



Citizens  
for a Better  
Eastern Shore

# CITIZENS FOR A BETTER EASTERN SHORE

# SHORELINE

*A Journal of Natural Resources, Public Affairs and  
Culture on the Eastern Shore of Virginia*

TM

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## Sackett Supreme Court Decision: Impacts to Bay Wetlands

By Sue Mastyl

On May 25, the U.S. Supreme Court handed down a decision known as Sackett v. EPA, ruling that the “Waters of the United States” under the Clean Water Act would only apply to wetlands and other bodies of water with a continuous connection to “navigable” surface waters such as creeks, streams, or rivers. Previously, EPA’s rules included wetlands connected to larger bodies through groundwater, and bodies of water that might be dry during parts of the year.

Many environmental groups have raised concerns about this decision. “Wetlands are connected to, fed by, and dependent upon navigable waters by groundwater links we cannot see. Defining wetlands as only those we *can* see as connected through open water is a grossly simplified approach and does not reflect how science or nature works,” noted Mary-Carson Stiff, Executive Director of Wetlands Watch. The Chesapeake Bay Foundation stressed that the Supreme Court’s decision “could damage the decades-long effort to restore the Chesapeake Bay and its waterways ... including thousands of isolated wetlands unique to the Bay watershed.”

By contrast, Martha Moore, Vice President of Government Relations for the Virginia Farm Bureau, praised the ruling as a “necessary reduction of bureaucracy for farmers,” adding that protections such as the Chesapeake Bay Preservation Act and conservation practices are already in place.

### Wetlands Impacted

Following the Sackett decision, more than half of wetlands across the country will lose federal protection through the Clean Water Act, including

**“Defining wetlands as only those we can see as connected through open water is a grossly simplified approach and does not reflect how science or nature works.”**

**– Mary-Carson Stiff, Wetlands Watch**

at least 35% of Virginia’s wetlands. Stiff noted that most of the affected wetlands will be non-tidal, where climate change could play an increasing role. With sea-level rise, waters may overflow from one ditch to another across a road or dike, a process known as wetland migration.

The 1.5 million acres of wetlands in the Chesapeake Bay watershed are “critical to restoring the Bay,” noted the Chesapeake Bay Foundation. Wetlands trap pollutants before they can reach surface waters; absorb storm surges and flood waters to provide protection for coastal communities; provide important erosion and sediment control; provide “some of the most productive habitat for wildlife,” including fish and shellfish, migrating waterfowl, amphibians, reptiles, mammals, and birds; and provide a critical carbon sink, storing “50 times more carbon than rain forests.”

One type of wetland in this category are Carolina bays, also called Delmarva bays, which are depressions in the soil along the Atlantic coast,

ranging in size from one to several thousand acres. Although some are open water, most are marshy areas with rich biodiversity.

### Virginia’s Wetland Protections

Of the 6 states and the District of Columbia within the Bay watershed, New York, Maryland, Pennsylvania, and Virginia provide significant protections beyond the federal definition of covered waters. However, there is concern that states will be pressured with calls for “federal consistency,” to align state rules with the federal definition, as happened recently in North Carolina. Currently, 24 states rely solely on the federal definition (including Delaware); 7 states (including West Virginia) and DC have limited protections beyond the federal level; and 19 states have broad coverage for wetlands.

Environmental groups will be watching this closely in Virginia

*See Sackett, Cont’d on p. 2*

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# Letter From CBES President

To all our gracious members,

Last fall, at my first CBES Oyster Roast, I was asked by a newcomer what CBES does. Having contributed articles for the newsletter, I started talking about how we cover local issues. I was politely interrupted: “Yes, but what do you **do**?”

What I should have said, and what I will say next time, is this:

- We host community events, we serve in leadership roles in community organizations, we recognize local leaders and volunteers, and, yes, we report in-depth on local issues and topics of interest.
- For MLK day, we partner with the Northampton Chapter of the NAACP and local sororities to host Community Unity Day. This year we delivered soup to the elderly as we recognized 6 outstanding citizens.
- At our annual picnic, we honored State Sen. Lynwood Lewis for his many years of service as a legislator, highlighting his initiatives to protect our wetlands, so important to the Shore’s burgeoning aquaculture industry.
- We diligently tried to host Candidate Forums for this year’s elections but made the painful decision

to cancel when many candidates opted out. Candidate participation had never been an issue in the 20+ years we did this in the past. We were criticized by both ends of the political spectrum, so we probably made the right decision.

- We hosted over 1,000 cyclists at our annual Bike Tour event. We are grateful to many of you who volunteered – two stood out: Sally Williams and Sue Rice. They filled leadership positions at critical junctures; we couldn’t have done it without them.

