

Severn River Association Minutes

Board of Directors Meeting Tuesday, April 17, 2012

The meeting was called to order at 7:10 p.m. by President Duane Wilding

Presentation: Jacqueline Sincore Guild – Executive Director, Chesapeake Legal Alliance

The Chesapeake Legal Alliance – Lawyers for the Bay

The Mission of the CLA is to use the law to protect and restore the quality of the Chesapeake Bay and its watershed. CLA serves as a clearinghouse to identify and support lawsuits and other legal initiatives where the goal is to contribute to improving the quality of the Chesapeake Bay and its watershed. CLA coordinates a network of volunteer attorneys and expert witnesses who provide a wide variety of legal services to protect and improve the quality of the Chesapeake Bay and its watershed.

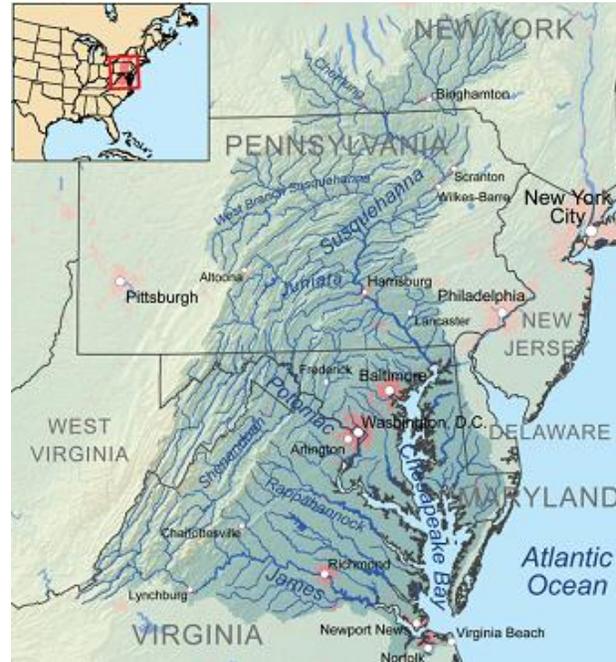
The Chesapeake Bay Watershed covers 64,000 square miles, with 11,600 miles of tidal shoreline, including tidal wetlands and islands. It has more than 100,000 tributaries, including 150 major rivers, and 17 million people live in the watershed, with 10 million along its shores or close by.

Although the Watershed extends from New York to Virginia and West Virginia, most of CLA's activities are in Maryland and DC. The CLA is a 501(c)(3) non-profit, and receives funding from several foundations including the Keith Campbell Foundation, as well as from corporations and individuals. Their activities include Litigation, Enforcement, Appeals, Zoning Hearings, Mediation, Counseling on Legal Issues / Strategy, Negotiations, Facilitation of Stakeholder Dialogue, Development of Legislation and Regulatory Comments, Advocacy and Permit Review. They have over 60 volunteer attorneys, one engineer and two database/computer technology experts in their volunteer network, and have worked with over 50 groups in Maryland, Virginia and West Virginia. They have worked on over 50 matters since they were founded in 2009, and are growing rapidly. In 2011, CLA volunteers provided \$1.9 million in pro bono legal and other volunteer services, and in June they are starting a Summer Legal Intern Program for Georgetown University law students. Their present annual budget is about \$300,000 and they have 3 full-time staff.

CLA does not allow politics or scope to influence which cases it takes, and will take on challenges other organizations have declined.

Government agencies lack staff and funding for enforcement and monitoring, so laws are routinely subverted by well-heeled special interest groups and individuals. Citizen groups and environmental organizations lack the funding to hire high quality legal counsel. To combat this, CLA provides high quality pro bono legal representation to individuals, community groups and environmental organizations.

CLA attorneys enforce laws and regulations designed to protect the Bay, assist groups bringing lawsuits, participate in rulemaking and administrative hearings and zoning processes, to prevent and minimize impacts of development in wetlands and other environmentally sensitive areas, and stop unpermitted



discharges of pollution. They sue to enforce the Clean Water Act and other environmental laws, advocate for improved water quality and Bay restoration legislation, and work to reduce stormwater runoff in communities and at construction sites. A major goal is to permit development without adverse impact.

