



February 8, 2022

To: Members of CA's Board of Directors
Lakey Boyd, President/CEO
Dennis Matthey, Vice President of Community Operations

From: Jeremy Scharfenberg, Director of Sustainability
John McCoy, Watershed Manager

Subject: **Response to Comments on Stream Restoration Proposal for the Lake Elkhorn Watershed**

Introduction

CA is responsible for the stewardship of 3,600 acres of open space and approximately 40 miles of streams. As a result of development over the last 50 years, the amount of impervious surface area has greatly increased both the volume and intensity of stormwater runoff into our streams, causing significant erosion issues and degradation of stream quality. CA has been actively working to improve the quality of our watershed following the principles outlined in the [Columbia Watershed Management Plan \(CWMP\)](#) for more than a decade.

While we have made progress, the magnitude of these environmental challenges is significant and urgent. CA lacks regulatory authority or economic resources to reduce impervious surface area of the watershed or to mitigate the several hundred stormwater discharge points that enter our streams. Our streams are highly eroded and regularly compromise the integrity of CA property, CA pathways and adjacent property, much of which is residential. High levels of erosion also means that regular and costly dredging of our lakes and ponds is required.

Under the CWMP, CA has implemented 33 voluntary stormwater management projects and other initiatives that aim to reduce the impact of stormwater on our streams. One of the tools we have at our disposal to help address this issue is stream restoration. Such projects have been recognized by the US EPA's Chesapeake Bay Program and the State of Maryland as providing numerous water quality and ecological benefits. About 100 of these projects per year have been permitted in the state since 2014.¹ As of January 2022, Howard County was overseeing more than 20 stream restoration projects that are either in design or under construction.² Overall,

¹ https://mde.maryland.gov/programs/Water/Pages/Stream_Restoration.aspx

² The Ball Bulletin, Restoring our Streams, January 10, 2022

stream restoration projects are a key component of regional efforts to protect the Chesapeake Bay.³

The stream restoration project under consideration for the Lake Elkhorn watershed presents a unique opportunity to repair a degraded stream system by leveraging a mitigation bank credit program, enabling a third party to pay for the project. The community and CA would benefit from approximately \$10 million in improvements that would deliver a multi-generational investment to our shared watershed if the project moves forward in the coming years. By restoring these streams and reconnecting them to floodplains, erosion is reduced and stream quality is improved.

Any actual work in this proposed project area - stretching from headwaters at High Tor Hill to Lake Elkhorn - is several years away from taking place. The contractor for this particular project is currently seeking a permit for the funding mechanism. That means it has not yet entered the design phase, during which the public will have additional opportunities to provide input for specific aspects of the plan. Future phases allow for members of the public to provide input regarding issues such as site disturbance, tree protection and other concerns that are common to community engagement and discourse during project design and plan phases.

CA's team of technical experts in this field have reviewed letters and statements that oppose the recent proposal for the Lake Elkhorn watershed. We want to ensure the merits of these projects are understood and misinformation circulating around our community is addressed.

We continue to see a number of recurring complaints and common themes coming from opponents of this project. The following is our response to some of these comments in order to provide the Columbia Association Board of Directors with appropriate context.

1. *OPPOSITION STATEMENT:* *This project involves a "133-acre easement would allow for up to 63 acres of tree removal - 50 feet on each side of over 33,000 feet of streams."*⁴

CA SUSTAINABILITY TEAM RESPONSE:

These numbers are incredibly inflated and convey misinformation about the scope of this project. CA has no intention of removing up to 63 acres of trees. In fact, there is currently no conceptual design for the project and no estimate for the number of trees that would be impacted. The estimated area of disturbance within the easement presented in the Prospectus is not final. Project design elements will be up for discussion and public input in the next phases of this process.

³ Op Cit 1

⁴ Patuxent Riverkeeper newsletter dated December 22, 2021

2. **OPPOSITION STATEMENT:** *Additional protection from development “could be achieved through local zoning, and that process would spare the site from clearcutting.”⁵*

CA SUSTAINABILITY TEAM RESPONSE:

Howard County, not CA, is the municipality that governs local zoning. The watershed is essentially fully developed for residential and commercial purposes. CA has no jurisdiction, no regulatory role and no enforcement role over the multiple property owners that discharge stormwater to our streams. We are only able to manage the stormwater after it enters our property and work to repair the damage it has caused over the last 50 years. Additionally, there is no information on impacts to the site at this stage. Therefore, any reference to clearcutting the site is inaccurate and misleading.

3. **OPPOSITION STATEMENT:** *The mitigation bank credit program permit that we’re going through right now is “short-circuiting review processes for benefit and convenience.”⁶*

CA SUSTAINABILITY TEAM RESPONSE:

Discussions between the project contractor and regulators regarding advance crediting for the project are not within CA's purview. That said, any stream restoration project is highly regulated and involves years of planning and approval.