And yes, we report on local issues in our monthly news journal. This year we covered housing for

our teachers and the elderly, short-term rentals, conservation easements, wetlands mitigation, groundwater, and Chesapeake Bay Program goal re-setting.

We are grateful to you, our members, who year after year provide support in so many ways: volunteering at events, writing guest articles, critiquing our activities and publications, encouraging us when we are down, and yes, signing checks.

Please keep CBES in mind in this season of holiday giving.

Sincerely,  
George Mapp  
President



## Sackett, *Cont’d from p. 1*

and elsewhere. “If anything happens to our laws in Virginia, ... we won’t have a fighting chance to do the appropriate amount of wetlands migration ... so we have wetlands under sea-level rise,” added Stiff.

Virginia’s laws protect both tidal and non-tidal wetlands, going well beyond the federal protections. Michael Rolband, Director of the Department of Environmental Quality (DEQ), has reaffirmed maintaining these protections. Virginia’s definition of “state waters” includes “all water, on the surface and under the ground ... including wetlands,” both tidal and non-tidal.

DEQ regulates any disturbance to tidal or non-tidal wetlands under the Virginia Water Protection Program, with a policy of no net loss of wetland acreage or function. The Virginia Marine Resources Commission (VMRC), along with local wetlands boards, oversees permitting for the protection of tidal wetlands under the Tidal Wetlands Act and the Chesapeake Bay Preservation Act. Under a Memorandum of Understanding signed June 23, DEQ will be the lead agency responsible for non-tidal wet-

lands, while VMRC will retain responsibility for tidal wetlands and sub-aqueous land permits.



With DEQ taking full control of wetlands permitting, without the previous joint federal-state partnership, some have expressed concern about costs and capacity for the agency to handle this.



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# Warming Waters Bring New “Tropical Visitors” to the Bay: Ranges of More-Southerly Fish Appear to Be Shifting North

By Jeremy Cox

*Excerpted, with permission, from The Bay Journal, Oct. 24, 2023*

**B**obby Graves was trying to win a fishing tournament. A \$1,000 prize was on the line for catching the weekend’s biggest spotted seatrout in a zone encompassing the lower reaches of the Wicomico and Nanticoke rivers in Maryland. So, when he reeled in a species more typically found in subtropical waters, his initial reaction was disappointment. “Just get it in the net and get it off,” Graves recalled thinking, “so we can get back to what we’re trying to catch.”

That accidental Sept. 17 catch turned out to be a winner of another sort. At 6.44 pounds, the Florida pompano set a size record for the species in Maryland waters, according to the state Department of Natural Resources biologists who confirmed the catch.

Graves, a native of Salisbury, MD, said he has been regularly fishing in the Bay for 6 decades but only began noticing pompano in the last few years. The Department of Natural Resources (DNR) didn’t officially recognize the species as a record candidate until 2019. “They’re still an



*Florida Pompano*  
Photo by Robert Aguilar, Smithsonian Environmental Research Center

**By century’s end, according to the Rutgers study, striped bass could find themselves pushed about 220 miles northward.**

oddity,” he said. But “I think the Bay waters are warming slightly, and it’s just an influx of different species.”

## Warming Waters Driving Coldwater Species Northward

For the most part, the Chesapeake Bay and its tidal rivers remain an anglers’ paradise. But what they’re angling for is beginning to shift as water temperatures warm, according to climate and fishery experts. Many recreational fishermen say they’re already seeing a difference.

A spate of recent research across the globe suggests the warming climate will likely drive many fish species northward to flee the heat. One of the most comprehensive modeling efforts to date, led by scientists at Rutgers University-New Brunswick, predicts that fish currently found from Maine to North Carolina will shift northeast along the continental shelf by an average of about 400 miles by 2100 under a high-emissions climate change scenario.

Such changes could be economically devastating to fisheries in the Chesapeake Bay, particularly species that live in cooler waters, scientists say. For example, striped bass, a popular species known as rockfish in the Bay region, typically venture only as far south as North Carolina’s Outer Banks. By century’s end, according to the Rutgers study, they could find themselves pushed about 220 miles northward.



*Striped Bass (Roccus Lineatus)*  
Illustrated by Sherman F. Denton

“Maybe eventually, it gets too warm for them” in the Bay, said Noah Bressman, a fisheries expert at Salisbury University. “But all those species where maybe it’s just one degree too cold for them now [in the Bay region], give it 100 years. They may move farther north, and now they can survive here.” Among southeast fish, which include those that are currently rare sights in the Chesapeake region, the typical species was expected to migrate about 150 miles northward, the Rutgers study predicts.

