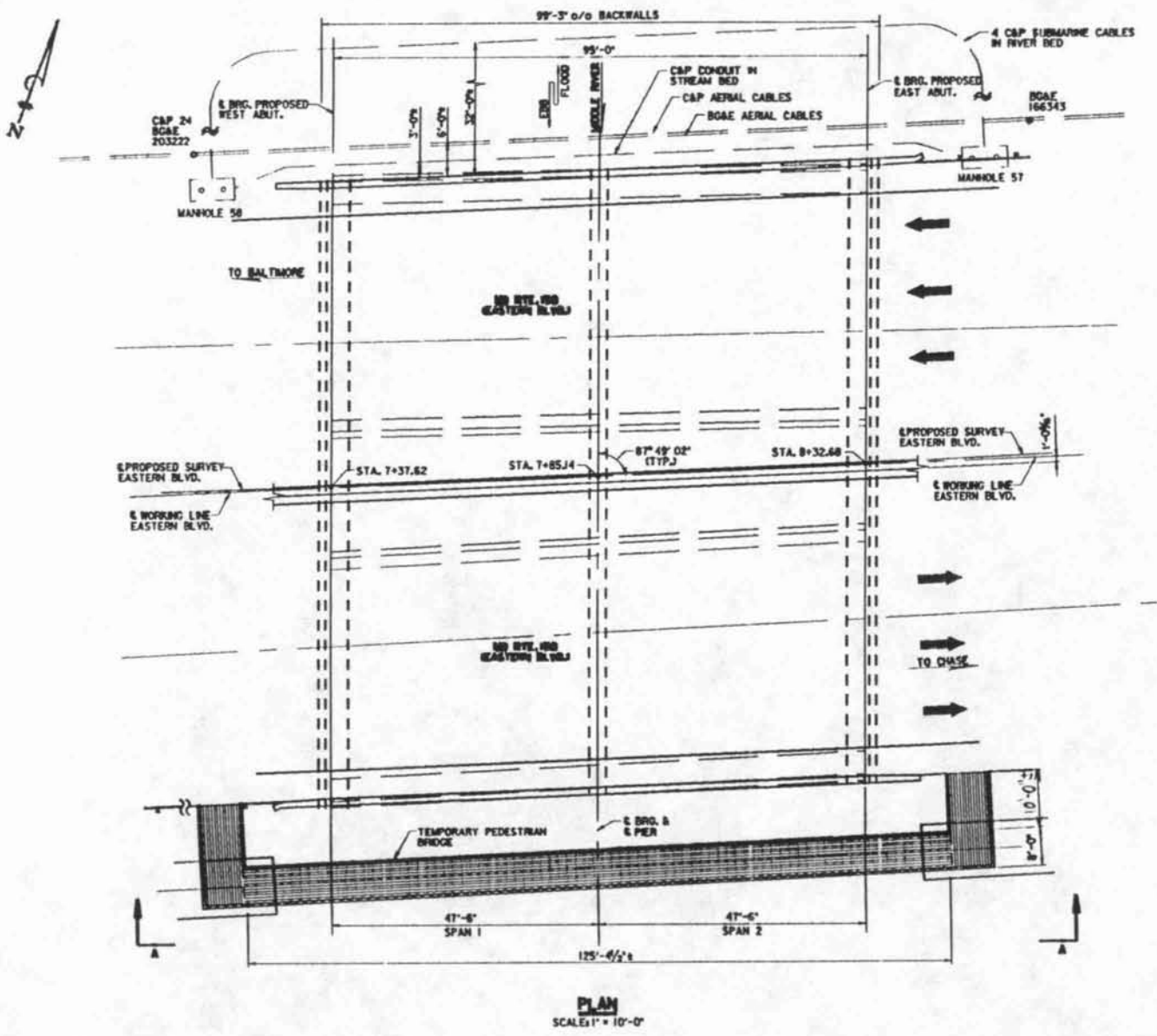
FOR HYDROLOGICAL AND HYDRAULIC DATA, SEE SHEET TITLED "XXX".

NOTES

1. EXIST. ABUTMENTS AND SUPERSTRUCTURE NOT SHOWN.
2. PROPOSED THREE BEAM ATTACHMENT ON APPROACH ENDS ONLY.



REVISION	STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION OFFICE OF BRIDGE DEVELOPMENT
	WIDENING AND REPLACEMENT OF BRID NO. 3088 ON MD RTE. 150 (EASTERN BL OVER MIDDLE RIVER)
	GENERAL PLAN AND ELEVATION
ROLE AS SHOWN ON	CONTRACT NO. 88B-004-4
DESIGNED BY	A.C.F.A.
DRAWN BY	G.F.H.
CHECKED BY	
	SHEET NO.

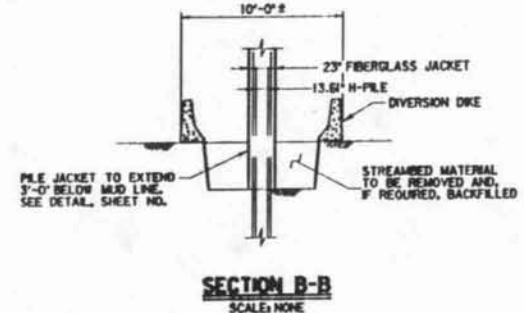
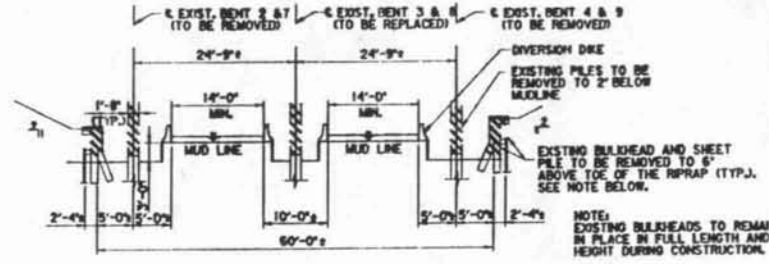
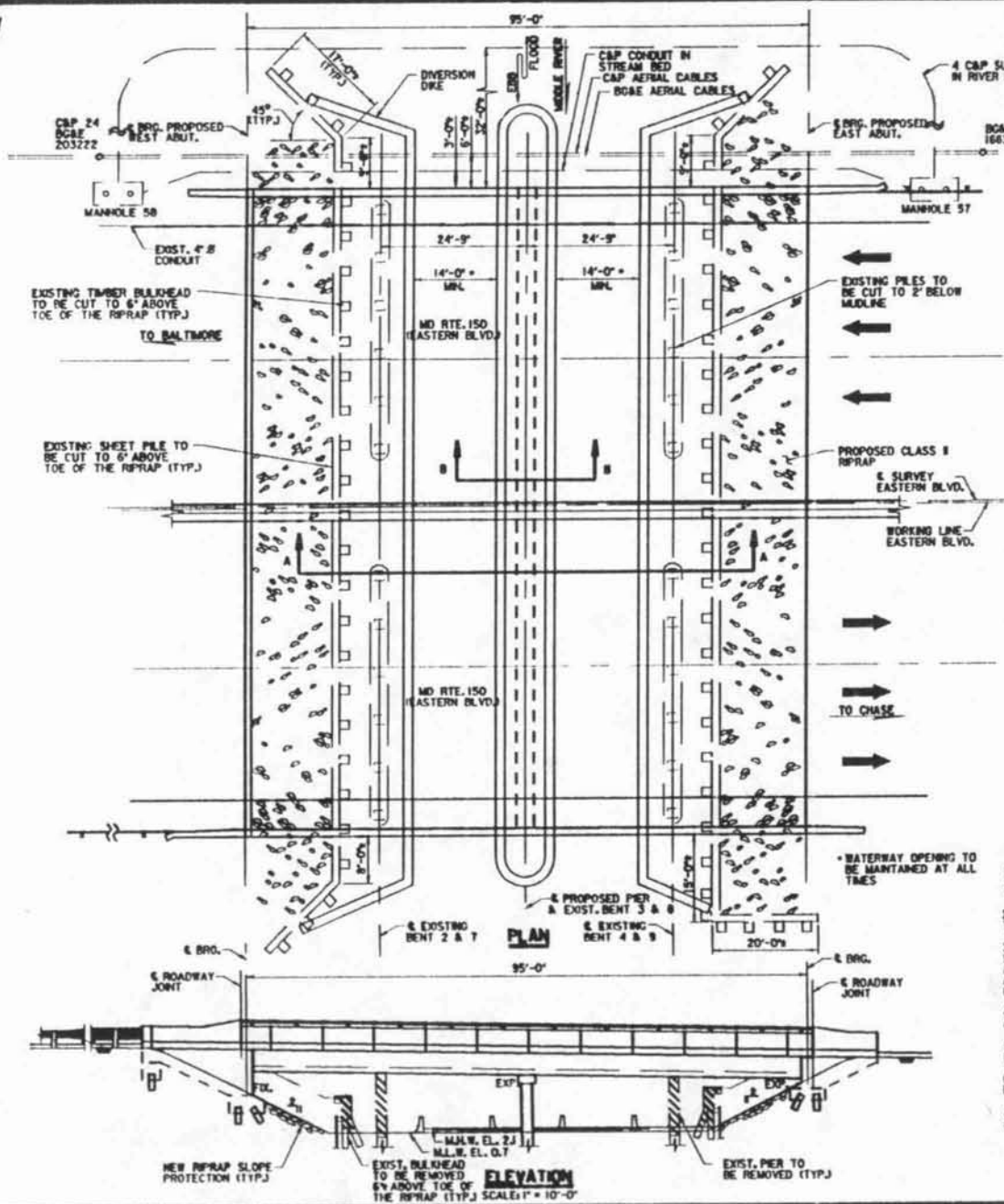


- NOTES:
1. FOR SECTION A-A, SEE SHEET NO.
 2. TEMPORARY PEDESTRIAN BRIDGE TO BE INSTALLED FOR STAGE II OF CONSTRUCTION ONLY.

REVISIONS	STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION OFFICE OF BRIDGE DEVELOPMENT
	WIDENING AND REPLACEMENT OF BRIDGE NO. 3006 ON MD RTE. 150 (EASTERN B OVER MIDDLE RIVER) PLAN - TEMPORARY PEDESTRIAN BRIDGE
SCALE: AS SHOWN ON DRAWING	CONTRACT: B 808-805
DESIGNED BY: A.C.F.R.	
DRAWN BY: G.P.H.	
CHECKED BY:	
	SHEET NO.

