

SUSTAINABLE FORESTRY COUNCIL
PUBLIC MEETING COMMENTS
OF
GERALD W. WINEGRAD, CHAIRMAN OF THE SENIOR SCIENTISTS AND
POLICYMAKERS FOR THE BAY
November 8, 2011

These measures include the following that the Sustainable Forestry Council can adopt as part of your recommendations and work to gain enactment:

FOREST LAND PROTECTION AND INCREASED FORESTED BUFFERS SHOULD BE
MANDATED IN MARYLAND

***ADOPT A NO NET LOSS OF FOREST COVERAGE AND REQUIRE FORESTED BUFFERS ALONG 85% OF RIPARIAN AREAS.** Maryland should require a no net loss of forest coverage in each of its waterway segments to achieve the nutrient and sediment TMDLs by a date certain to meet “reasonable assurance” expectations. Maryland law should contain detailed measures to expand forested buffer coverage to at least 85% of all the shores of the Bay and its tributaries. Existing forested buffers should be protected from development.

***TARGET EXISTING FUNDING AND AMEND FCA TO ACHIEVE NO NET LOSS AND EXPANDED BUFFERS.** Maryland should target funds, such as from Maryland’s Program Open Space, Rural Legacy, and the Agricultural Land Preservation Fund for the fee simple or easement purchase of forest lands on private lands and farm lands, especially those especially riparian forests bordering the Bay and its rivers. Acquisitions should take into consideration State Wildlife Action Plans and Green Infrastructure maps that have been updated to reflect the implications of climate change and expected sea level rise. Maryland should also expand the Forest Conservation Act to require a no net loss of forest cover.

Our group of 58 scientists, policymakers, and conservationists has adopted the above measures as part of 25 specific measures to restore the Chesapeake Bay. The group includes two former Maryland Governors, a former U.S. Senator, a former Congressman, current and former Maryland State Senators and Delegates, former Secretaries of Natural Resources from Maryland and Virginia, a current County Council member, as well as top Bay scientists and activists from Maryland, Virginia, and Pennsylvania.

Our group unanimously concluded that after 27 years of effort, the formal Bay Program and the restoration efforts under the voluntary, collaborative approach currently in place have not worked and current efforts have been insufficient and are failing. Water quality is declining or not improving in much of the Bay and its rivers, and living resources continue to decline. The states failed by a wide margin to meet the 2010 deadline for pollution reduction goals necessary to restore the Bay and the full panoply of actions necessary to accomplish this have now been put off until 2025. This means that 90% of the Bay’s waters continue to fail to meet basic Clean Water Act requirements precipitating the setting of TMDLs.

Because of this failure, our group has urged Maryland and the other Bay states and the EPA to transition from the voluntary collaborative approach in place for 27 years to a more comprehensive regulatory program that would establish mandatory, enforceable measures for meeting the nutrient, sediment, and toxic chemical reductions needed to remove all Bay waters from the Clean Water Act impaired waters list.

We are particularly concerned over the failure to achieve the significant and necessary reductions in nonpoint source pollution loads and meet the caps set for nutrients and sediment. We have been particularly concerned with and have urge Maryland and the other states to take the aggressive actions we have detailed in our 25 measures below that focus on reducing nutrient and sediment loadings from agriculture and development. Without these the Bay is doomed.

The Sustainable Forestry Council can greatly assist in efforts to restore the Bay by focusing on nonpoint source pollution as forests and wetlands are the greatest protectors of the Bay from pollutants. Wetlands are fully regulated and protected and Maryland and the federal government have achieved the requirements of no net loss laws by strictly regulating the development of wetlands. The Maryland Tidal Wetland Act was enacted in 1970; the Nontidal Wetland Act was enacted in 1989. Shouldn't we do the same by laws and regulations for forest by establishing a no net loss of forest cover policy and laws to implement it and strive try to increase forest coverage, especially through riparian buffers?

I would urge the Sustainable Forestry Council to go beyond simply extending incentives to keep lands forested. Such voluntary programs alone have not and cannot achieve the necessary results. By adopting bold measures to protect and augment remaining forests, the Council can assure the protection of Maryland's streams, creeks, and rivers, enhance wildlife habitat, restore fisheries, protect Maryland's citizens from flooding, and improve air quality. I urge you to adopt a comprehensive set of recommendations for achieving a no net loss of forest cover in Maryland and detailed measures to expand forested buffer coverage to at least 85% of all the shores of the Bay and its tributaries.