For instance, the process for the Lake Elkhorn project began in March 2019 with a competitive solicitation for a contractor. Watershed Studies and Solutions (WSSI) then had to be selected and placed under contract with CA before beginning its Prospectus for the mitigation bank. CA's Board of Directors reviewed and approved the necessary easements for the project over a year ago, in January 2021. It wasn't until the summer of 2021 - nearly two years after the initial solicitation process - that WSSI applied for a permit that would allow them to utilize the mitigation bank. Now, more than six months later, we're still in the midst of an extended public comment period for only the funding mechanism permit, before the details of the project design are even considered by the public and regulatory agencies.

⁵ Letter from Chesapeake Bay Foundation dated January 7, 2022 (SUBJECT: Lake Elkhorn Mitigation Bank, Application Number 2021-60426), #2.

⁶ Letter from Sierra Club dated January 7, 2021, #2.

4. **OPPOSITION STATEMENT:** *CA “should consider the full impacts of impervious surface, stormwater volumes”⁷ and “should consider upland stormwater management retrofits that would improve the stream” like “retrofits at the high school.”⁸*

CA SUSTAINABILITY TEAM RESPONSE:

CA absolutely agrees that the best place to control stormwater is before it enters the stream, but we are limited to work we can do on CA property, and we have diligently followed the guiding principles established in the CWMP.

In the Lake Elkhorn watershed alone, CA has voluntarily built 11 bioretention facilities, completed four stream restoration projects, installed two wetland benches in stormwater retention facilities and helped residents build 60 rain gardens. CA has completed 14 of the 19 projects with concept designs in CWMP that were within the Lake Elkhorn watershed. The remaining projects were not completed due to site constraints, easement issues or cost.

Again, it is important to note that CA has no jurisdiction over property owned by other organizations and agencies, such as the school system. CA can either take no action to address continued environmental impact on our land and streams by adjacent owners, complex development factors and climate change, or we can pursue mitigation activities on CA open space actively and creatively. We strongly believe in doing the latter.

5. **OPPOSITION STATEMENT:** *CA should support projects that “control stormwater before it enters streams”, like rain gardens, bio-retention ponds, converting lawns to conservation landscaping, green roofs, and planting trees.⁹*

CA SUSTAINABILITY TEAM RESPONSE:

CA strongly agrees that there is a need to address these issues and supports projects that control stormwater before it enters all Columbia streams. CA's resource allocations and efforts include, but are not limited to, our organization voluntarily building 26 bioretention facilities in Columbia, helping residents build 430 rain gardens across the community, supporting a Yards Alive Program in cooperation with the Oakland Mills Neighborhood Association, planting approximately 700 trees every year and retrofitting two stormwater facilities with wetland benches.

⁷ Letter from Chesapeake Bay Foundation dated January 7, 2022 (SUBJECT: Lake Elkhorn Mitigation Bank, Application Number 2021-60426), #1.

⁸ Comments from MDE dated January 18, 2022, #6c.

⁹ Letter from Sierra Club dated January 7, 2021, #4.

6. **OPPOSITION STATEMENT:** *This area is of “high value to area residents”, including “a demographically diverse population using this trail, including all ages and backgrounds, school children, and sports teams. Loss of access to nature underscores the threat of this project.”¹⁰*

CA SUSTAINABILITY TEAM RESPONSE:

CA has a proven track record of environmental stewardship over our more than 50-year history. CA could not agree more that open space is a highly valued part of our community and one that our residents consistently rank as a top priority when providing resource allocation feedback. CA takes great pride in making sure our land is maintained and respected in a comprehensive and sustainable way. That is precisely why we need multigenerational solutions to the serious erosion problems we're facing, issues that not only threaten CA open space, but also adjacent and nearby homeowners' property. Temporary loss of access to certain segments of the trail system while work is underway will be managed to reduce overall impact. Pathway closures for bridge repairs, repaving and other projects are regular occurrences.

7. **OPPOSITION STATEMENT:** *CA could consider converting lakes like Lake Elkhorn “back to a stream/wetland complex” since “providing boardwalks over the wetlands would still provide a recreational aspect for the community.”¹¹*

CA SUSTAINABILITY TEAM RESPONSE:

While this option is logistically feasible, CA knows the lakes and ponds in Columbia are highly valued amenities and foundational resources in this community. We do not believe replacing them with wetlands is a viable option. That said, by reintroducing streams to their natural floodplains, we revive the function of that floodplain to prevent excessive erosion.

8. **OPPOSITION STATEMENT:** *The riparian buffer appears to be intact, and “the project will result in the loss of mature forest, and the associated functions, for a decade or more.”¹²*

CA SUSTAINABILITY TEAM RESPONSE:

The riparian buffer may appear by a quick visual scan to be intact, but in actuality, it's only able to perform part of its function. The storm drain systems adjacent to the streams feeding Lake Elkhorn have over 100 outfalls from nearby private and public property which are piped under the riparian buffer and discharge at the stream edge or on steep slopes near the stream,

¹⁰ Letter from Chesapeake Bay Foundation dated January 7, 2022 (SUBJECT: Lake Elkhorn Mitigation Bank, Application Number 2021-60426), #4

¹¹ Comments from MDE dated January 18, 2022, #6b.