CLA's clients include the Bay Land Trust, Chesapeake Bay Foundation, City of Annapolis, Magothy River Association, the Scenic Rivers Trust, the Severn Riverkeeper, Waterkeepers Alliance, and many others. Actions taken have included

- Suit against the Maryland Department of Environment seeking to strengthen its permit requirements for poultry operations.
- Assisted the Magothy River Association and CBF in the Dobbins Island lawsuit.
- Suit against EPA to enforce cleanup of Baltimore Harbor and Patapsco River caused by former Sparrows Point steel plant.
- Comments on proposed legislation to strengthen the Clean Water Act.
- Representing a citizen's group in opposition to a quarry project in West Virginia that would harm a tributary to the Potomac River.
- Amicus brief by City of Annapolis to support EPA's TMDL for the Bay.
- Fight against the location of a power conversion facility adjacent to a land conservation area.
- Successful enforcement of a conservation easement on a property on the Severn River.
- A suit challenging construction stormwater violations in the construction of the HOT lanes for I-495 in Northern Virginia.
- Assistance to environmental organizations in obtaining non-profit tax exempt status and mergers.
- Preparation of 501(c) (3) non-profit status filings.
- Fight against harmful zoning changes in Anne Arundel County.
- Assistance in developing contracts for farmer training programs and developing employee manuals.
- Representation of organizations at Board of Appeals regarding building and grading.
- Opposition to property development in City of Annapolis.

The Bay faces major challenges – the Carbon Footprint today is 75% higher per person than in 1700's. The most serious damage to the Bay occurred between 1940 – late 1960's, when there was a large growth in Industry (largely unregulated) and a similar large growth in Population, aggravated by a move to suburbs with a resulting increase in car ownership and usage. Serious efforts to regulate discharges and clean up environment started in late 1960's. Disease and overfishing have decimated once abundant populations of oysters, fish, clams and crabs. When abundant, oysters were able to filter the Bay's pollution every three days. **Now, this process takes a full year.**

Reduced populations of menhaden are thought to be contributing to reduced water quality in the Bay. An adult menhaden can filter algae at a rate of 4 to 6 gallons of water per minute! We remove half a billion menhaden a year from U.S. waters. Omega Protein in Southern Virginia is the largest processor of menhaden in North America. Omega was recently forced to limit its catch to a more sustainable harvest.

Interstate Pollution is a major problem. The Susquehanna River, which supplies the vast majority of fresh water to the Chesapeake Bay, originates in New York and flows through Pennsylvania before

reaching Maryland. Two-thirds of Pennsylvania's waterways drain to the Chesapeake Bay, but it is not a "Bay front" state. Atmospheric deposition, another major pollution source, migrates hundreds of miles across many states.

Client Intake Process: Before a new issue is accepted for action, the CLA evaluates it as follows:

- Is the individual/ group in the Chesapeake Bay watershed?
- Does the issue fit CLA's Mission?
- Is the issue one which merits legal representation?
- Is the issue already being addressed by others? Possible Partnerships?
- Can the Client establish legal Standing to sue?
- Is this timely, or moot?
- Can the individual/ group afford an attorney or contribute to fees?

While the CLA has been focused on actions close to the Bay, it is now expanding to focus more on Upstream activities such as Fracking in Pennsylvania, for several reasons. The Resource Conservation & Recovery Act (google RCRA for more information) was amended in 1984 to increase focus on waste minimization and phasing out land disposal of hazardous waste as well as corrective action for releases. Some of the other mandates of this law include increased enforcement authority for EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program. The Federal standard for legal Standing relaxed a few years ago & is broader than Maryland rules.

Timing is critical – rulings must usually be appealed within 30 days and it often takes 3 weeks to find an attorney, leaving little time for preparation. Comments on proposed legislation or rules are generally also limited to a 30-day window.

Once a case is accepted, CLA finds an attorney either from its existing volunteer network or by contacting a new attorney with appropriate interest, expertise and timing, considering the Scope of representation and possible Conflicts. Once the attorney – client relationship is established, CLA's only remaining involvement is to track progress to get feedback and report the pro bono hours expended.

