



CHESAPEAKE BAY
FOUNDATION

Saving a National Treasure

STATEMENT

FROM THE CHESAPEAKE BAY FOUNDATION

For Immediate Release

Aug. 26, 2022

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LANDMARK MARYLAND COURT OF APPEALS RULING IN FAVOR OF CBF ENSURES FOREST CONSERVATION PLANS CAN BE LEGALLY CHALLENGED

The Maryland Court of Appeals ruled in an opinion published today that forest conservation plans for development projects can be legally challenged after being approved—a ruling that will help ensure developers follow state law when proposing to clear forested tracts for construction projects.

The Court ruled in favor of the Chesapeake Bay Foundation (CBF) and its citizen co-plaintiffs Jean and Douglas Bonn, Amber Kazmerski, Beth Shepard, and Cynthia Arthur, who challenged the developer's—Harford Investors, LLP's and BTC III I-95 Logistics Center, LLC's—forest conservation plan that Harford County approved. The developer intends to clear about 220 acres of forest in Abingdon Woods to build warehouses. Their forest clearing plan calls for removing 49 specimen trees, which required the company to obtain a variance to remove. Specimen trees are large, old growth trees that are specially protected under Maryland law due to their importance to the environment and how long they take to grow.

CBF had challenged the plan in lower courts by arguing that the developer should have to protect a greater portion of the contiguous forest and the specimen trees. However, lower courts ruled the project's Forest Conservation Plan wasn't a final agency decision and thus, CBF's challenge was not ripe. Those lower court rulings were reversed by the Court of Appeals in today's opinion.

The ruling enables CBF to move forward in Harford County Circuit Court with a challenge to the developer's forest conservation plan based on the merits of the case. CBF does not believe the project's plan meets the requirements of state law.

Outside of this specific case, the ruling establishes the importance of Maryland's 1991 Forest Conservation Act and clarifies how questions related to it can be challenged in court. The Court of Appeals made clear in the ruling that forest protections must be followed in the same

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way as critical area and wetlands protections in Maryland. The opinion enables citizens, nonprofits, community organizations, and others with legal standing to challenge construction projects' approved forest conservation plans even if a county or city is reviewing the overall project's site plan.

CBF has prioritized forest conservation efforts throughout the Bay watershed for decades to reduce pollution to the Chesapeake Bay. The work has taken on greater importance in recent years because forests are imperative in the fight against climate change. Mature forests sequester vast amounts of carbon in addition to providing animal habitat and naturally filtering water and air.

Thanks to this new ruling, CBF plans to contest the forest conservation plan for the Abingdon Woods project in circuit court. If successful, CBF will seek relief for citizens affected by the significant amount of forest clearing already conducted by the developer while this Court of Appeals case was pending.

In response to the Court of Appeals' ruling, CBF's Director of Litigation Paul Smail issued the following statement:

"Today the Court of Appeals firmly secured the third leg of the figurative stool that protects Chesapeake Bay from poor development decisions. From now on, forests will have the same legal protections as wetlands and waterfront property in Maryland. If construction companies intend to clear forested land without following Maryland law, they should expect legal challenges.

"We're not living on the frontier. We can't continue to cut down forests with impunity in the name of 'development' and not expect adverse consequences to our quality of life. Every piece of forested land in the state is integral in helping Maryland combat climate change and improve Chesapeake Bay water quality. Today the court recognized the importance of the state's forest protection law and ensured attempts to bypass the law can be easily challenged in court. We are pleased and thank the Court for its work."

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