

Testimony in Support of HB1101 – Clean Water Justice Act of 2024
Standing - Environmental and Natural Resources Protection Proceedings
Senate Energy, Education, and Environment Committee 3/01/2024

To Chair Korman and Committee Members,

My name is Bob Zillig and I live in Queen Annes County in Grasonville, MD on the shores of the Chester River and I urge you to support HB1101.

I am concerned about the recent enforcement restrictions placed by the US Supreme Court on the federal Clean Water Act (CWA) and the impact it will have on our local community's ability to legally enforce water quality regulations within our State's legal system. The CWA's original regulatory scope was intentionally broad, applying to "waters of the United States". The new Supreme Court interpretation is much narrower, stating that CWA protected bodies of water must be connected at their surface to navigable waters. This strips CWA protections from many streams and wetlands, even though hydrologically they could be connected through subsurface flows. While Maryland state law still recognizes these hydrologic connections related to water pollution, it does not currently afford the public the right to bring a legal action for enforcement, **which the CWA historically did**. Approving the proposed Clean Water Justice Act will address this gap.

I know from first-hand experience the importance of empowering local communities to have a voice in protecting water quality. I, and my Eastern shore neighbors, worked to identify the concerns within our community about a developer's proposed new commercial Marina operation and its associated river dredge which would negatively impacted our Chester River water quality. Fortunately, our communities concerns, along with the legal challenges we raised, were early and loud enough for State agencies to stop this project during the permitting process.

However, sometimes projects get approved and permitted before communities are aware or adequately organized to voice their water quality concerns. Having the rights that the MD Clean Water Justice Act provides, would insure our communities can, if necessary, raise legal challenges to enforce existing water quality regulations. There have been many recent examples where public legal challenges have been crucial to enforcing existing water quality regulations. Having public engagement to protect and enforce environmental water quality protections is a good thing. The public actions are not meant to be frivolous, as they are costly to pursue. Rather they serve as a measure of deterrence, encouraging a culture of compliance and engaging the public to assist State agencies in identifying and enforcing existing water quality regulations.

In conclusion, my concerns can be summed up by the old adage – "***Don't throw the baby out with the bathwater***". The right for communities to legally enforce existing water quality regulations ("the baby") needs to be protected and sustained in light of the recent more narrow interpretation of CWA. Passing the Clean Water Justice Act would insure this. Our state's ability to enforce pollution regulations related to hydrologically connected water systems (above and below ground) is strengthened and empowered by allowing communities to seek legal enforcement. Let's protect our Maryland tributaries and the Bay by continuing to empower communities to legally enforce water quality regulations, because you never know what somebody might be throwing out in their "bathwater".

Sincerely,

Bob Zillig