While there is no charge from CLA Staff and the legal services provided are pro bono (unless otherwise agreed upon), the client is expected to pay out-of-pocket expenses, such as filing fees, transcripts, expert services, etc. Transcripts and expert witnesses can be quite expensive.

To help with the cost of expert witnesses, the CLA is expanding to proactive involvement such as training testifiers. They presently have a good pool of experts and knowledgeable lawyers, but they can't do pro bono work frequently and the need exceeds the supply. Their new Attorney Training Course starts August 28, and they are preparing for more Activist Training. They also are expanding their services throughout the Watershed, and expanding their Attorney Network. Additional future plans include identification of and participation in Emerging Issues.

You can help by following county and state initiatives in your area AND PARTICIPATING – watch the appropriate websites or your local news for legislative, MDE/EPA postings, zoning and planning processes. Then, show up and testify – SIGN IN!!!! If you haven't signed in, your attendance is NOT counted and your voice won't be heard. Voice your concerns to government and elected officials. Submit comments on proposed legislation or rulemakings. KEEP SHOWING UP!!

Your actions are also important - Modify your own car use, redirect downspouts, plant a rain garden, use rain barrels, clean your septic system.

For more information or to help CLA by donating your time or treasure, call 410-216-9441 or visit info@chesapeakelegal.org.

Questions from the audience:

Ken Hatch asked if CLA had any comments on the wedding chapel zoning change. AACo overrode the County Executive's veto. A suit has been filed and hearings have been postponed several times. The Comprehensive Plan in MD was advisory only (the infamous Terrapin Run decision) but the legislature overturned that decision and this suit is the first test of the new legislation. There are similar cases in 3 other counties.

Gene Milgram asked if any appeals required education. Answer: Not at present.

Business Meeting:

Minutes of February Meeting were Approved with one correction – on page 3 under “old business, the Jonas Green Park signs have not yet been made but will be designed and translated into Spanish (there was no formal meeting in March so there are no minutes).

Treasurer's Report – Treasurer Lynne Rockenbauch reported: \$29,015.98 in the Checking account, \$37,027.73 in the Savings account, total \$66,043.71.

Old Business:

- Bill Rynone reminded us that the next meeting of the Anne Arundel Society of Professional Engineers, the 2nd Tuesday in May, will feature a talk on All Electric Vehicles; the June meeting topic will be Fusion.energy. Meetings have been moved to the Edgewater Police Station, 6:30-8pm. Kurt Riegel noted that Fusion power has been 10 years away for as long as he can remember.
- The March 10 workshop on Exposed Soil = Pollution was well attended and successful. 30 sites were visited and reported on. AACounty inspectors are overwhelmed due to budget cuts. We have now sent a letter to AACo reporting our findings, and are following up with letters to the developers. We have scheduled a meeting with John Peacock of AACo.
- Membership renewals –John Wright – the Committee has now reduced the number of communities who have not yet renewed to 11. They are continuing the reminder campaign, and reminders have been sent to the 41 individuals who have not yet renewed. We have contacted NFWL and they charge \$45/pg to write grant applications. We need a consensus on what to apply for.
- Nominating Committee Report – Charlotte Lubbert – The committee consists of Bob vom Saal and Lynne Rockenbauch in addition to Charlotte. The Committee will recommend John Wright for President since Duane does not wish to serve a second term. John wrote a column on insider trading, and is now Director of Business Development for the nonprofit firm Higher Education Publications. HEP serves nonprofits by tracking which companies offer matching gifts. Exxon for example matches 3:1. He is also a Watershed Steward. Bob Whitcomb, Dinny White, Bob vom Saal, Lynne Rockenbauch and Tom Guay are standing for reelection. We need 6 candidates for Outside Directors.
- Land Use Committee –Dinny White – no report (not present).
- Jonas Green Park – Bob Whitcomb reported that the environmental sign project is moving – A student has been hired to make the signs and they are in progress. We are applying for a grant for an Oyster Bar sign.
- 3/31 stream cleanup – Bob Whitcomb reported that it was very successful. 130 people cleaned up 3 sites. At Clements Creek they filled 3.5 40' dumpsters. 1 just with old tires. A total of 16 tons of trash was removed, including appliances and a Coke machine. All of it had been there a long time. Many items were buried. We do not disturb items buried in running water, but did dig many out of the bank. Another 51 volunteers cleaned up the creek behind the Unitarian Church, removing another 15 tons of trash. They left several piles and 3 piles were left on the road by Weems Creek; AACo work crews came back on their own time on Sunday to pick them up.
- Bob Whitcomb reported that the MD Legislature was generally good to the environment this year – he testified in favor of several environmental bills. The League of Conservation Voters was