PLAN
SCALE: 1" = 10'-0"

PROJECT NO.	DATE	PROJECT BY
9	M.L.	SEE TITLE SHEET



- SEQUENCE OF CONSTRUCTION / STREAM DIVERSION**
1. CONSTRUCT DIVERSION DIKE FROM UPSTREAM TO DOWNSTREAM AROUND EACH EXISTING BENT, AND CONSTRUCT DEWATERING BASINS AT EACH ABUTMENT.
 2. CONSTRUCT A TEMPORARY PROTECTIVE SHIELD UNDER THE BRIDGE TO PROTECT ANY MATERIALS FROM ENTERING MIDDLE RIVER.
 3. REMOVE EXISTING BRIDGE DECK AND CONCRETE BEAMS IN 2 STAGES MAINTAINING 2 LANES OF TRAFFIC IN EACH DIRECTION AT ALL TIMES. REMOVE EXISTING PILE BENTS 2' BELOW MUDLINE AND EXISTING ABUTMENTS UNDER EACH STAGE TO ALLOW CONSTRUCTION OF NEW BRIDGE.
 4. PLACE CLASS II RPRAP FOR ABUTMENT PROTECTION AROUND EACH ABUTMENT.
 5. DRIVE NEW PILES, PLACE NEW CONCRETE AT ABUTMENTS AND BENT CAPS, AND ERECT NEW STEEL STRINGERS AND BRIDGE DECK.
 6. REMOVE DIVERSION DIKES FROM DOWNSTREAM TO UPSTREAM AND REGRADE DEWATERING BASINS BACK TO ORIGINAL GROUND.
- * CONTRACTOR HAS OPTION OF PLACING RPRAP BEFORE OR AFTER NEW CONCRETE IS PLACED AND NEW STRINGERS ERECTED.

REVISIONS	STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION OFFICE OF BRIDGE DEVELOPMENT
	WIDENING AND REPLACEMENT OF NO. 3008 ON MD RTE. 150 (EASTERN OVER MIDDLE RIVER)
	STREAM DIVERSION PLAN
SCALE AS SHOWN DATE	CONTRACT S 888
DESIGNED BY A.C.F.R.	
DRAWN BY G.F.J.	
CHECKED BY	

A

**CHESAPEAKE BAY CRITICAL AREA COMMISSION
STAFF REPORT UPDATE**

DATE: November 4, 1992

JURISDICTION: Prince George's County

PROJECT: WSSC Broad Creek Pumping Station Upgrade

STAFF: Theresa Corless

STAFF RECOMMENDATION: Approval with Conditions

The Broad Creek Pumping Station was built in 1964-65, and is in need of repair and upgrading to bring it to current WSSC standards. The property, which is owned by WSSC, contains 3.21 acres. The pump station site is approximately 1 acre in area, and all construction will be limited to this site. The entire property is within the Critical Area. There are tidal and non-tidal wetlands near the site, but they will not be impacted. There are no HPAs on the site.

This project has been reviewed under Chapter 5, State Agency Actions Resulting in Development on State-Owned Lands, and Chapter 6, Conditional Approval of State or Local Agency Programs in the Critical Area of Subtitle 19. The review under Chapter 6 is necessary because the impervious surface limit of 15% has been exceeded. It has been minimized to 15.7%.

Staff visited the site with representatives of WSSC on September 23, 1992. A public hearing was held on September 28, 1992 as required by Chapter 6 of Subtitle 19.

WSSC is required to afforest the property to 15%, if the site does not contain a 15% forest cover. The property currently has only a 3% forest cover. There is no space on the property for additional planting due to the requirements of the WSSC facility. WSSC must also mitigate for exceeding the 15% impervious surface limit. Staff has suggested to WSSC and Prince George's County that 1/2 acre additional planting for afforestation and mitigation requirements for the Broad Creek project be added to the planting plan for the Hyattsville Gravity Sewer project. WSSC and Prince George's County have agreed to this plan.

CONDITIONS:

1. An additional 1/2 acre of planting be incorporated into the Hyattsville Planting Plan under the supervision of the Bay Watershed Forester assigned to the Hyattsville project and subject to staff review.
2. WSSC will satisfy all outstanding MDE requirements.

*Blankenship
Arrived + included
in vote*

B

**STAFF REPORT
November 4, 1992**

PROJECT: Point Lookout State Park
stone revetment

APPLICANT: Department of Natural Resources
Shore Erosion Control Division

COMMISSION
ACTION: Vote

RECOMMENDATION: Pending Subcommittee review

Discussion:

The Shore Erosion Control Division of the Department of Natural Resources proposes to install approximately 1300 feet of stone revetment along a portion of the Chesapeake Bay shoreline at Point Lookout State Park in St. Mary's County. The Department has documented a significant rate of erosion and has coordinated the project review with the Tidal Wetlands Division. The project includes removal of phragmites and planting a 20 foot wide strip of Spartina patens (Saltmeadow Cordgrass) behind the revetment, up to the Mean High Water Line.

Staff: Ren Serey

Mr Kassoff arrived included in vote 1:18pm

**STAFF REPORT
November 4, 1992**

PROJECT: Sandy Point State Park storage yard

APPLICANT: Department of Natural Resources - Boating Administration

COMMISSION ACTION: Vote

RECOMMENDATION: Approval

Discussion:

The Boating Administration of the Department of Natural Resources proposes a location within Sandy Point State Park, in Anne Arundel County, for storage of a work boat and related equipment. The site is an existing storage area that is in deteriorated condition. It contains two metal buildings, each 12 x 25 feet, on concrete slabs of approximately the same size. These buildings will be removed, but the concrete slabs will remain. The Boating Administration will install an 8 x 10 foot storage shed on one slab and will park its 19 foot work boat and trailer on the other. Approximately 1130 square feet of gravel will be installed between the concrete slabs and as a driveway from the storage areas to the existing road. A chain link security fence will be installed around the site.

The site is not within the buffer. No trees will be removed. The Natural Heritage Program reviewed the proposal and determined there would be no impacts to threatened or endangered species.

Staff: Ren Serey

D

STAFF REPORT

JURISDICTION: Betterton

ISSUE: Growth Allocation

DISCUSSION: The Mayor and Council of Betterton have voted to grant up to 69.9 acres of growth allocation to the Betterton Bay Club to convert a parcel of land within Betterton from Resource Conservation Area to Limited Development Area.

The Mayor has requested that this proposal be reviewed as a Program refinement. Since this area is specifically designated in the Betterton Critical Area Program as a growth allocation area, the Judge has agreed with the Mayor's request and deemed this to be a Program refinement.

STAFF: Pat Pudelkewicz

f

STAFF REPORT

JURISDICTION: Baltimore County

ISSUE: Mapping Mistake

DISCUSSION: Baltimore County has submitted a mapping mistake for the property of the First National Bank of Maryland at 809 Eastern Avenue in Essex, Baltimore County (Tax Map 97, Parcel 321). The bank itself is designated IDA; however, the parking area behind the bank is mapped LDA.

In January 1987, the Baltimore County Council amended the Interim Maps to change the Critical Area classification on portions of six properties, one of which was the First National Bank property. The amendment designated that the IDA classification be extended to include the macadam parking lot adjacent to the building, but not affect the forested portion of the property. This amendment, ordered by the County Council, was mistakenly never executed.

The County is now proposing to change only that area of the parcel being used as the parking area from LDA to IDA by reason of mistake in mapping. The area is completely paved and is served by water and sewer. The remainder of the parcel will continue to be designated LDA.

PANEL

RECOMMENDATION: None at this time. Public hearing will be held Tuesday, October 27, 1992.

STAFF: Pat Pudelkewicz

X

**STAFF REPORT
NOVEMBER 4, 1992**

JURISDICTION: St. Mary's County
SUBJECT: Growth Allocation amendments
**COMMISSION
ACTION:** Vote

Discussion

St. Mary's County has submitted three growth allocation amendments to the Critical Area Commission. The County requests a total of 27.65 acres of growth allocation. One project, St. Winifred's Estates, has been approved by the County Commissioners under the Design Competition process, a point system for projects of more than five lots. The other two projects are minor subdivisions, which the County reviews on a case-by-case basis.

Commission panel: Sam Bowling, chair
Jim Gutman
Michael Whitson

Panel hearing: October 1, 1992

Commission
information briefing: October 14, 1992

Staff: Ren Serey

Take notes

St. Winifred's Estates

- proposed deduction: 15.22 acres of a 60.4 acre tract within Critical Area
- 16 residential lots within the Critical Area: one dwelling proposed for the 45 acres not deducted
- current designation: RCA; proposed designation: LDA

St. Mary's County proposes to deduct a 15.22 acre development envelope. The deduction area contains all lots, septic systems and roads. As required by its growth allocation ordinance for design competition projects, the County has restricted further development on at least 20 acres of the site. This set-aside consists of two parcels: an 11.38 acre agricultural area, with a Soil Conservation and Water Quality Plan in place, and a 14 acre area of tidal and nontidal wetlands. These parcels are separated by a new 17.1 acre residential lot which will be reserved for one additional dwelling. This proposal is not consistent with the Commission's 1988 growth allocation policy, which specified no development of the non-deducted area. However, it is consistent with the draft policies the Commission has submitted for review to the jurisdictions. These policies would permit one dwelling per 20 acres on RCA land outside a development envelope.

*HPA'S ARE BUFFER AND NONTIDALS
250' SETBACK FROM WTW TO HOUSE*

There were several speakers in opposition at the panel's public hearing. The primary concern expressed was that the proposal was too intense for the neighborhood and that the effects on the wetlands and natural areas would be significant. An apparent history of flooding in the area, and particularly abnormal recent flooding, were cited as reasons why the panel should recommend denial of the growth allocation. Mr. Scott Kudlas, the County's Environmental Planner, explained to the panel that the dwellings and areas of disturbance were located on upland areas and that the 100 foot buffer proposed from nontidal wetlands would substantially lessen stormwater impacts from the developed area.

MOTION TO APPROVE CARRIED UNANIMOUSLY
BY SAM BOWLING

Growth allocation guidelines (as applicable):

- New LDAs should be located adjacent to existing LDAs or IDAs: The proposal is not consistent with this guideline.
- No more than half of the total growth allocation may be located in the RCA: The County has not exceeded this limit; only 13 acres of the County's 1,686 acres of growth allocation have been used.
- Minimize impacts on Habitat Protection Areas and optimize benefits to water quality: There are no threatened or endangered species affected by this project; a 100 foot buffer is proposed for nontidal wetlands. The site will be

afforested to a minimum 15%. A full 100 foot Buffer will be established on the farm parcel when agricultural use ceases. Impervious surfaces within the entire Critical Area are limited to 5%. The lots are clustered.

