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**Testimony in Support of House Bill 379 – Courts – Civil Actions – Strategic Lawsuits
Against Public Participation (SLAPP) – Delegate Rosenberg**

February 5, 2020

Dear Chairman Clippinger, Vice Chair Atterbeary, and Members of the Committee:

Thank you for this opportunity to submit testimony in support of House Bill 379 – the ‘Strategic Lawsuits Against Public Participation (SLAPP)’ bill – on behalf of Waterkeepers Chesapeake. Waterkeepers Chesapeake is a coalition of seventeen Waterkeepers, Riverkeepers, and Coastkeepers working to make the waters of the Chesapeake and Coastal Bays swimmable and fishable. Maryland Waterkeepers have an interest in allowing citizens and citizen groups to freely advocate for healthy and thriving aquatic habitats across the state.

SLAPP suits chill free speech and a healthy debate by targeting those who communicate with their government or speak out on issues of public interest. HB379 would strengthen the protections of Maryland’s anti-SLAPP law, by clarifying the definition of a SLAPP suit and dismissal proceedings. SLAPPs are intended to intimidate and force citizens and citizen groups to spend years and many thousands of dollars to defend against baseless lawsuits.

Today, more than ever before, citizens play a crucial role in ensuring compliance with the nation’s environmental laws. Sixteen of the nation’s principal federal environmental laws invite citizens to sue as “private attorneys general” to force compliance, or to force agencies to perform mandatory duties. These citizen suit provisions allow “any person” to bring a civil action for violation of these environmental laws, with the citizen (or citizen group) stepping into the shoes of the government as the enforcing body. Threats to public health – from power plant toxic emissions, to coal ash pollution, to radioactive waste, to failing sewer systems – can all be halted through the use of citizen suit enforcement.

Still these actions are time consuming and expensive for the individual or organization to take on. Environmental organizations work off of citizen donations and tight budgets. The burden of the costs of litigation are often too expensive for many to bear and so numerous civil and criminal violations of environmental laws go unchallenged. Additionally, citizens do not enjoy the sovereign immunity that governments do, leaving them vulnerable to lawsuits, such as SLAPPs. SLAPP suits add an additional threat to these organizations and individuals who might otherwise bring an action to help enforce environmental laws and protect public health and their communities.

Anacostia Riverkeeper
Assateague Coastkeeper
Baltimore Harbor Waterkeeper
Chester Riverkeeper
Choptank Riverkeeper
Gunpowder Riverkeeper
Lower James Riverkeeper

Lower Susquehanna Riverkeeper
Middle Susquehanna Riverkeeper
Miles-Wye Riverkeeper
Potomac Riverkeeper
Sassafras Riverkeeper
Severn Riverkeeper

Shenandoah Riverkeeper
South Riverkeeper
Upper James Riverkeeper
Upper Potomac Riverkeeper
Virginia Eastern Shorekeeper
West Rhode Riverkeeper



Citizen suit authority reflects “a deliberate choice by Congress to widen citizen access to the courts, as a supplemental and effective assurance that [environmental laws] would be implemented and enforced.”¹ Several states already have anti-SLAPP suit statutes more stringent than the ones currently in Maryland. The laws need to be strengthened in order to protect citizens from intimidation and harassment, when availing themselves of their First Amendment rights.

We feel that HB379 respects and maintains the difficult balance of protecting citizens’ free speech while avoiding overly punitive measures so as not to deter the filing of valid lawsuits and ensure every deserving party gets their day in court. We urge you to give a favorable report on HB379 that is much-needed to spare civic minded citizens the expense and inconvenience of defending frivolous lawsuits that intentionally attack their rights.

Sincerely,

Betsy Nicholas
Executive Director
Waterkeepers Chesapeake

¹ *Natural Resources Defense Council v. Yain*, 510 E2d 692, 700 (D.C. Cir. 1974).