

Maryland Environmental Trust
Board of Trustees Open Meeting Minutes
September 9, 2024

Trustees Present:

Gary Burnett, Chair

Greg Bown, Vice Chair

Mark Hoffman, Treasurer

Thomas (Toby) Lloyd, Secretary

Megan D'Arcy

Megan Benjamin

Lori Lynch

Keith Colston

Nathan Volke

Julia King

Diana Conway

Craig Highfield

Crystal Chissell

Hillary Bell (representing the Governor of Maryland who is an ex-officio trustee)

Delegate Natalie Ziegler (representing the Speaker of the Maryland House of Delegates who is an ex-officio trustee)

Trustees Absent:

N/A

Others Present:

John Turgeon, Director, Maryland Environmental Trust (MET Staff)

Josette Markline (MET Staff)

Wendy Foster (MET Staff)

Cindy Hoffmann (MET Staff)

Kelly Price (MET Staff)

Matt Ludington (MET Staff)

Michelle Grafton (MET Staff)

Laural Paterini (MET Staff)

Talley Kovacs, Assistant Attorney General (Office of Attorney General)

Spokesperson for Land Preservation Trust

Ann Jones

MET Easement Landowners and Representatives of Land Preservation Trust

Lynn Vonderhorst
W. Peter Pearre
Mike Wharton
Victoria Collins
Michael Sonnenfeld

I. Call to Order

Chair Burnett called the regular meeting of the MET Board of Trustees to order at 4:03 p.m.

II. Minutes of the June 3, 2024 Regular Meeting

Chair Burnett asked for a motion to approve the minutes of the regular meeting of the Board of Trustees held on June 3, 2024. Mr. Lloyd motioned to approve the minutes; Mr. Hoffman seconded the motion. All voted in favor.

III. Board Chair's Report

Chair Burnett made a statement regarding the proposed Maryland Piedmont Reliability Project. Six Representatives of the Land Preservation Trust, five of which hold easements with MET, were present for the meeting. Each Representative was invited to speak regarding their position on the project. Collectively, the group stressed the importance of protecting Maryland's preserved land and asked the Trustees to support them in their opposition of the project. Three documents (totaling 7 pages) were provided to the Trustees by Ms. Jones, spokesperson for the Trust, which are attached hereto and made a part hereof. The Representatives excused themselves from the remainder of the meeting.

IV. Director's Report

Mr. Turgeon gave a summary of the Director's Report that was provided to the Trustees prior to the meeting. He highlighted the data in the Managing for Results report that was submitted in August to the Maryland DNR and the Maryland Department of Budget and Management.

Mr. Turgeon mentioned that the application period for the Keep Maryland Beautiful Grants Program opened on September 6th and will run until November 15th. Nominations of grant awardees will be presented at the regular meeting scheduled on February 15th, 2025 for approval by the MET board.

Mr. Turgeon informed the Trustees that the 31st annual Maryland Land Conservation Conference, hosted by the nonprofit Forever Maryland was held on September 4th and 5th. Once again, MET was a founding sponsor of the event. He noted that some of the MET Board were in attendance. He also stated that all MET staff members were in attendance and many were active participants on panels while others volunteered their time to Forever Maryland. This year's conference saw the largest number of attendees, over 240, since Forever Maryland began hosting the event.

V. Committee Reports

A. Lands

Ms. Benjamin reported that the Lands Committee met on August 28th to review the items on the consent agenda.

Consent Agenda

Committee recommendations to approve action on existing MET documents

- a. Recommendation to approve a revision to the MET model Deed of Conservation Easement language

Committee recommendations to approve actions on existing MET easements

- b. Recommendation to approve landowner request for an existing MET easement in Washington Co. (MET Folio# 0316SHA95.WASH)
- c. Recommendation to approve amendment of an existing MET Easement in Baltimore Co. (MET Folio# 0724DON02.BACO)

Ms. Benjamin asked for a motion to move the consent agenda for approval as recommended by the Lands Committee. Delegate Ziegler so motioned; Chair Burnett seconded. All voted in favor.

Ms. Markline reported that, in August, Ms. Paterini accompanied the MD Department of Information Technology at the Towson University GIS conference to report on the use of MET's new easement monitoring tool. Ms. Markline mentioned that some units of the DNR are interested in adopting the application for their own use.

Ms. Markline noted that Mr. Bull has been handling violations and continuing to draft MET's violations procedures and policy documents.

Ms. Markline informed the Board that Mr. Bull and Justyn Pinkney (former Chesapeake Conservation and Climate Corps - "CCCC" - member working at MET over the summer) completed a Forest Stand Delineation on one of MET's three properties it owns in fee simple. Ms. Markline reported that she attended the CCCC graduation. She stated that it was a good opportunity to meet other Corps members and hear about the projects they worked on.

Mr. Ludington reported that he expects three conservation easement projects (previously approved by the Board) will be recorded by the end of this calendar year.