-New LDAs should be located at least 300 feet from tidal wetlands or tidal waters: The area mapped LDA will not meet this guideline. However, the limits of disturbance, except on one lot, will be at least 300 feet from tidal waters and tidal wetlands. The limits of disturbance on lot 7 will be set back approximately 250 feet.

Staff recommendation: Approval

Panel recommendation: Pending final panel meeting

Windward Cove

-proposed deduction: six acres from a ~~13.3~~ 31 acre tract within the Critical Area

-four residential lots proposed for deduction; one two-acre out-parcel to be created, but not deducted

-current designation: RCA; proposed designation: LDA

NEW ISSUE DWELLING OUTSIDE DEVELOPMENT TRACT

St. Mary's County proposes to deduct a six-acre development envelope. The deducted area will contain the proposed four residential lots and septic system areas. The subdivision road will not be deducted. The remaining 22.4 acres are in agricultural use. There is one existing dwelling on this parcel; no further development will be permitted. New lots 2, 3 and 4 are adjacent to tidal wetlands. Where the Buffer extends into the lots, it has been included in the development envelope and deducted. However, portions of the Buffer adjacent to lots 2 and 3 have not been deducted.

The Commission's 1988 growth allocation policy does not specifically address the situation where a dwelling exists in the area outside the development envelope. However, the County's proposal is consistent with the Commission's draft guidelines in this regard. There was no opposition to the proposal at the panel's public hearing.

Growth allocation guidelines (as applicable):

-New LDAs should be located adjacent to existing LDAs or IDAs: The proposal is not consistent with this guideline.

-No more than half of the total growth allocation may be located in the RCA: The County has not exceeded this limit: only 13 acres of the County's 1,686 acres of growth allocation have been used.

-Minimize impacts on Habitat Protection Areas and optimize benefits to water quality: No threatened or endangered species have been identified on the site. The lots are clustered. Impervious surfaces are limited to 5% of the total site. There is a Soil Conservation and Water Quality plan in place. A minimum 100 foot Buffer will be established when agricultural use ceases. The site will be afforested to a minimum of 15% of the total area.

-New LDAs should be located at least 300 feet from tidal wetlands or tidal waters: The majority of the area to be mapped LDA is within 300 feet of tidal wetlands and tidal waters. The proposed dwellings and sewage reserve areas on

three of the four lots are within this zone. However, all dwellings and sewage areas are outside the 100 foot Buffer.

Staff recommendation: Approval

Panel recommendation: Pending final panel meeting

Christmas Hill

-proposed deduction: 6.3 acres from a ~~66.4~~⁶⁰ acre tract within the Critical Area

-five residential lots proposed for deduction; one dwelling right reserved for remaining 66.1 acres within the Critical Area

-current designation: RCA; proposed designation: LDA

St. Mary's County proposes to deduct a 6.3 acre development envelope for a five-lot residential subdivision. The deducted area will contain all lots and sewage reserve areas. The subdivision road is not deducted.

The Commission's 1988 growth allocation policy would not permit further development on the land to remain RCA outside the development envelope. The County proposes to allow one additional dwelling on this 66.1 acre parcel. The property owner's representative stated at the panel's public hearing that a 20 acre parcel would be restricted from future development if the Commission required it as a condition of approval. The Commission's draft growth allocation policies would permit development of the area outside the envelope at the RCA density of one dwelling per 20 acres. Therefore, under the draft policies, no permanent easements would be necessary; preserving the RCA character assumes development at the RCA density.

Growth allocation guidelines (as applicable):

-New LDAs should be located adjacent to existing LDAs or IDAs: The proposal is not consistent with this guideline.

-No more than half of the total growth allocation may be located in the RCA: The County has not exceeded this limit; only 13 acres of the County's 1,686 acres of growth allocation have been used.

-Minimize impacts on Habitat Protection Areas and optimize benefits to water quality: A Bald Eagle nest is located on the property. However, the outside zone of protection around the nest is not adjacent to the development envelope. The applicant has agreed to abide by the appropriate restrictions. The lots are clustered and more than 15% of the site will be in forest cover. The site contains habitat of Forest Interior Dwelling Birds; a 300 foot riparian forest area has been retained along the St. Mary's River.

-New LDAs should be located at least 300 feet from tidal wetlands and tidal waters: All lots are at least 300 feet

from tidal wetlands and tidal waters. A minimum 300 foot Buffer has been established.

Staff recommendation: Approval

Panel recommendation: Pending final panel meeting

Revised 11/10/92

DRAFT

PROPOSED SUGGESTIONS FOR COMMISSION MEETING PROCEDURES

A. Addressing Projects, Program Amendments, Policies, Four Year Reviews and Other Matters

1. A two phase process will be used by staff in presenting projects, amendments, policies and four-year reviews as well as other matters to the Commission whenever possible.

2. When it is time for an item (i.e., project, amendment, four year review, policy etc.) to be heard by the Full Commission, it will be introduced for information purposes whenever possible. Handouts describing the item (if applicable) will be distributed, and the item will be discussed in as thorough a manner as possible.

3. A vote by the Full Commission on the item will occur at the next scheduled Commission meeting, or within the time frames required by the Critical Area Law or regulations.

B. Local Government Participation At Commission Meetings

1. A local government, representing itself or an applicant, will be given the opportunity to address the Full Commission at a meeting when a project, amendment, four year review, policy or other item which affects its jurisdiction is being heard. The Commission planner responsible for working with that local government will notify the local government planner by phone ahead of the meeting to invite the planner's participation and to find out if the planner wishes to attend the meeting and address the Full Commission.

2. The local government presentation can occur after the Commission planner presents or introduces the project, amendment etc..

4. Ample time will be afforded the local government to present. The objective of the presentation should be to present facts that may have been missed by the Commission planner or to present a perspective that the local government believes is important for the Full Commission to hear. However, if new information arises between the panel hearing and the Commission meeting when a vote is to be taken, the local government should notify the Commission planner of the situation and ask for a meeting of the panel to discuss this information prior to Full Commission vote.

C. Public Participation at the Commission Meetings

1. The Commission welcomes relevant comments from the public as they pertain to projects, programs, amendments, and four year reviews. Comment should focus on the merit of the project, program, amendment, etc. as compared to the Critical Area Law and as to the Criteria. Comment made in advance in writing is especially welcome.

2. The Commission Panel Hearings as well as the various local government hearings should be the main arenas for public to comment. However, on several occasions (i.e. very controversial projects that are not in litigation) the nature of the project, amendment, or four year review may be such that public comment will need to be heard during a Commission meeting. To notify the public as to the issues being presented, the Commission will include the items to be presented in its advertisement of a meeting, hearing etc..

3.. Individuals are encouraged to notify the Commission ahead of time (prior to the meeting) that they wish to be heard as this will help the Commission planner, and the Executive Director and Chairman afford those attending the meeting ample time to present. The Commission planner will be responsible for informing the public about the speaking arrangements and when the item will be heard on the agenda. The Commission planner will also be responsible for notifying the local jurisdiction that the public wishes to speak.

4. Public comment should be made on the merit of the project, amendment, program, with respect to the Critical Area Law and the Criteria. At the Commission meeting, the Chairman will acknowledge the presence of those attending who wish to comment on a particular item(s) and will reiterate the need to address the item on its merits.* Any time limit for presentation will be determined by the Chairman at the meeting. The tape from the meeting will be kept as a record of the presentation and discussion about the project, amendment, four year review etc..

* Cross Examination of Commission staff will not be encouraged even though procedures for meetings of this nature are being determined by the Courts.

DRAFT POLICY FOR RECONSIDERATION
(Revised August 28, 1992)

I. BACKGROUND

On several occasions, a local government or State agency has asked the Chesapeake Bay Critical Area Commission to reconsider a decision it made on a project, a program amendment or program submittal ("Original Decision"). Traditionally, an administrative agency like the Commission has discretionary power to reconsider its decisions.

However, the Critical Area Law and Criteria do not address reconsideration, and Robert's Rules of Order, current edition, ("Roberts") which the Commission's By-laws direct it to follow, does not do so comprehensively. Consequently, the Commission has adopted the following policy and amended its By-laws accordingly.

II. CIRCUMSTANCES FOR REQUEST

A. The Commission will exercise its power to reconsider an Original Decision only in accordance with Robert's.

B. However, contrary to Robert's, in certain instances when fraud, mistake, irregularity, or newly discovered evidence is alleged, a request may be entertained. The definitions for such circumstances are:

(1) Fraud - an act of deliberate deception that was designed to secure something by taking unfair advantage. Example: The Commission's review of an application that included intentional misrepresentation by the applicant.

(2) Mistake - a jurisdictional error on the part of the Commission. Example: A Commission decision concerning property located outside the Critical Area.

(3) Irregularity - an administrative process or procedure which does not conform to established rules or usual procedure. Example: Failure of the Commission to hold a panel hearing in the jurisdiction impacted by a proposed amendment.

(4) Newly Discovered Evidence - evidence that could not have been discovered in a timely fashion even if due diligence was used.

III. TIME FRAME OF REQUEST

A. Requests not based on fraud, mistake, irregularity and/or newly discovered evidence shall be made in writing at the same meeting that the Commission rendered the Original Decision at issue.

B. Requests based on fraud, mistake, irregularity and/or newly discovered evidence shall be made in writing within 30 days of the Original Decision at issue.

IV. PROCESS TO BE USED BY THE COMMISSION FOR RESOLVING THE REQUEST

A. Requests not based on fraud, mistake, irregularity, or newly discovered evidence shall be resolved in accordance with Robert's.

B. Requests based on fraud, mistake, irregularity, or newly discovered evidence shall be resolved as follows:

1. Requests that are not timely made in writing to the Chairman are denied.

2. Within ten (10) days of receipt of a written, timely Request, the Chairman shall review it; determine whether it includes clear and convincing evidence that the Original Decision at issue was based upon fraud, mistake, irregularity, or newly discovered evidence ("Initial Determination"); acknowledge receipt of the Request to the Requestor; and notify each Commission member in writing that the Request has been received; what the Initial Determination is, and the date on which the Commission will consider the Request. Copies of the Request will be distributed to the Commission members at or before the specified meeting.

