



Montgomery County Civic Federation Testimony to
The Montgomery County Delegation on PG/MC 104-14
Washington Suburban Sanitary Commission
Forest Conservation Act
Application to Infrastructure Maintenance Activities

Good evening. My name is Carole Ann Barth and I live at 10602 Lockridge Drive, Silver Spring, MD. I am speaking tonight as President of the Montgomery County Civic Federation, one of the County's oldest community advocacy organizations, which represents roughly 60,000 county households.

This bill would relieve the WSSC of its commitment (as part of the Environmental Protection Agency [EPA] consent decree) to observe forest conservation regulations in making repairs to and maintaining its infrastructure as required by the consent decree. However, it is written in such a manner as to have adverse impacts on the area's forest cover far beyond the original concern.

We oppose this bill for the following reasons:

1. It is unnecessary
2. It is self-defeating
3. It is too broad
4. It sets a bad precedent
5. It will cause lasting environmental damage
6. It negates WSSC's public commitments

1.WSSC claims that meeting the long term protection requirement of the Forest Conservation Law is not feasible because it is cost-prohibitive¹. WSSC originally estimated this cost to be \$14 million. However, the current estimated cost (based on what DNR has

¹“Other long term protection options, including obtaining off-site long term protection through land mitigation bank purchases or making payments to the Forest Conservation Fund, are not feasible because they are cost-prohibitive.”

Washington Suburban Sanitary Commission Procedure/Policy Fact Sheet

<http://www.wsscwater.com/file/CorpSec/2013Agenda/september2013/2014%20Legislative%20Proposals.pdf> accessed 12/3/13

said is acceptable) is \$3.1 million and I believe the Commission has already passed a resolution authorizing the payment to the State Forest Conservation Fund.²

2. It is futile to “fix” one environmental problem by creating another environmental problem. Neither should one ecosystem service be traded for another. We need **both** to **reduce SSOs** and to **increase forest cover** to clean our streams.

3. This exemption to the Forest Conservation Act (FCA) is far too broad. According to WSSC’s *Policy Fact Sheet*, “This change would neither be limited to WSSC nor limited in geographic scope. It would apply to any public utility clearing of forest associated with rehabilitation or maintenance of infrastructure within a public utility right of way.”³ In other words, this legislation would write off every forest in the vicinity of a public utility right of way.

4. Allowing WSSC to set aside the requirements of the EPA consent decree and over-riding DNR’s repeated denials of WSSC variance requests sets a bad precedent. How many more agencies will ask to be exempt from the Forest Conservation Law?

5. When forest is cleared to provide access to WSSC infrastructure, lasting damage is often done. This is especially true within stream valleys. For example, in the 90’s, WSSC created an access road in the Northwest Branch for work on the pipe crossings. This was a light-duty road, since heavier components were helicoptered into place. Still, that clearing greatly accelerated stream bank erosion, and the scars are visible to this day. Such damage should not be allowed without mitigation and/or fee-in-lieu payments. Moreover, without oversight through the FCA, there is no mechanism to enforce restoration of damage done.

6. Finally, WSSC has repeatedly reassured the public that all work under the consent decree will protect environmentally sensitive areas⁴.

For all these reasons, we ask you to withdraw PG/MC 104-14. Furthermore, we submit that applying the FCA to the work done under the EPA consent decree will result in tangible environmental benefits. Thank you for the opportunity to testify.

²Resolution 2014-2030, November 20, 2013

³ *Washington Suburban Sanitary Commission Procedure/Policy Fact Sheet*
<http://www.wsscwater.com/file/CorpSec/2013Agenda/september2013/2014%20Legislative%20Proposals.pdf> accessed 12/3/13

⁴“WSSC will take measures to protect these areas and minimize any environmental impacts. For example, realigning access paths to avoid and minimize environmentally sensitive areas, keeping access path footprints as narrow as possible while preserving constructability, replanting native vegetation on access paths, and placing wetland matting to prevent soil disturbance in wetlands. **WSSC is complying with all Federal, State, and local environmental regulations** and working with public land managers to minimize impacts.” *Sewer Repair, Replacement and Rehabilitation (SR3) FAQs* <http://www.wsscwater.com/home/jsp/content/ww-treat-faq.faces#flags>, accessed 12/3/13 (emphasis added.)