The transformation is already happening. Since the 1980s, the average summer surface-water temperature in the Bay has increased by about 2 degrees, while the average winter water temperature has risen by about 0.6 degrees, according to research by the Virginia Institute of Marine Science (VIMS).

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See *Warming Waters*, Cont’d on page 4

## Warming Waters, Cont'd from p. 3

### Tropical Visitors

The warming has helped give rise to a group of fish known as “tropical visitors.” Gamefish already making their presence known in the Bay, researchers and fishermen say, include red drum, Atlantic cutlassfish, sheepshead, and mangrove snapper. Their numbers can vary from year to year, depending on the weather, said Erik Zlokovitz, a recreational fisheries coordinator with the Maryland DNR. The time of year is also a factor. “Generally, August, September, and maybe early October is the time we see these southeastern species. It’s when both water temperature and salinity are the highest. It’s better conditions for these fish,” Zlokovitz said. He added, “It’s definitely one of the positives and side benefits, I guess, of climate change.”

In 2020, the Virginia Marine Resources Commission (VMRC), which tracks record-size fish catches in Virginia, officially added a new target: Atlantic tripletail, a species more common to waters off Georgia, Florida, and the Gulf states. They are not new to Virginia, but appear to be getting caught more often as bycatch as anglers increasingly pursue cobia. The current record catch is a 16-pound, 12-ounce specimen caught in July 2021 near the York Spit Light.

Scientists aren’t sure what to make of the new arrivals. It’s hard to study organisms that make such rare appearances. Many warmth-adapted fish only pop up in official records a few times over a period of several years. Such a



*Atlantic tripletail*  
University of Florida.

**This mismatch in timing is widely expected to lead to upheaval for many species as the grip of climate change tightens.**

sample size is too small to determine if the local population is increasing, said Dave Secor, fisheries biologist with the University of Maryland Center for Environmental Science. “It may be that people are getting pretty good at fishing for them or maybe there’s something going on, like there’s more artificial structure out there,” he said.

But one study may offer some clues. Cobia, which can grow up to 4 feet long and weigh 50 pounds, tend to overwinter off the Atlantic Coast from Florida to North Carolina. But during summers, they spawn in coastal estuaries, including the Chesapeake, which is near the northern extent of their range. They now account for 225,000 recreational trips a year in Virginia alone.

A recent VIMS study has found that cobia are arriving in the Bay nearly a week earlier in the spring and staying nearly 2 weeks longer in the fall, likely because of warming temperatures. The researchers forecast that the trend would lead cobia to remain in the Bay an additional 65 days by 2100 compared with the present.



*Cobia*  
South Atlantic Fishery Management Council.

But much of the cobia’s fate depends on how climate change unfolds in the region, the VIMS researchers pointed out. If the fish arrive earlier and therefore spawn earlier, critical temperature cues and a suitable environment may not be in place yet. The population could decline as a result. This mismatch in timing is widely expected to lead to upheaval for many species as the grip of climate change tightens.

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## 2023 Between the Waters Bike Tour and Oyster Roast

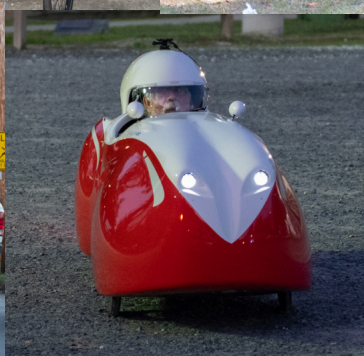
ShoreLine Staff

The morning of October 28, 2023, dawned bright and warm for the crowds of eager cyclists who converged on the Northampton County town of Exmore, ready to tackle their choice of 25-, 40-, 60-, or 100-mile routes through hamlets, villages, and towns on the seaside and bayside. CBES volunteers provided them with maps and other materials, including the exclusive 2023 Bike Tour t-shirt featuring Bethany Simpson Durham’s whimsical painting of cyclists in Willis Wharf being chased by geese!

Participants were able to visit a series of rest stops, where they were offered water, fruit, and “facilities” at locations selected for their accessibility and attractiveness. Lunch was provided at Cedar Grove, a beautiful bayside farm between Machipongo and Franktown. The evening after the Bike Tour, a lucky group was treated to great food and entertainment at the ever-popular Oyster Roast. A good time was had by all, guests and volunteers alike!



The ever-popular Corn Funk Revue entertained Oyster Roast partiers, many of whom danced and joined into singing old favorites such as “Sweet Caroline.”