3. At the specified meeting, the Chairman shall present the Initial Determination. The local jurisdiction may present argument concerning the Request at the specified meeting.

a. If the Initial Determination is that the Request does not include clear and convincing evidence that the Original Decision at issue was based upon fraud, mistake, irregularity, or newly discovered evidence, and 2/3rds of the Commission members present at the specified meeting concur, the Request shall be denied. The Chairman shall notify the Requestor in writing within ten (10) days of the decision.

b. If the Initial Determination is that the Request does include clear and convincing evidence of fraud, mistake, irregularity, or newly discovered evidence, and a majority of the Commission members present at the specified meeting concur, the Request shall be approved. The Chairman shall notify the Requestor in writing within ten (10) days of the decision.

c. If 2/3rds of the Commission members present at the specified meeting do not concur with an Initial Determination that the Request does not include evidence that the Original Decision at issue was based upon fraud, mistake, irregularity or newly discovered evidence, or if a majority of the Commission members present at the specified meeting do not concur with an Initial Determination that the Request does include evidence that the Original Decision was based upon fraud, mistake, irregularity, or newly discovered evidence, the following process applies:

(1) If a majority of Commission members present at the specified meeting agree that the Original Decision resulted primarily from a panel recommendation, the Request will be referred to the panel. Within 30 days of the specified meeting, the panel shall hold a public information meeting which is not a contested case hearing in the affected jurisdiction, and a panel recommendation will be prepared to be presented. At the next Commission meeting, the panel shall recommend to the Commission whether or not the Original Decision at issue was based upon fraud, mistake, irregularity, or newly discovered evidence and the Commission members shall vote whether or not to approve the Request. The Chairman shall notify the Requestor in writing within ten (10) days of the decision.

(2) If a majority of Commission members present at the specified meeting agree that the Original Decision did not result primarily from a panel recommendation, the Commission members shall vote whether or not to approve the Request. The Chairman shall notify the Requestor in writing within ten (10) days of the decision.

(3) There shall be no right of appeal from a resolution of a Request by the Commission.

page 4 reconsideration policy

V. APPROVED REQUESTS

A. The Commission shall treat an approved Request as a proposed program amendment under Natural Resources Section 8-1809(o); Annotated Code of Maryland, as amended from time to time.

B. An approved Request shall be accepted for processing on the date the Chairman notifies the Requestor that the Request was approved.

SOME SUGGESTED CHANGES IN REGULATIONS TO IMPROVE
COORDINATION BETWEEN THE CRITICAL AREA CRITERIA AND THE
FOREST CONSERVATION ACT (FCA)

ABH 9-1-92

- 1.) MAKE FOREST + REFORESTATION DEFINITIONS CONSISTENT, PERHAPS BY
ADOPTING FCA DEFINITIONS IN CA CRITERIA. (AFFORESTATION DEFINITIONS
ARE THE SAME.)

CA DEFINITIONS:

(26) "Forest" means a biological community dominated by trees and other woody plants covering a land area of 1 acre or more. This also includes forests that have been cut, but not cleared.

(58) "Reforestation" means the establishment of a forest through artificial reproduction or natural regeneration.

FCA DEFINITIONS:

Forest. NRA 5-1601 (K)

A. "Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

B. "Forest" includes:

(1) Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and

(2) Areas that have been cut but not cleared.

C. "Forest" does not include orchards.

NRA 5-1601 (dd)

(dd) Reforestation or reforested.

(1) "Reforestation" or "reforested" means the creation of a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2 inch or greater diameter measured at 4.5 feet above the ground, within 7 years.

(2) "Reforestation" includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet of area.

2) EXPLICITLY ALLOW LOCAL JURISDICTIONS TO INCORPORATE THE IMPLEMENTATION TECHNIQUES CONTAINED IN THE FOREST CONSERVATION ACT, EXCLUDING THE DIFFERENT REPLACEMENT RATIOS, I.E., CONSERVATION THRESHOLDS.

A SUGGESTION OR EXAMPLE:

IN COMAR 14.15.02.04.C.

(2) For the cutting or clearing of trees in forests and developed woodland areas which are associated with current or planned development activities in the Limited Development Area, all jurisdictions shall:

(a) Require that the developer consider the recommendations of the Maryland Forest, Park and Wildlife Service when planning development on forested lands;

(b) Provide regulations that development activities be designed and implemented to minimize destruction of woodland vegetation; and

The local jurisdiction may adopt the Forest Stand Delineation and the Forest Conservation Plan requirements contained in NRA § 5-1604 and 5-1605, respectively, and the techniques contained in the Forest Conservation Technical manual; and

(c) Provide protection for forests and developed woodlands identified as Habitat Protection Areas in COMAR 14.15.09.

(3) For the alteration of forest and developed woodland in the Limited Development Area, the jurisdiction shall apply all of the following criteria:

(a) The total acreage in forest coverage within a jurisdiction in the Critical Area shall be maintained or, preferably, increased.

(b) All forests that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.

The local jurisdiction may adopt the priority for reforestation and afforestation areas contained in NRA § 5-1607 (d).

(c) That no more than 20 percent of any forest or developed woodland may be removed from forest use, except as provided in §C(4), below. The remaining 80 percent shall be maintained through recorded, restrictive covenants or similar instruments.

The local jurisdiction may adopt the priorities for retention and protection of forested areas contained in NRA § 5-1607 (c).

2) CONT.

(d) Developed woodland vegetation shall be conserved to the greatest extent practicable.

(4) For replacement of forest and developed woodland, if more than 20 percent is removed from forest use, the following formula shall apply: a developer may clear or develop more forest than otherwise permitted to be disturbed, if the total forest area removed from forest use is not increased by more than 50 percent of the area permitted to be disturbed in §C(3)(c) above, provided that the afforested area shall consist of 1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both.

(5) In addition, local jurisdictions shall adhere to the following criteria for forest and woodland development:

(a) Local programs shall make provision for surety to be provided by owners or developers in an amount acceptable to the local jurisdiction and suitable to assure satisfactory replacement as required by §C(4), above;

(b) Grading permits shall be required before forest or developed woodland is cleared;

(c) Forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in §C(4) shall be replanted at three times the areal extent of the cleared forest;

(d) If the areal extent of the site limits the application of §C(3), C(4), and C(5)(c), above, alternative provisions or reforestation guidelines may be developed by the local jurisdiction, if they are consistent with the intent of COMAR 14.15.05, to conserve the forest and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions if the fee is adequate to ensure the restoration or establishment of an equivalent forest area;

The local jurisdiction may adopt the strategy outlined in NRA § 5-1610 g, h, i, and j.

(e) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent;

(f) All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments;

(g) The developer shall designate, subject to the approval of the local jurisdiction, a new forest area on a part of the site not forested; and

(h) The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.

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CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 Calvert Street, 2nd Floor
Annapolis, Maryland 21401

TO: Critical Area Commission
Members

FROM: Liz Zucker

SUBJ: Proposed Legislative Actions
on Nontidal Wetlands

DATE: October 28, 1992

Attached please find copies of two documents. The first document (dated 9/24/92) is a discussion of alternatives for legislative actions the Commission can take on nontidal wetlands. We discussed this document at the October meeting and we will vote on the alternatives at the November meeting. The second document discusses proposed actions under Alternative II. Under Alternative II, regulations would be adopted by the Department of Natural Resources (DNR) to specifically address protection of Critical Area nontidal wetlands as well as possible delegation of regulatory responsibilities to counties. The DNR regulations for the Critical Area would be limited to the few items listed in Step III. of the document.

/jjd

Attachment

A DISCUSSION OF LEGISLATIVE ALTERNATIVES
Nontidal Wetlands in the Critical Area

ISSUE: Bridging inconsistencies between the Critical Area criteria and the Department of Natural Resources' (DNR) regulations for protecting nontidal wetlands

Because the Nontidal Wetlands Protection Law of 1989 (as implemented by DNR) does not include the Critical Area within its purview, nontidal wetlands within the Critical Area are regulated under criteria that are separate and different from the DNR nontidal regulations. Regulatory inconsistency and confusion has resulted from the implementation of two different sets of standards, particularly where wetlands encompass both sides of the Critical Area boundary. To eliminate or minimize inconsistencies between the two programs, the Critical Area Commission, in conjunction with DNR is reviewing three legislative alternatives.

Alternative I. Amend the 1989 Nontidal Wetlands Protection Law to include the Critical Area (with no additional text changes). The Critical Area criteria for nontidal wetlands would be repealed.

Advantages:

- a. Existing discrepancies in the definition and identification of nontidal wetlands would be eliminated.
- b. Regulatory activities including permitting, mitigation, and enforcement would be implemented uniformly throughout the State, including the Critical Area.
- c. The number and type of government agencies involved in the nontidal wetland regulatory process would be uniform and consistent.
- d. Local jurisdictions that are currently understaffed would be alleviated of regulatory responsibility for nontidal wetlands.

Disadvantages:

- a. In some situations, the Critical Area criteria are more protective of nontidal wetlands than the DNR regulations. Because of their position in the landscape, nontidal wetlands in the Critical Area must be protected as an integral part of the Chesapeake Bay cleanup efforts. Some differences in protection between the DNR and Critical Area programs would not be rectified under Alternative I.
- b. Local jurisdictions capable of effectively administering a program would lose jurisdiction over Critical Area wetlands.

Alternative II. Incorporate the Critical Area into the DNR Nontidal Wetland Protection Law with a provision that regulations specific to the Critical Area be established by DNR to address the most important differences between the two programs. The Critical Area criteria for nontidal wetlands would be repealed.

Advantages:

- a. through d. same as Alternative I. above
- e. A section of regulations specific to the Critical Area, could rectify notable differences in the two programs.
- f. Language can be added to allow DNR delegation of regulatory responsibility to Counties that can effectively administer a wetland protection program. Counties could be given the option to have a program that is stricter than the existing DNR regulations. (Note: Towns would not be able to regain jurisdiction.)

Disadvantages:

- a. The criteria used by DNR to review Critical Area wetlands would be slightly different than for other wetlands.
- b. Local jurisdictions would lose regulatory responsibility for strict protection of Critical Area nontidal wetlands unless the Law is specifically amended to allow DNR delegation of a more strict program.

Alternative III. Modify the Critical Area criteria to make them compatible with the DNR regulations.

Advantages:

- a. Depending on the amount and type of changes to the criteria, major discrepancies between the two programs could be resolved (e.g. by referencing the Federal method for wetland identification in the Critical Area criteria, a source of major confusion could be eliminated).
- b. Responsibility for protection of Critical Area nontidal wetlands would remain at the local level subject to Commission oversight.

Disadvantages:

- a. A major rewrite of the Critical Area criteria would be needed to bring them into close conformance with the DNR regulations. The local jurisdictions would be required to incorporate numerous revisions into their ordinances.
- b. The DNR and Critical Area programs would still be separate with two sets of regulations implemented by different agencies on either side of the Critical Area boundary. Understaffed jurisdictions would not be able to implement an effective program.

PROPOSED ACTIONS UNDER ALTERNATIVE II.

The Special Issues Subcommittee of the Critical Area Commission has discussed the three legislative alternatives described above. The alternatives have also been reviewed with representatives from the Department of Natural Resources (DNR) Water Resources Administration. There will be a general discussion of the legislative alternatives at the October 1992 Critical Area Commission meeting, however the following are proposed actions under Alternative II., which is the alternative currently receiving the strongest consideration of the Special Issues Subcommittee.