supporting 3 bills and all passed: the Flush Tax was doubled to fund water treatment, stormwater fees were mandated for Urban counties (Howard, AA, Balt Co + Balt City), and some limits were placed on new septic tanks (the bill was watered down & complicated, but still will help slow the pace of growth of this water quality problem). The Chesapeake Bay Trust was funded again, as was Program Open Space (\$70mm).

- Community News – Two new Community Representatives were introduced – Paul Wolford for Pines on the Severn and Maureen Birch for Pendennis Mount. No other news.

New Business:

- Watershed Audit – CEDS will conduct a Seminar on 5/5 to learn how to recognize good and bad stormwater pond management (BMP – Best Management Practice) in existing developments, and what to do about it, The seminar will again be followed by a survey of many such sites.
- Bob Whitcomb reported on an Oyster forum he attended explaining the US Army Corps of Engineers Master Plan for the Chesapeake Bay. 20 tributaries are to get 20%-40% of their historic beds restored. The cost will probably be several billion dollars, and only \$50million has been committed. The ACE produced a good Report with a comprehensive survey of past and present oyster beds. The Severn River is in tier 1 – along with 10 other rivers in MD and 9 in VA. The ACE wants to make an example and has selected Harris Creek first – 22 acres of its historic 300 beds will be restored. The substrate will NOT be slag – the ACE accepted the Severn River Commission's recommendation to not use slag. Chopped Granite is the first choice, but it is not cheap. This is a good start, but only a small start. The Severn River is not likely to be restored soon – they are looking for the best odds of success and the Severn is problematic. Harris Creek was chosen because it is pristine. Bob is arguing that they should focus on the most benefit, not the best odds for success. The project is being funded by NOAA. More thought is required to decide how to phrase a suggestion to shift priorities in a way that will have an effect.
- Kurt Riegel reminded us that he needs articles for the next edition of the Log, preferably innovative and Inspirational. Charlotte suggested some articles spotlighting some of our member communities.
- Julie Johnson expressed her appreciation that the SRA strongly opposed Jamie Benoit's Open Space Destruction bill at last night's County Council meeting. It will have a broad negative effect. Several Camps are also pushing for its passage. We testified asking the Council to wait until Larry Tom provides Planning & Zoning input. One testifier had 12 acres Open Space in the middle of a development. We stressed compatibility with the General Development Plan. Motion was tabled until the next meeting. Paul Sarbanes also wrote a good letter saying this will have a strong adverse effect on water quality, and Annapolis Roads sent a strong letter opposing it.
- Julie also mentioned that Leopold's indictment and the no-confidence votes are causing chaos, and she has a petition supporting the deputy chief of police. The no confidence vote was partly due to budget cuts. An Independent Prosecutor is pursuing the case.
- The SRA Annual meeting will be 6/16 at Arlington Echo Dining Hall at 7pm. No alcohol will be served due to School policy. They serve on Sustainable (not disposable) dishes and utensils, so we need volunteers to load the dishwasher after the meeting. The Speaker will be Richard Klein of CEDS describing the results of our Construction Site and Stormwater BMP programs.

Meeting Adjourned at 8:40 PM.

Next Meeting: will be Tuesday, May 5, 2012 at 7pm at Arlington Echo. P. Favero will summarize the results of the workshop with SRA on March 20 where we discussed and developed SRA Goals for 2012/2013.

Respectfully submitted,

Bob vom Saal