



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 1101

Standing - Environmental and Natural Resources Protection Proceedings
(Clean Water Justice Act of 2024)

Date: March 1, 2024

To: House Environment & Transportation Committee

Position: **Favorable**

From: Matt Stegman
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Chesapeake Bay Foundation (CBF) **SUPPORTS** HB 1101, the Clean Water Justice Act of 2024. The bill ensures that communities throughout Maryland have access to state courts to demand enforcement of laws that protect our waterways from pollution. Communities previously enjoyed access to federal courts to pursue enforcement actions under the Clean Water Act (CWA). However, the United States Supreme Court's decision earlier this year in *Sackett v. Environmental Protection Agency*¹ casts into serious doubt whether many ephemeral streams and wetlands previously covered by the CWA are still protected. Fortunately, Maryland already has existing laws that protect these waterways, however a provision for regular citizens to enforce those laws akin to what was provided by the CWA does not exist in current state law.

As important as it is to not what HB 1101 will do to protect communities impacted by pollution, it is also important to note what the bill will not do. HB 1101 does not create a right of judicial review of final agency actions, and it does not expand standing beyond that provided by federal courts, essentially restoring the enforcement of clean water laws to what existed before the *Sackett* ruling.

The Chesapeake Bay Foundation is no stranger to using the courts to enforce clean water protections. CBF's Litigation Department defends the laws and regulations that protect our waterways and serves as a watchdog to hold governments and polluters accountable to their clean water commitments through carefully chosen legal action. With a record of precedent-setting cases, we work to bring about lasting change within our legal system that ensures the equitable and long-term health of the Bay, its rivers and streams, and its communities.

One example of what this looks like in practice is a recent case where CBF, along with partner organizations ShoreRivers and Dorchester Citizens for Planned Growth (DCPG), brought suit to demand that the Maryland Department of the Environment (MDE) enforce the terms of a wastewater discharge permit for an animal rendering facility in Linkwood, MD. The facility's more than 40 violations over the previous decade had resulted in excess amounts of nitrogen, phosphorus, fecal coliform bacteria, and ammonia entering the Transquaking River and the Chesapeake Bay. Environmental organizations for years had been urging MDE to

¹ 598 U.S. ____ (2023).

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enforce permit limits at the facility, which has been operating with a wastewater discharge permit that expired in 2006.

Formal lawsuits were filed by MDE, CBF, DCPG, and ShoreRivers in February of 2022 after drone footage and other photos captured by ShoreRivers in late 2021 documented sludge flows and inadequately treated wastewater entering a stream leading to the Transquaking River. The new evidence led MDE to briefly shut the plant down in late 2021. The case was settled in September of 2022 when MDE filed a judicial Consent Decree signed by the department, the plant operator, CBF, DCPG, and ShoreRivers that requires Valley Proteins to upgrade equipment, pay significant fines, and investigate groundwater at the site.

CBF urges the Committee's FAVORABLE report on HB 1101

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.