Step I. An amendment to the Department of Natural Resources (DNR) Nontidal Wetlands Protection Law would be made to:

- a. include the Critical Area
- b. provide for regulations for protecting Critical Area wetlands to be established by a specific deadline (e.g. July 1993)
- c. provide for DNR to delegate all or part of its authority to those Counties demonstrating that they will implement a program that is as strict or stricter than the DNR program.

Step II. An amendment to the Chesapeake Bay Critical Area Law would be made to have all criteria for nontidal wetlands in the Critical Area repealed at the State and local level by a deadline concurrent with adoption of the DNR Law and regulations.

Step III. Regulations would be developed to address protection of Critical Area nontidal wetlands and delegation of regulatory responsibilities to Counties. The regulations would address the following issues:

- a. The DNR regulations require that an applicant demonstrate "no practicable alternative" before a regulated activity is permitted. To adequately protect nontidal wetlands in the Critical Area, an additional requirement for demonstrating "unwarranted hardship" would be placed on an applicant requesting a permit for a regulated activity in wetlands in the Critical Area.
- b. Generally, the DNR regulations allow a 30% disturbance to trees in the 25 foot nontidal wetland buffer before DNR review is required. The regulations for the Critical Area would be written

*Special Issues Subcommittee
Agreed to*

in lieu of 10/30/70

to allow 10% disturbance for personal use (e.g. firewood and horticultural activities to maintain the health of an individual tree). All other activities in the buffer would require a permit. The applicant would have to demonstrate "unwarranted hardship" and would provide mitigation for disturbed wetlands.

c. Under the DNR regulations, regulated activities which impact 2 acres or less of farmed wetlands do not require a permit or mitigation by an applicant (DNR mitigates for these activities under a programmatic mitigation plan). Regulations would be written to require a permit and applicant mitigation for regulated activities in farmed wetlands in the Critical Area.

B.D.S. Comm. approved

d. Regulations would be established to ensure that a County could be delegated authority for nontidal wetland protection in the Critical Area and that a delegated program could be more strict than the DNR program.

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e. Regulations would be drafted to require that mitigation for permitted disturbance to wetlands in the Critical Area be located in the Critical Area, to the extent possible. However if mitigation must take place outside of the Critical Area, it must be located in an area that is immediately adjacent to and hydrologically connected to the Critical Area and located in the same watershed of the wetland to be disturbed.

** J. Gutzmer - Miller: Attention!!
Tape #4 - 1.1'*

*B. Boston second
vote - carried
Abstention, Mr. Corkin*

Process for Comprehensive Reviews

1. Chairman of CAC notifies a jurisdiction 5 months prior to the anniversary date that a Comprehensive Review of its Critical Area Program is due 60 days after the anniversary date.
2. CAC staff reviews local Program and provides comments to the local government approximately 5 months prior to the anniversary date.
3. Local governments review their Programs. Some set up advisory committees; others use the Planning Commission to review the Program and identify issues.
4. Circuit riders ask the Towns with approaching Comprehensive Reviews to set up review committees. The circuit riders work with these committees, and consult with the Department of Natural Resources to update the resource inventories.
5. Once draft CAC staff comments are prepared, the staff and circuit rider meet to review the comments. Then the comments are sent to the local jurisdiction in draft form.
6. CAC staff and circuit rider meet with the local jurisdiction to review comments. Comments are subsequently finalized and sent to the local jurisdiction. CAC staff and circuit rider work with local jurisdiction throughout the process to answer any questions or discuss any issues.
7. A Panel of CAC members will be appointed by the Chairman just prior to the local jurisdiction's submission deadline. A Panel may be appointed earlier at the Chairman's discretion or through a local jurisdiction's request.

The purpose of the Panel is to review a local jurisdiction's submittal, conduct a public hearing if one is required, and make a recommendation to the full Commission of either acceptance or denial of the various amendments and the Comprehensive Review.

If a Panel is appointed earlier in the process, the Panel may be involved in meeting with the local jurisdiction to discuss issues. The Panel is not a decision-making body, but may make recommendations to the full Commission concerning the resolution of difficult issues.

8. Once the local jurisdiction completes the Comprehensive Review, it will be submitted to the CAC, including any requested Program amendments.
9. The CAC will either approve, conditionally approve, or deny the submittal. Individual action will be taken on each Program amendment submittal.

10. The Chairman will notify a local jurisdiction in writing, within 30 days of the CAC's action, the result of the vote. If the CAC votes to conditionally approve or deny the submittal, the reason for the vote will be explained, as well as what needs to be done to obtain approval of the Comprehensive Review.



Sneah

William Donald Schaefer
Governor

Maryland Department of Natural Resources

Torrey C. Brown, M.D.
Secretary

Tawes State Office Building
Annapolis, Maryland 21401

John R. Griffin
Deputy Secretary

October 7, 1992

MEMORANDUM

TO: DNR Nonpoint Source Strategy Team/LRSC Nutrient Task Force

FROM: Verna E. Harrison *[Signature]*

SUBJECT: State Tributary Nutrient Reduction Strategies

The purpose of this memo is to ask for your participation in a meeting (hopefully we can do it in one meeting) to decide what living resources data can be useful in determining the allocation of State nutrient reduction efforts between various tributaries.

In August, the Chesapeake Bay Executive Council adopted the attached amendments (Attachment 1) to the 1987 Chesapeake Bay Agreement relating to nutrient removal. They committed the States to "develop and begin implementation of tributary-specific strategies by August 1993." The Living Resources Subcommittee was actively involved in developing the rationale for moving the Bay Program toward focusing additional activity in the tributaries (Attachment 2 & 3).

At this point, the States are developing a process for determining the percentage of nutrient reduction that should be allocated to various tributaries within their boundaries (Attachment 4). In Maryland, the initial thought was to divide our reduction efforts between the Choptank, Chester, Patapsco, Potomac and Patuxent Rivers. Question was raised by Maryland Department of Agriculture (MDA) about including the Lower Shore where MDA is spending significant effort to address nutrient loadings from the poultry industry. This leads to the issue facing those of us that work with living resources--"how can living resources be used to help decide which tributaries are most important for priority allocation of nutrient reduction program efforts?"

RECEIVED

OCT 30 1992

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Telephone: (410) 974-2255
DNR TTY for the Deaf: 301-974-3683

TRIBUTR.TGY

DNR Nonpoint Source Strategy Team/LRSC Nutrient Task Force
October 7, 1992
Page 2

The Living Resources Subcommittee (LRSC) will provide to each State a tributary specific comparison of the water quality needs of SAV and the existing water quality conditions. This information will be related to the historical and current presence of SAV. Review of this data can provide guidance to the States on areas where nitrogen and phosphorus requirements are not being met.

Our task is to: 1) decide whether there is additional living resources information that we should provide to the Department of the Environment, the lead agency for the development of the Maryland tributary plans, to guide the nutrient reduction priority allocation process; and 2) identify those programs administered by DNR that can be employed as tools to reduce nutrients in the targeted watersheds.

Accordingly, I have scheduled a meeting on November 4, from 9:00 - 12:00 (it's possible that we'll conclude in less than three hours), in the DNR C-1 Conference Room, to identify information that can be useful in the selection of priority tributaries for nutrient reduction efforts based on benefits to living resources. ACCORDINGLY, PLEASE BRING TO THE MEETING AN EXAMPLE OF ANY INFORMATION--PREFERABLY MAPPED INFORMATION--THAT COULD BE USED TO IDENTIFY AREAS THAT SHOULD BE TARGETED FOR NUTRIENT REMOVAL.

While I am asking for this information from Maryland DNR units, if we come up with examples of data that would be helpful Bay-wide, I will contact the Chair of the Bay-wide Tributary Strategy development team, Larry Minock--Virginia, with a suggestion that similar information be provided from other States as appropriate. Accordingly, representatives from the LRSC Nutrient Re-evaluation Task Force are being invited to this meeting.

Finally, attached is a copy of a memo describing a public education/information effort that is being led by Edwina Coder, Chair of the Bay Program's Citizens Advisory Committee.

VEH:phb

Enclosures

cc: John Griffin
Catherine Stevenson
Rob Gould
Betsy Kulle
Ed Christoffers
Carin Bisland
Larry Minock
Cecily Majerus

DNR NONPOINT SOURCE STRATEGY TEAM

Bob Beckett
Bill Burgess
David Burke
Nick Carter
Len Casanova
Frank Dawson
Bruce Gilmore or Representative
Bill Jenkins or Kevin Smith

Pete Jensen or Harley Speir
Steve Jordan
Ed Larrimore
Larry Lubbers
Paul Massicot
Gwynne Schultz
Eric Schwaab or Jeff Horan
Sarah Taylor

LRSC NUTRIENT TASK FORCE

Rich Batiuk
Bess Gillelan
Mike Hirshfield
Steve Jordan
Merrill Leffler

Rob Magnien
Kent Mountford
Cynthia Stenger
John Wolflin
Lee Zeni



In 1987, Virginia, Maryland, Pennsylvania, the District of Columbia, the Chesapeake Bay Commission and the U.S. Environmental Protection Agency formally agreed to reduce and control point and nonpoint sources of pollution to attain the water quality conditions necessary to support the living resources of the Bay. ♦ TO achieve this, we agreed to develop, adopt and begin to implement a strategy to equitably achieve by the year 2000 a 40 percent reduction of nitrogen and phosphorus entering the mainstem Chesapeake Bay. ♦ WE also agreed to reevaluate the 40 percent reduction target based on the results of modeling, monitoring and other information available to us.

BASED UPON THE 1991 NUTRIENT REDUCTION REEVALUATION, WE HAVE FOUND THAT:

- ♦ We have achieved significant improvements in water quality and living resources habitat conditions in the mainstem of Chesapeake Bay.
- ♦ There is a clear need to expand our program efforts in the tributaries, since most of the spawning grounds and essential habitat are in the tributaries.
- ♦ Intensified efforts to control nonpoint sources of pollution, including agriculture and developed areas, will be needed if we are to meet our 40% nutrient reduction goal.

- ♦ We are now able to demonstrate the link between water quality conditions and the survival and health of critically important submerged aquatic vegetation (SAV).
- ♦ Implementation of the Clean Air Act Amendments will provide additional opportunities to achieve nitrogen reductions.
- ♦ Achieving a 40 percent nutrient reduction goal, in at least some cases, challenges the limits of current point and nonpoint source control technologies.