¹² Comments from MDE dated January 18, 2022, #5c.

eliminating much of the benefit of the riparian buffer. This proposed restoration effort will address some of the outfalls, particularly some of the ones discharging adjacent to the stream that have created eroded gullies leading to the stream.

CA shares our community's value of woodland areas, shown by the long-term preservation of more than 2,200 acres of forested land. On average, CA team members and volunteers plant nearly 700 trees and shrubs every year. We do not take tree removal lightly, which is why processes like this one are heavily vetted and carefully considered. Erosion issues are already threatening some of these trees to the point that they could fall on their own, causing a safety hazard or threat to homeowners' property. Falling trees can also increase erosion even further as they tear out large sections of bank. During the design process, the public will have an opportunity to inform how the restoration is designed, including any need to remove trees in order to develop the floodplain.

9. OPPOSITION STATEMENT: *CA should "work closely with the community throughout this process to develop a project that meets the need of the community."*

CA SUSTAINABILITY TEAM RESPONSE:

CA strongly agrees that working with the community is an important part of this process. Members of the Sustainability Team and Community Operations leadership have conducted three stream walks / tours with Long Reach residents, members of Long Reach Village Board and members of CA's Board. Members of the Sustainability Team and Community Operations leadership have presented and answered questions at three village board meetings to date (Owen Brown, Long Reach and Oakland Mills), with another scheduled this week (Town Center). Members of the Sustainability Team, Community Operations leadership and CA's President/CEO held a [special information session dedicated to stream restoration](#), which included a presentation and detailed question-and-answer session. Members of the Sustainability Team and the contractor, WSSI, held an in-person overview meeting specifically about the mitigation bank permit. Additionally, over the course of the last two years, there have been updates to CA's website regarding stream restoration education and information.

Our team supports developing a project that incorporates public input and meets the needs of our residents. CA team members are working to meet the many competing needs of maintaining mowed green space for recreation, maintaining paths while still keeping them open for use, keeping our lakes and ponds attractive and ecologically healthy, ensuring the cost of maintaining open space under control, etc. The evolution of this project has been available in public documents since January 2021.

CA understands that the construction phase of stream restoration projects can create a significant aesthetic shift in CA open space, some of which is just outside the boundaries of our

residents' properties. Simultaneously, we hope that those neighbors can recognize the urgency of the erosion issues - that will only worsen over time due to climate change if left unaddressed - and the multi-generational solution we can achieve with this kind of project. CA understands deeply that stewardship is about long-term focus and investments that benefit the environment and future generations.

CA has reviewed the public comments submitted over the course of this process, including several from individuals who live outside of Howard County and represent interests outside of our community. We understand that it can be difficult for those who do not have extensive knowledge of the proposed project to discern CA's role and responsibility when other agendas or seeming solutions are put forward that are beyond the scope and authority of what CA can actually do.

10. OPPOSITION STATEMENT: CA should "provide more evidence of CA's experience successfully managing large restoration projects."¹³

CA SUSTAINABILITY TEAM RESPONSE:

CA's Sustainability Team includes three dedicated full time staff that specialize in watershed management and/or environmental sustainability with a combined 60 years of experience. This team has spent their careers committed to the field, including work inside of regulatory agencies. They bring invaluable expertise to the organization's mission of stewardship. Our full time Environmental Program Manager is committed to educating and engaging the community around these sustainability efforts. Also supporting these initiatives, CA employs a General Counsel who reviews all contracts and agreements the organization enters into, a Community Development and Real Estate Services Division focused on easement and encroachment issues and an extensive operations staff specializing in construction project management, construction and property management. Those team members at CA have overseen six stream restoration projects over the past 10 years, ranging in size and scope.

Summary

CA's Watershed Advisory Committee and CA's in-house subject matter experts fully support the proposed stream restoration project, as do many residents across our community. As responsible stewards of the environment and shared open space, there is also a clear need to respond to the looming threat of a changing climate and the effects of the community's long-standing development. Rain events are becoming more intense which will only worsen erosion problems in our streams. In other words, it is because we enjoy and so highly value our

¹³ Comments from MDE dated January 18, 2022, #16f.



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open space and waterways that we need to act and leverage significant opportunities for environmental improvements.

The proposed stream restoration project would address the current stream channel degradation and provide a long term solution for managing the watershed for future generations. It would achieve these goals through a funding mechanism that enables CA to allocate its limited resources towards continued additional environmental stewardship efforts, projects and services.

Environmental stewardship sometimes requires making difficult decisions today for a long term sustainable future. We simply cannot walk away and hope that the streams will cure themselves. We remain committed to pursuing the best available options for long term, sustainable solutions in CA open space.