In January 2007, just before Governor O'Malley took office, the O'Malley Administration Environmental Transition Report recommended adoption of a no net loss of forest goal. Recommendation #6: Adopt a no net loss of forests goal for Maryland through legislative and executive actions. Methods to accomplish this include enhancing current tax and other incentives for private landowners to retain even small forest holdings, amend the Forest Conservation Act, couple incentives for conservation with greater levels of technical assistance for sustainable forestry, along with easements and acquisition to preserve forested tracts. Direct MDA and DNR to work vigorously to expand and target Conservation Reserve Enhancement and other highly cost-effective programs that help landowners establish new forests and wetlands along the Bay and tributaries.

Also, from the Transition Report: Recommendation #14: Expand the financial incentives and technical support available to private forest landowners including providing state and local income tax reductions and credits for providing public benefits, working to protect business opportunities for sustainable forest production, supporting conservation easement programs, and ensuring that the Maryland Agricultural & Forest Land Preservation Foundation (MALPF) provides parity between agriculture and forestry in support of land conservation.

Isn't it time to implement all of these recommendations and stop studying the problem? Here are further recommendations to achieve the no net loss goal and the 85% forested buffer goal:

*Amend Forest Conservation Act (FCA), Critical Area Law, and state projects impacting forest law to assure no net loss and to remove the provisions that allow payment in lieu of replanting. All criteria would be tightened to prevent tree loss but if there is tree clearing, the person doing the clearing must replant at least at a 1 to 1 ratio and permanently protect the forested area through conservation easements or fee simple transfer. Buffer clearing would require a 2 to 1 ratio, and 1.5 to 1 for all other areas in the Critical Area. Replanting would be on site or, if not possible, in the same watershed of the county where clearing occurs. Watering and maintenance agreements for any new trees planted should be for at least three years. These easement and maintenance requirements should be in place before occupancy permits are issued. Eliminate loopholes in the FCA.

*All new development should keep or plant forest buffers of at least 100' around all streams and rivers. Reforesting 100' buffers around the Bay would be a priority.

*Amend Program Open Space to require 40% of POS funds off the top to be used ½ for the state, ½ for counties to purchase forest lands through conservation easements or in fee simple, permanently protecting priority forests, especially those on or near Bay waters. These POS funds could also be used to plant and protect riparian forest buffers under the Chesapeake 2000 agreement, including in developed areas. Allow 20% of 40% POS funds to be used for replanting riparian forest buffers.

*Amend POS so that at least 40% of the 17% of POS funds that the MALPF gets for ag land preservation would go to purchase permanent easements on farm forests. 76% of Bay forests are in private ownership, 40% on farms. Harvest of timber on such protected forests could be permitted if under a DNR stewardship plan. Amend MALPF to give highest priority to forest easements.

*Amend Rural Legacy to require 80% of funding to be used on forest conservation and replanting, especially of riparian buffers.

*Adopt legislation to stimulate improved forest conservation through mechanisms like tax incentives (income and property), and access to technical assistance for managing forests.

*Require the setting and implementation of urban canopy cover goals in Maryland's municipalities and urbanized areas, focusing on areas developed before stormwater management requirements.

*Legislation should be adopted to assure that County General Development Plans include provisions to maintain existing and enhance forest cover and add incentives for continued forest conservation, including the implementation of resource-based Small Area Plans to accomplish the no net loss goal.

RATIONALE: Forests can absorb and hold 90%+ of nutrients and nearly 100% of sediments. DSP land use data indicates that from 1973-2002, Maryland lost more than 249,000 acres of forests. The State of Chesapeake Forests report finds that if current trends continue, 9.5 million acres of Chesapeake forests will likely be converted to residential development by 2030.

The FCA 15-year report (1993-2007) found that 66,600 acres of forest subject to the law were cleared. MDP notes that the total acreage of developed land in Maryland has more than doubled since 1973, resulting in a significant loss of forest--400,000 acres. Maryland's population is expected to grow by another one million by 2035 and MDP projects an additional 404,000 acres of land will be developed, and Maryland will lose an additional 176,000 acres of forest.

ACTION IS NEEDED NOW!