THEREFORE, TO FURTHER OUR COMMITMENTS MADE IN THE 1987 CHESAPEAKE BAY AGREEMENT, WE AGREE:

- ♦ To reaffirm our commitment to achieve an overall 40 percent reduction of nitrogen and phosphorus entering the mainstem Chesapeake Bay by the year 2000 and to maintain at least this level of reduction thereafter.
- ♦ To amend the water quality goal of the 1987 Chesapeake Bay Agreement to reflect the critical importance of the tributaries in the ultimate restoration of Chesapeake Bay:
"Reduce and control point and nonpoint sources of pollution to attain the water quality condition necessary to support the living resources of the Chesapeake Bay and its tributaries."
- ♦ To develop and begin implementation of tributary-specific strategies by August 1993. These strategies will be designed to:
 1. Meet the mainstem nutrient reduction goals.
 2. Achieve the water quality requirements necessary to restore living resources in both the mainstem and the tributaries.

3. Incorporate public participation in the development, review and implementation of the strategies, ensuring the broadest possible public involvement.
 4. Advance both cost-effectiveness and equity.
- ♦ To use the distribution of submerged aquatic vegetation (SAV) in the Bay and its tidal tributaries, as documented by Baywide and other aerial surveys conducted since 1970, as an initial measure of progress in the restoration of living resources and water quality.
 - ♦ To incorporate into the Nutrient Reduction Strategies an air deposition component which builds upon the 1990 Amendments to the federal Clean Air Act and explores additional implementation opportunities to further reduce airborne sources of nitrogen entering Chesapeake Bay and its tributaries.
 - ♦ To continue to explore improved technologies that may be cost-effective in attaining further nutrient reductions.
 - ♦ To explore cooperative working relationships with the other three basin states (New York/West Virginia/Delaware) in the development of tributary-specific strategies for nutrient reduction.

By this AGREEMENT, we reaffirm our commitments made in the 1987 Chesapeake Bay Agreement to restore and protect the ecological integrity, productivity and beneficial uses of the Chesapeake Bay system. In addition, we the undersigned agree to further our efforts through the commitments made here today which are hereby incorporated into the 1987 Chesapeake Bay Agreement.

8/12/92
(Date)

FOR THE COMMONWEALTH OF VIRGINIA

Lawrence Douglas Miller

FOR THE STATE OF MARYLAND

Dulin Jourd'heuil

FOR THE COMMONWEALTH OF PENNSYLVANIA

Robert Masey

FOR THE DISTRICT OF COLUMBIA

Frank Pratt Kelly

FOR THE CHESAPEAKE BAY COMMISSION

Burne Jonty

FOR THE UNITED STATES OF AMERICA

William K. Kelly



William Donald Schaefer
Governor

Maryland Department of Natural Resources

Torrey C. Brown, M.D.
Secretary

Tawes State Office Building
Annapolis, Maryland 21401

John R. Griffin
Deputy Secretary

September 25, 1992

MEMORANDUM

TO: Living Resources Subcommittee and Workgroup Members

FROM: Verna E. Harrison, Chair *VGH*
Living Resources Subcommittee

SUBJECT: 91 Nutrient Reevaluation--Living Resources Contributions

As you know, in August the Executive Council adopted the attached amendments to the 1987 Chesapeake Bay Agreement. What you may not know, however, is the amount of background work related to living resources that went into developing these amendments. This memo is intended to briefly summarize this effort.

A Subcommittee Task Force composed of Mike Hirshfield, Rich Batiuk, Steve Jordan, Merrill Leffler, Cynthia Stenger, Kent Mountford, Lee Zeni, Rob Magnien, Cynthia Stenger and Kent Mountford worked with the Computer Science Center (CSC) staff to develop a mechanism to relate living resources to changes in nutrient concentration both as projected by the Bay Program's 3-D model and as can be shown using water quality monitoring data. With the exceptional statistical assistance of Marcia Olson, the Task Force focused on demonstrating the relationship between dissolved oxygen needs of representative living resources and the additional habitat that would be available under various nutrient reduction scenarios. Attached is a summary of this work. A full description of the DO needs of living resources, authored by Steve Jordan, will be available by November.

In addition to the dissolved oxygen/nutrient relationship, the Task Force utilized the work set forth in the SAV Technical Synthesis and existing water quality monitoring data to illustrate the correlation between SAV growth and appropriate nutrient levels. This work proved critical in demonstrating the need to effect nutrient reduction controls in tributaries in every State as the Bay Program computer model is only calibrated to measure changes in the mainstem of the Bay.

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Living Resources Subcommittee and Workgroup Members
September 21, 1992
Page 2

The work of the many scientists and managers in the Chesapeake Bay that contributed to the adoption of the SAV amendment deserves special commendation as it provides the basis for quantifiably linking living resources and water quality. Additionally, Rich Batiuk has done an outstanding job of integrating the work into a format to address the needs of the Bay Program.

State Strategies

The August amendments direct the States, "To develop and begin implementation of tributary-specific strategies by August, 1993." (see attached). The Living Resources Subcommittee should continue to play a significant role in this process by: 1) providing information on living resources habitats that can help direct the States' targeting efforts; and 2) working to develop mechanisms to review the impacts of the State programs on living resources. To that end, I have asked that the Living Resources Subcommittee's Nutrient Task Force members continue to meet. We will begin by providing to the States geographically formatted information on SAV growth, fish spawning and nursery areas, and oyster beds as a point of departure.

In sum, the Task Force's contribution to the 91 Nutrient Reevaluation was particularly gratifying because it integrated much of the data gathering, survey and analysis work the Subcommittee has either funded or directed into products that document the linkages between water quality and living resources. We are beginning to be able to provide meaningful answers to questions of impact.

Finally, attached for your information is material that was distributed at the Executive Council meeting.

VEH:phb

Enclosures

Chesapeake Bay Program



Chesapeake Bay Program Office
410 Severn Avenue, Suite 109
Annapolis, Maryland 21403
(410) 267-0061

THE BAYWIDE NUTRIENT REDUCTION REEVALUATION

Identifying the Problem

Studies completed in the 1970s indicated that increases in agricultural activity, population growth, and sewage flows were causing the Bay to become nutrient enriched. High levels of the nutrients phosphorus and nitrogen discharged into the Bay's waters causing excessive algal growth. This has two effects:

- In shallow areas, the excess algae shade underwater bay grasses, blocking the light the grasses need to grow. This degrades the habitat and causes the eventual loss of grass beds.
- In deeper areas, when the algae die and sink to the bottom, their decomposition uses up available oxygen in the water. During the warm months, oxygen in the bottom waters can only be replenished slowly because little mixing with the high oxygen surface waters occurs. Many bottom-living animals such as clams, oysters, and worms which provide food for fish and crabs cannot survive this prolonged period of low oxygen.

Chesapeake Bay Agreements

The intergovernmental agreements in 1983 and 1987 outlined procedures to develop a cooperative strategy to deal with nutrient enrichment and other Bay ecological problems.

The 1983 Chesapeake Bay Agreement - The Chesapeake Bay Agreement of December 1983, signed by Maryland, Virginia, Pennsylvania, the District of Columbia, the Chesapeake Bay Commission and the EPA, established the major elements of a cooperative structure to develop and coordinate a comprehensive Bay restoration and protection program. One specific concern of the agreement called for the concentrated examination of nutrient enrichment of the Bay.

The 1987 Chesapeake Bay Agreement - Signatories to the 1983 Agreement significantly expanded the original pact. Concerning nutrient enrichment, the 1987 Agreement specifically required that the signatory jurisdictions develop, adopt, and begin to implement a basinwide strategy to equitably achieve, by the year 2000, at least a 40% reduction of the nutrients nitrogen and phosphorus entering the mainstem of the Chesapeake Bay.

Reevaluation • Page 1 of 7

"Leading The Restoration"

The Chesapeake Bay Program is a joint environmental effort of the U.S. Environmental Protection Agency, Maryland, Virginia, Pennsylvania, the District of Columbia, and the Chesapeake Bay Commission dedicated to Chesapeake Bay Restoration.

Chesapeake Bay Program



Two major categories of nutrient pollution sources are addressed by the Bay Program:

- Point sources—traditional industrial discharges and municipal sewage treatment plants; and
- Nonpoint sources—those contributing nutrients from land surfaces. Agriculture is the major source of nonpoint nutrients, but urban and suburban areas are also important. Atmospheric sources of nitrogen from power plants and automobile exhaust has recently been added to the list of concerns.

The Baywide Nutrient Reduction strategy

During the period between the 1983 and 1987 Chesapeake Bay Agreements, the Bay Program developed a relatively simple mathematical model to evaluate the water quality response of the Bay to a variety of nutrient reduction scenarios. The model's results predicted that if nutrient loads were reduced 40%, nutrient enrichment would be reduced sufficiently to stop the depletion of dissolved oxygen, encouraging the recovery of the Bay's living resources to earlier, higher population levels. Based on the model's projection, the Chesapeake Executive Council adopted the Baywide Nutrient Reduction Strategy to implement the 1987 agreement's goal.

The nutrient reduction strategy documented the estimate of the 1985 "baseline" loading conditions and set the year 2000 loading goals for nitrogen and phosphorus. It also described the information needed over the next several years to more accurately measure progress and to refine the Baywide Nutrient Reduction Strategy to meet the year 2000 target. It additionally defined a series of implementation phases.

Progress in Reducing Point Source of Nutrients

Point sources account for 23% of the nitrogen and 34% of the phosphorus entering the Bay; municipal wastewater discharges contribute the majority of these loads. Since 1985, 2% of point source nitrogen and over 39% of the point source phosphorus have been eliminated. Three critical elements of the Chesapeake Bay Program's point source control strategy are responsible for these reductions:

- Prohibiting the sale of detergents containing phosphorus;
- Upgrading wastewater treatment plants; and,
- Improving compliance with permit requirements.

The ban on phosphates used in laundry detergents eliminated between one-quarter and one-third of the total amount of phosphorus entering municipal treatment plants. Due largely to the phosphate detergent ban, phosphorus discharges to the Bay have been reduced at a faster pace than predicted in the Baywide Nutrient Reduction Strategy.

Reevaluation • Page 2 of 7

"Leading The Restoration"

The Chesapeake Bay Program is a joint environmental effort of the U.S. Environmental Protection Agency, Maryland, Virginia, Pennsylvania, the District of Columbia, and the Chesapeake Bay Commission dedicated to Chesapeake Bay Restoration.

Chesapeake Bay Program



The upgrading of wastewater treatment plants has strengthened controls on phosphorus. It has also begun to have a similar effect on nitrogen. Biological Nutrient Removal (BNR), a technology that has been extensively studied in the basin, is now in use among the treatment technologies for reducing point sources of both nitrogen and phosphorus.