*Photos by Cecil Watts,  
WATTS PHOTOGRAPHY*

## 2023 Between the Waters Bike Tour Host Town, Exmore





## RECYCLING CORNER

By Sue Mastyl

### Are Plastic Credits Really Working?

Just as with carbon offsets, there's now a market for plastic credits, with each unit representing 1 metric ton of plastic waste removed from the environment, in a scheme to offset the impacts from plastic production and disposal. But some environmental groups are skeptical, saying that the system focuses on managing, rather than reducing, plastic waste. Kevin Budris, Advocacy Director for Just Zero, said, "Frankly, it's all greenwashing. The only real solution to the full suite of plastic pollution problems is to stop making so much plastic in the first place."

Most of the credit programs focus on waste collection in the developing world, such as funding a beach or river cleanup, or paying "waste pickers" who make their living sorting trash from dump sites and the environment and selling the recyclables. Companies enroll in these programs for 3 reasons:

- To do the right thing.
- To satisfy extended producer responsibility (EPR) laws, to show that a certain portion of the plastic produced is ultimately collected and recycled.
- To enhance their image. Credits are "more for corporations that want to make specific claims," noted Vincent Decap, cofounder of crediting program Zero Plastic Oceans. Many plastic crediting programs focus on helping companies use these credits to make green marketing claims or promote eco-friendly labels.

The claims for these programs, that the impact of a plastic bag or product is "neutralized" by collecting the equivalent amount of plastic waste, are problematic. First, not all plastics are equivalent in their recyclability or their environmental impact, but crediting programs ignore these differences. Second, many are concerned that these programs will be used to justify continued and increasing plastic production, which is harmful at every stage of its life cycle.

Some companies are changing the model, from claims of neutrality to more specific claims such as "This company paid for the removal of 5 tons of plastic litter in 2022." But problems persist, including claims that programs can help those in the developing world, where pickers are "drowning in a tide of single-use plastic. If these companies want to do something to improve waste management in the Global South, they need to just stop making so much plastic," said Budris.

#### Source:

Winters J. Companies are claiming to be "plastic neutral." Is it greenwashing? Grist, Sep. 11, 2023. <https://grist.org/accountability/companies-are-claiming-to-be-plastic-neutral-is-it-greenwashing/>

## Roast Plum Preserves – Plum Marmalada



Plums are in the markets now, just in time for the winter holidays. This is a nice easy, small-batch, jammy-type preserve – a little citrusy with more fruit than sugar. Microwaving makes it easy. By cooking a bit more, you can have marmalada, a quince-type paste for your cheese board. If fruit is not quite ripe, store for a few days in a warm place, in a closed paper bag – and put an apple in with them! If you're using or gifting preserves within a week or 2, just store in fridge. For longer storage, use this water bath canning method: <https://www.youtube.com/watch?v=0xewBoTmQ90>

- Crushed and processed plums
- Equal amount of sugar
- About ½ cup water
- Lemon juice – about 2 tbsp per 1 cup processed plums

Halve and pit plums, toss with melted butter on foil-covered baking pan. Sprinkle with brown sugar, roast at 400° until fork-tender. Cool and chop roughly, then put in food processor with a little water. Process in bursts, then steadily, until mixture starts to look like jam. If making marmalada, process plums into puree. Set a few small jars and covers to boil in a large kettle. Put plums and sugar (measure carefully) into 1½ qt microwave-safe casserole and stir. Cut lemon into pieces, add juice, then add to plums. Microwave for 5 minutes, stir, then cook in 2- to 3-minute increments. Preserves are done when a line made through mixture with the back of a spoon does not fill in. Marmalada stage is reached when mixture starts to noticeably thicken at edges of casserole. Remove lemon pieces, then carefully ladle mixture into boiled jars, cover loosely, then tighten lids. Refrigerate or process.

Mary Miller – The Kitchen Hive

Reprinted with permission: <https://www.talkrealnow.com>

## Keeping Track

### Salicornia – a Marsh Delicacy

Amid the swimmers and hard-shelled creatures that thrive in the marshes, there are edible, nutritious grasses and plants growing there too.<sup>1</sup> Wild pickle, saltwort, sea beans, pickleweed – whatever the local name, the leaves of the edible marsh grass, Salicornia, have been harvested for centuries for culinary, industrial, and medicinal uses. Salicornia is deep green in color, similar to succulents and cacti, is a perennial, and is most commonly found in areas of high salt content in the soil, which include salt marshes. Pickleweed is not recorded to be threatened or endangered, but be sure to only harvest from the tops and around the plant, and avoid the reddish portions, as these parts will have a harder texture.



Pickleweed is quite salty in taste, and crunchy in texture, making it a great wild addition to various types of salads. Since the plant is naturally salty, it would be best suited to salads that are comprised of lighter or blander-tasting ingredients. Pickleweed can also be prepared in similar fashion to green beans or just by roasting them lightly with oil. Using pickleweed as a culinary condiment or vegetable is the best way to reap the medicinal benefits, as pickleweed is packed with a variety of essential minerals and vitamins.<sup>2</sup>

Edible marsh flora are mainly enjoyed by knowledgeable food foragers. But as saltwater bays increasingly move inland and begin to make some farm fields too salty for traditional crops,<sup>3</sup> is there an opportunity to cultivate edible marsh plants and create a market for “new” food?

<sup>1</sup> <https://www.diy-wood-boat.com/Seashore-Plants.html>

<sup>2</sup> <https://eattheplanet.org/salicornia-virginica-the-wild-pickle/>

<sup>3</sup> Coastal farmers being driven off their land as salt poisons the soil – CNS Maryland. <https://cnsmaryland.org/2020/11/23/coastal-farmers-being-driven-off-their-land-as-salt-poisons-the-soil/>

### RAFFLE TO WIN!

by Shore Artist

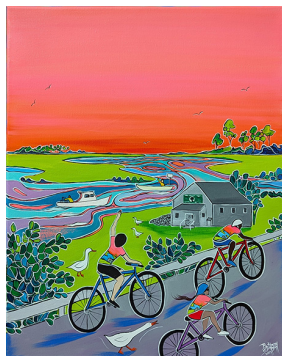
Bethany Simpson Durham

Bethany’s painting celebrates what makes the Shore such an uncommon place of tide and sky, depicting a whimsical seaside sunrise in Willis Wharf.

**1 Ticket: \$22**

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<http://www.cbcs.org>



**16” x 20”**

See her artwork on FB: Bethany Simpson, Artist; and Lemon Tree Gallery, Cape Charles, VA, 757-710-1867.

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All Proceeds Benefit CBES Between the Waters Bike Tour and its mission: Pedal to Protect Virginia’s Eastern Shore.

\*Drawing December 8, 2023

## Eastern Shore Designated a FEMA Resilience Zone

The Community Disaster Resilience Zones Act, signed into law last December, requires FEMA to “utilize a natural hazard risk assessment index to identify census tracts which are most at risk from the effects of natural hazards and climate change” (<https://www.fema.gov/partnerships/community-disaster-resilience-zones>). FEMA has announced the first 483 Community Disaster Resilience Zones; a map is available on the website. The website also notes that this is only the first round, and “FEMA expects designations to continue,” using these initial designations to continue to refine the methodology.

“These designations will help ensure that the most at-risk communities are able to build resilience against natural hazards and extreme weather events, which are becoming increasingly intense and frequent due to climate change,” said FEMA Administrator Deanne Criswell. According to the website, “designated zones will be prioritized for targeted federal support, such as increased cost-share for resilience and mitigation projects, lessening the financial burden on communities to perform resilience-related activities.” It will also allow private entities and public-private partnerships to leverage a return on investment up to 13:1 for mitigation and resilience projects.

Designated areas on the Shore represent portions of those previously designated as very high and relatively high risk, and include over half of Accomack County and a portion of Northampton County. A wide swath covers the mid-Shore area, from Accomac to Red Bank on the seaside and from Harborton to Silver Beach on the bayside. A second area includes Cheriton, Cherrystone, and Cape Charles.

## Northampton County Tackles

### Short-Term Rental Zoning Changes

After months of work by the Northampton County Planning Commission (PC), Board of Supervisors (BOS), and the Planning Department, a formal Zoning Text Amendment (ZTA) outlining changes to zoning with regard to short-term rentals is due to be introduced at the regular meeting of the PC on November 17 at 6 PM. This has been top-of-mind for many residents and stakeholders; all are invited to weigh in at the Public Hearing on the subject. Each speaker has 3 minutes to present their views; a sign-up sheet will be available. Unless the ZTA is tabled by the PC, it will be sent to the BOS; an additional Public Hearing will be scheduled for its regular meeting on December 11 at 6 PM. Short-term rentals have proliferated in the towns and the county as a whole in the past few years. All who have opinions on regulating the various aspects of this subject are urged to attend and speak as the PC and the BOS deliberate potential changes to zoning. Agendas and documents are available to review on BoardDocs. Go to: <https://go.boarddocs.com/va/northco/Board.nsf/Public>.

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