In the past, nitrogen discharges have risen with an increase in sewage flow stemming from population growth. This is no longer true. Improved pollution prevention by industry and improved wastewater treatment is now reducing this load. Future phases of the Baywide Nutrient Reduction Strategy have scheduled an increased emphasis on nitrogen removal from point sources.

Progress in Reducing Nonpoint Source of Nutrients

The Chesapeake Bay nonpoint source control program is responsible for reducing the 101 million pounds of controllable nitrogen and 12 million pounds of controllable phosphorus that enter the Bay annually from nonpoint sources in its watershed.

The Chesapeake Bay Program's nonpoint source control portion of the Baywide Nutrient Reduction Strategy emphasizes controls on agriculture (including cropland fertilization and waste from livestock), paved surfaces, and construction in urban areas. The most important additional nutrient management control measure is one in which animal wastes and fertilizers are applied to farmland in amounts carefully calculated to meet the needs of the crops. This practice replaces the use of outdated guidelines which promoted overuse and, consequently, runoff or leaching of nutrients.

As of 1990, 7.5% of the nitrogen load and 7.4% of the phosphorus has been reduced from nonpoint sources. These rates of progress fall slightly below the progress that was projected in 1985 for 1991 (12% reduction in nitrogen and 11% reduction in phosphorus).

Atmospheric Sources

The Nutrient Reduction Strategy planned no action in reducing the amounts of nutrient pollution from atmospheric sources to the Bay and its watershed, even though they were thought to be a significant source of nitrogen. Further investigations, as well as the passage of the Clean Air Act Amendments in 1990 have revealed that it may indeed be possible to reduce atmospheric sources of nitrogen important to the Bay. Such a reduction would reduce the nitrogen delivered by both rainfall and dust to water and land thereby complementing other control programs.

Chesapeake Bay Program



Contributions From Other States

Progress charted to date does not include nutrient reductions in states with land tributary to the Bay that are not parties to the Chesapeake Bay Agreement — Delaware, New York, and West Virginia. Further information will be needed to characterize any load reductions that may have been made in these states.

Status and Trends in the Bay's Condition

Water Quality Trends - Oxygen in the Bay's waters, like oxygen in the air, is critical to the survival of its living resources. Aquatic life in the Bay must breathe dissolved oxygen to live. Thus, the levels of dissolved oxygen found in the Chesapeake are an important indicator of the Bay's water quality.

The volume of anoxic (oxygen depleted) waters has increased since 1950, based on available data, but the volume of low oxygen or oxygen depleted water in the mainstem has fluctuated widely over the last four decades, often reflecting patterns of freshwater inflow. No distinct trend was detected in the volume of waters with depleted oxygen since 1984.

- Trends in the Bay's nutrient concentrations since 1984 show significant decreases in phosphorus levels in the mainstem and several tributaries and slight increases in nitrogen in the upper mainstem and some tributaries.
- Water quality impacts related to nutrient enrichment, such as low dissolved oxygen, are evident and have now been quantified in numerous tributaries to the Bay as well as the mainstem.
- Living resource based water quality goals have been developed that will assist in the interpretation of existing water quality impacts and projected improvements under various management scenarios. Status and trends for key living resources have been assembled for the Bay's major basins that confirm the need for restoration actions.

The Reevaluation

Based on the 1987 Agreement and the Baywide Nutrient Reduction Strategy, the following major objectives of the reevaluation process were formulated:

- Reevaluate the appropriateness of the 40% nutrient reduction commitment based on available monitoring, modeling and research information.

Chesapeake Bay Program



- Refine nutrient reduction commitments as appropriate, based upon a careful evaluation of the cost effectiveness, implementability, and living resources benefits.
- Provide a refined overall baywide nutrient reduction commitment including tributary nutrient reduction allocations of the overall reduction targets.
- Provide guidance to the signatories to aid in revising the basin strategies most effectively.

In the course of the reevaluation, a new computer model was developed and used to better project the impacts of alternative load reductions, studies continued to identify the sources of nutrient loadings, and the cost and effectiveness of controls programs. The new computer model added finer resolution to the geometry of the Bay and improved the ability the older model to better simulate the variations in tides and river flow. Cost effectiveness studies were initiated to provide perspective on the relative costs of point and nonpoint source controls.

Water Quality and Living Resource Objectives

The Bay Program's highest priority is to restore the Bay's living resources. Among the ways this will be accomplished is through water quality improvements to be achieved through nutrient reductions.

Newly developed habitat requirements can be compared to existing conditions and, in instances where projections are possible, be compared to future conditions using computer models discussed in the next section.

Shallow areas of the Bay and tidal tributaries, which contain the most critical habitat, are the areas in which the computer models are the least helpful in predicting future water quality and habitat conditions. While current computer simulations of future water quality give needed perspective to future investments in water quality, they forecast benefits only to the mainstem of the Bay and not to the major tributaries to the Bay, they currently underestimate the benefits nutrient reduction programs are likely to have on habitat restoration.

State nutrient reduction strategies will attempt, in the future, to better describe the benefits to tributary habitats.

Chesapeake Bay Program



Findings

The information collected in the process of reevaluating the nutrient reduction strategy represents a major advance in our understanding of the causes and results of nutrient enrichment in the Chesapeake Bay and the actions needed to improve the Bay's condition.

- We are ahead of schedule in meeting the 40% point source reduction target for phosphorus and are starting to make progress in nitrogen removal.
- Computer simulations of higher nutrient loads (increases of 20% to reflect projected growth with no additional nutrient controls) resulted in approximately a 15 to 20% increase in the extent and duration of Bay waters with dissolved oxygen levels less than 1 mg/l.
- Computer simulations show that a 40% reduction of the revised estimates of controllable nutrient loads results in about a 20% reduction in the extent and duration of Bay waters with dissolved oxygen levels less than 1 mg/l.
- Reducing nitrogen in the mainstem of the Chesapeake Bay appears to be more effective in restoring dissolved oxygen levels than proportional reduction in phosphorus. Phosphorus controls are still needed to protect and restore tributary and upper Bay water quality.
- Controls on nitrogen released to the atmosphere and subsequently deposited in the Bay are an important part of the restoration and protection program.
- Nonpoint source control technologies will control a smaller portion of the nitrogen than originally expected. This points to the continuing need for the Bay Program to continue its support of the development and demonstration of pollution prevention and control technologies.
- Nutrient reduction in the upper and mid-Bay are more effective in restoring dissolved oxygen levels than reductions imposed in areas tributary to the lower portions of the Bay.
- The shallow areas of the Bay and tidal tributaries which contain the most critical habitats are the areas in which the computer models are the least helpful in predicting future water quality and habitat conditions. Future models must be refined to make these projections, and control programs must be refined to ensure that these areas are protected.

Chesapeake Bay Program



Future Activities

The next step in the reevaluation is to allocate nutrient load reductions to the tributaries that convey these loads to the Bay. Once this is done, the Baywide Nutrient Reduction Strategy and the state implementation plans it contains will be reviewed and updated as necessary to ensure the attainment of these new load limits.

Information compiled during the reevaluation will provide valuable guidance to the jurisdictions in developing these plans. This information includes detailed nutrient loading estimates, evaluations of water quality and living resources status and trends in the mainstem and tributaries, an accounting of available technologies and costs for point and nonpoint source nutrient controls.

The process outlined above will extend the goals and principles of the 1987 Chesapeake Bay Agreement while ensuring that the nutrient reduction plans of the signatories are realistic and will lead to significant progress in restoring the water quality and living resources of the Chesapeake Bay by the year 2000.

**MARYLAND'S TRIBUTARY STRATEGIES:
IMPLEMENTING THE BAY AGREEMENT AMENDMENTS**

CONTENTS OF THE TRIBUTARY STRATEGY DOCUMENTS

(Draft - September 29, 1992)

A series of three documents will be prepared to develop Maryland's tributary strategies for nutrient load reductions. These three documents will be prepared sequentially for public comment over the period October, 1992 - July, 1993. This sequence of documents is intended to represent both a logical process for assembling strategies and an effective means of focusing public review and comment. The resultant strategies will serve as the basis for developing specific implementation plans.

DOCUMENT 1: "Overview" (one for all of Maryland's Bay drainage)

Purpose: To communicate Maryland's tributary strategy to the public: what we're doing, what we've learned so far, what we've decided so far (i.e., nutrient load allocations), how we plan to proceed, and how public input can be incorporated into the process. This will be a short, slick document.

Release Date: Nov., 1992

Outline:

- I. Introduction
 - A. Problems of the Bay with focus on nutrients
 - B. '87 Agreement, Reevaluation and Amendments
 - C. Definition of Md. tributary basins for strategy development
 - D. Nutrient load reduction allocations and assumptions

- II. Process for Developing Tributary-Specific Strategies
 - A. Development of "Tributary Focus" documents
 - B. Development of "Strategy Options" documents
 - C. Citizen/local government participation
 - D. Relationships with interjurisdictional Bay Program

DOCUMENT 2: "Tributary Focus Documents" (one for each of Md.'s 4-11 tributary strategy basins)

Purpose: To provide the public with consistent, basin-specific information of relevance to a nutrient control strategy that can serve as a common base of knowledge from which to start the development of tributary strategies. These will be a short documents with graphs and tables.

Release Date: Jan., 1993

Outline:

- I. Introduction
 - A. General information on the Bay Agreement, Nutrient Reduction Strategy and Tributary Strategies; reference to the "Overview" for more information.
- II. Basin Characterization
 - A. Land use and population: existing and trends
 - B. 1985 - 1992 point source N & P loads; controls in place and progress to date
 - C. 1985 (?1990) nonpoint source N & P loads; programs/controls in place and progress to date
 - D. Measures of water quality/habitat/living resources that are relevant to a nutrient reduction strategy: status and trends

DOCUMENT 3: "Strategy Options" (one for each of Md.'s 4-11 tributary strategy basins)

Purpose: To propose a set of nutrient control strategies for each basin from which options could be selected following public review and comment. Nutrient control options, along with their cost, financing, and implementation considerations, would be discussed, including a rationale for applying them in the target basin.

Release Date: April, 1993

Outline:

- I. Introduction
 - A. Short summary of process to date
 - B. Intent of this document
 - C. Technical tools available to formulate strategies
- II. General Overview of Nutrient Control Options: Effectiveness and Cost
 - A. Point source

- B. Nonpoint source
 - III. Rationale for Application of Control Options
 - A. Cost and financing mechanisms
 - B. Implementability
 - C. Existing water quality and living resource habitat conditions
 - D. Geographic considerations within basins
 - IV. Strategy Options to Meet Load Reduction Allocations
 - A. Point sources
 - B. Nonpoint sources
 - V. Implications for Implementation (to insure a realistic strategy)
 - A. Who would bear the burden of the various control options and why?
 - B. What would it cost?
 - C. How long would it take to implement?
 - D. Would new laws/regulations may be required?
 - VI. Role of the Public and Local Governments in Finalizing the Strategies
-

Implementation Plans

Purpose: To establish the mechanisms, schedules and financing for implementation of point and nonpoint source nutrient controls called for in the tributary nutrient reduction strategies. This will include continued involvement of the public as well as periodic reviews and evaluations.

Date: Begin by Aug., 1993

dest 9/30

PUBLIC PARTICIPATION WORK GROUP
DEVELOPMENT, REVIEW, AND IMPLEMENTATION OF TRIBUTARY-SPECIFIC STRATEGIES

MISSION The purpose of the Public Participation Work Group is to broaden and coordinate public participation for the the tributary-specific strategies. The work group will work with the jurisdictions to insure adequate public comment during the strategy development process. The work group will coordinate its planning with the Technical Advisory Work Group.

WORKPLAN To facilitate the public participation process for the development of the tributaries strategies, a coordinating work group has been created by the Implementation Committee.

The work group will prepare an outline of proposed tasks by mid-Fall. The work group should have a backgroup paper and plan for public comment prepared based on each jurisdiction's strategy development process. The background paper should explain the amendments which were just signed, the rationale for the allocation numbers, the purpose of the tributary strategies, and the ways in which concerned citizens can express their views.

The plan for public comment should describe how each jurisdiction intends to develop its plan as well as the timing and format of public comment opportunities. The work group will assist the program and jurisdictions in responding to public comment objectives. These objectives may include:

- 1) Timely information on the development strategies provided throughout the year, via Bay Journal and other publications.
- 2) Key interest groups will be briefed on the strategy process and content.
- 3) The general public will be encouraged to participate in the strategy review process.
- 4) The process will be facilitated and coordinated by the IC-CAC-sponsored workgroup and report to the IC.

The public participation plan may be composed of a variety of elements, including fact sheets, briefings, public meetings, tributary advisory committees, videos, and field trips. The work group will be asked to identify the specific elements each jurisdiction chooses to use, along with a timetable and assignments of responsibilities.

MEMBERSHIP The work group will be composed of representatives of:

- | | |
|------------------|--------------------------------|
| 1. CAC | 5. Federal Government |
| 2. LGAC | 6. Chesapeake Bay Commission |
| 3. STAC | 7. Communications Subcommittee |
| 4. Jurisdictions | 8. ICPRB |
| | 9. SRBC |

Specific Interest groups (agriculture, business, environmental, etc.) may be added. Members should be individuals who are very familiar with the Bay

Program and the nutrient strategy process and who are in a position to represent and be knowledgeable about their constituents' needs. They need to be people who have knowlege of effective public participation techniques.

It is anticipated that once the work group develops the initial plan, mid-Fall, it will only meet periodically to oversee progress as the strategies are developed.

It is suggested that the Alliance for the Chesapeake Bay be asked to staff the work group as part of their public participation grant.

9-29-92

JUDGE JOHN C. NORTH, II
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STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

Memorandum

TO: Judge North
FROM: Dawnn McCleary 
DATE: October 28, 1992
RE: Harford Co. Comprehensive Review Selected
Panel Members

Below are the panel members I have selected for Harford Co.'s
Comprehensive Review. They are:

1. Sam Bowling
2. Ron Young
3. Ron Hickernell, Chairman
4. Kay Langner
5. Bob Schoeplein

DM/lh

cc: ~~Reggy~~
Sarah
Pat
Ren

MAKE Name plates for:
Dane Bowdon / Robert Fitzgerald

PRELIMINARY AGENDA
November 4, 1992

SUBCOMMITTEES

- 9:00 a.m. - 10:00 a.m. MOU-MDOT Conf. Room C
695 Toll Plaza
Fitting into the SHA Process
- 10:00 a.m. - 11:00 a.m. Project Evaluation Conf. Room D
- 11:00 a.m. - 11:30 a.m. Special Issues Conf. Room C
Nontidal and Forestry Legislation
- 11:00 a.m. - 12:00 p.m. Program Amendment Conf. Room D
Growth Allocation

PLENARY MEETING

- 1:00 p.m. - 1:10 p.m. Approval of Minutes *approved* John C. North, II
October 14, 1992 Chairman
- 1:10 p.m. - 1:30 p.m. WSSC Broad Creek Sam Bowling, Chair
Pumping Station - VOTE Theresa Corless, Planner

Joe Mantua

A-1

Described Project - app. c Conditions
MDE - submitted for approval -
1 outstanding reg. reflected in cond.

S. Bowling - motion -
second -

approved unanimously

1:11 finished

- 1:30 p.m. - 1:45 p.m. MD Rt. 150 Bridge Sam Bowling, Chair
Replacement Middle Claudia Jones, Planner
Creek-Baltimore Co.

1:45 p.m. - 2:00 p.m.

Point Lookout State
Park/Shore Erosion
Control - VOTE

Sam Bowling, Chair
Ren Serey, Planner

NEW

Staff Rept. - S. B. motion - approved
Approved unanimously 1:16p

2:00 p.m. - 2:15 p.m.

Sandy Point State Park
Boat Storage Building

Sam Bowling, Chair
VOTE

NEW

S. Bowling - approved as presented
Seco
vote - unanimously 1:20

PROGRAM AMENDMENTS & REFINEMENTS

NEW

2:15 p.m. - 2:25 p.m. Betterton Growth Allocation (Betterton Bay Club) Pat Pudelkewicz, Planner
REFINEMENT

RCA to
LDA

Pat:

Summary of Support
Gave (Overview) of Consent Decree

Finish
1:30

2:25 p.m. - 2:50 p.m. Baltimore County - Mapping Mistake VOTE Bob Schoeplein, Chair
Pat Pudelkewicz, Planner

Briefed Comm. on Mapping Mistake
Extend IDA Classification
to include PKY area

B. Schoeplein moved to

Approve, Second. Michael
Municipally Council

Finish 1:37

Pat Jan: - Case by case basis

2:50 p.m. - 3:15 p.m. St. Mary's County Growth Allocation Amendments VOTE Sam Bowling, Chair
Ren Serey, Planner

Scott Kudlass

St. Winifred's Estates:
S. Bowling motion - second
Council unanimously

Finish 2:36

Christmas Island: a lot of discussion
S. Bowling moved to approve sub - sec / unanimously C.
(Schoeplein - access roads)

Structures Over Piers:
Policy

Frank Dawson - Summary - 10 hearings - 2000 residents (over)

Regs. well rec'd - generally —

Prop. Dec 14

Effect in April

Formalizing. Meeting Pd. also

Restrictions on boat houses well rec'd
by ~~COTTS~~

Jimah 2:55 p

POLICIES

Ron Young 1:40

3:15 p.m. - 3:40 p.m.

Reconsideration
TENTATIVE

Sarah Taylor, Exe. Dir.
~~George Gay, AAG.~~

SCN - comments

SST - add Section to Policy

Finish
1:40

Review & comment for Dec. mtg.

3:40 p.m. - 3:50 p.m.

Forestry Legislation

Sarah Taylor, Exe. Dir.

Act excluded C.A. (See Back)
New Cons. Plans in accordance

Finish
~~1:40~~

ES Act
Definitions

Bill Corkran finds inconsistencies in definitions:

Should be
minimum of
1 acre for
a forest

3:50 p.m. - 4:10 p.m.

Nontidal Wetlands Leg.

Elizabeth Zucker, Science
Advisor

Discussed 3 alternatives - synopsis -

From

Concluding by S.I. Sub

DNR Pgm - restrictive

Discussed not incl'd in
Alternative #2

J.O.S. Com
voted to approve

Alter #2 in concept

Vote - ~~attached~~

Forestry

L. Lawrence's comment (M. Corkrum)
agrees —

M. Boston — make of local
(min 1 acre)

H. Kassoff — seems less restrictive in
C.A. than outside C.A.

Unified, streamlined approach

DNR C.A.! Do research for 1 yr —

EST - Loc. Gov'ts under crunch to

finalize & effectuate —

J. Peck - Reg. Note not right

H. K. Kassoff - 2 sets?

Peck -

Heckel - back on course! Some compromise
be practical

S. Bouling - adopt now; regulate

Chair Worth called for action —

Frank 2/15

J. Gutman - moved to reconcile

until next Com. mtg

Wants that as "less stringent"

Staff likely
Second meeting
unanimously

4:10 p.m. - 4:30 p.m.

Procedures -
Comp. Review

Pat Pudelukewicz, Planner

Finish

*Pat briefed Comm.
on procedures*

Tape blanking

4:30 p.m. - 4:45 p.m.

Commission Meeting
Procedures

Sarah Taylor, Exe. Dir.

~~*Indade*~~

Reviewed proced. Comm.

*P. Glendon
J. Hutson*

Tape cutting out

4:45 p.m. - 5:00 p.m.

Public Hearing
Procedures

George Gay, AAG

5:00 p.m. - 5:10 p.m.

~~LEGAL Updates~~

George Gay, AAG

*Wray at Andy Pt -
Durham panel*

5:10 p.m. - 5:15 p.m.

Old Business

John C. North, II,
Chairman

none

New Business

John C. North, II,
Chairman

*SCN Ayt. panel - Har Co. Com. Rev
SST K. Langer - still improving*

SST. - St. Trib. Nat. Red Strategis

Attachment

S. Bowling -

JCN. will discuss - Casual

Ady. 4pm

I make the motion that the Critical Area Commission approves ~~to~~ Alternative II. ~~as the~~ for legislation on nontidal wetlands in the Critical Area.

Alternative II includes the following:

1. Amending the Dept. of Natural Resources Nontidal Wetland Protection Law to include the Critical Area and developing DNR

~~to Repeal the Critical Area~~
~~Order~~

regulations to address:

1. limiting cutting ^{ing} of the 25 foot buffer to 10% for personal use
2. allowing counties to be delegated authority for ~~regulate~~ a more strict protection program
3. locating mitigation of Critical Area wetlands within the Critical Area, to the extent possible.

JUDGE JOHN C. NORTH, II
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STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

October 26, 1992

MEMORANDUM

TO: Commission Members
FROM: Peggy Mickler
RE: Updates for Addresses

Please provide to me at the next Commission meeting on November 4th, any changes or additions to your :

- a) home address, telephone number
- b) business address, telephone number
- c) telefax number
- d) an address for Federal Express delivery (Fed Ex cannot be delivered to a P.O. Box)
- e) name of secretary or office contact person

I thank you for your cooperation.

Sincerely,

Peggy Mickler
Commission Secretary