1. Easement on 217 acre property will be signed by the landowner this week
2. Easement on 100 acre property will be presented at the Board of Public Works meeting of 9/11/24
3. Easement on 13 acre property will be presented at the Board of Public Works meeting of 10/2/24

Mr. Ludington reported that he is working on several additional easement projects that are in various stages of development, and he is confident that MET will meet or exceed the goal of 1,000 acres of Maryland's land conserved by the end of fiscal year 2025.

B. Land Trust Outreach

Mr. Bowen reported that in fiscal year 2024 six land trusts renewed or signed a new Cooperative Agreement with MET. Thus far in fiscal year 2025 there have been no requests for new Cooperative Agreements but MET staff has been collaborating with three land trusts to renew their Agreements.

Mr. Bowen stated that on May 30th MET and Forever Maryland jointly hosted the State of the State of Maryland's Conservation Programs workshop. The discussion included an overview of Maryland's key conservation programs and addressed the outcome of the 2024 state legislative session. There was a facilitated discussion on challenges that threaten the work of land conservation. Sixty-three individuals, representing thirty-eight conservation organizations participated in the workshop.

Mr. Bowen informed the Board that more than three hundred easement monitoring reports have been shared with MET by twelve easement co-holding land trusts for the first half of CY 2024. Approximately one hundred of those reports have been reviewed and processed by MET staff thus far.

Mr. Bowen noted that MET's 2024 LandMarks Annual Newsletter has been mailed to easement landowners, land managers, and conservation partners. A digital version of the newsletter is available on MET's website.

Mr. Bowen reported that the Land Trust Advisory Committee met on August 15th. The committee discussed updates to MET's Cooperative Agreement template. The committee requested that MET develop sample templates for project selection criteria and easement stewardship/monitoring documentation requirements under the new Cooperative Agreement. Sample templates were produced and emailed to committee members for review with a request to vote on the approval of the updated Cooperative Agreement template. Eight members approved the updates and two members abstained.

Mr. Bowen asked for a motion to approve the updated Cooperative Agreement Template. Mr. Colston motioned approval; Ms. D'Arcy seconded. All voted in favor.

C. Governance

Mr. Lloyd mentioned that the Governance Committee continues its efforts to recruit new Trustees. He indicated that committee members have been making phone calls to legislators and other creative tactics to get vacant seats filled. Mr. Lloyd reported that the committee has a list of potential board members but would like to grow the list. He encouraged all Trustees to assist in this endeavor and asked that names of potential candidates be forwarded to him.

D. Finance

Mr. Hoffman reported that the Finance Committee met on September 3rd. He referred to the financial statements that were provided to the Board prior to the meeting and noted that these statements are for the end of June (end of FY 2024) and the month of July (beginning of FY 2025). He highlighted that, at the end of June, MET's invested assets totaled about \$3,900,000, an increase of over \$300,000 since the end of FY 2023. Mr. Hoffman went on to report that MET has utilized about \$104,000 of the \$140,000 board-approved allotted funds in FY 2024.

Mr. Hoffman asked for a motion to approve the June 2024 and July 2024 MET financial statements as provided prior to the meeting. Mr. Lloyd moved the motion; Delegate Ziegler seconded. All voted in favor.

Mr. Hoffman discussed the Southern Maryland Conservation Alliance, which services Calvert, Charles and St. Mary's Counties, and the role MET has played since its inception. The Alliance has a vision to further empower state lawmakers about land conservation and has approached MET with a request for \$5000 toward funding in the

grant. The grant proposal defines the development of tools and outreach material to help carry that message. The Finance Committee is in favor of this proposal. The funds are not currently outlined in MET's budget. However, MET easily has the financial capacity to honor the request. Mr. Hoffman noted that this proposal was only recently received. MET responded to the proposal by asking the Alliance for a formal letter of request. For that reason the Committee felt it best to defer request for Board action until the next regular meeting.

VI. Other Business

Mr. Hoffman mentioned the need for a follow up meeting with respect to the Maryland Piedmont Reliability Project. Mr. Lloyd suggested an Ad-hoc Committee be developed to follow the details and progression of the project. Chair Burnett agreed and asked for volunteers. Anyone interested in being a part of the Ad-hoc committee should submit their intentions to Ms. Price.

Mr. Turgeon thanked the MET staff for their hard work during fiscal year 2024. He pointed out that for most of the year they worked under the pressure of vacant staffing and changes in technology yet managed to meet many of MET's annual goals.

VII. Adjourn Meeting

The meeting was adjourned at 5:04 p.m.



OPPOSE THE MARYLAND PIEDMONT RELIABILITY PROJECT

Thousands of acres across the Maryland countryside, including the largest contiguous parcel of preserved land in Maryland, have been targeted as the site of the Maryland Piedmont Reliability Project (MPRP): a new 70-mile 500kv electric transmission line designed to bring energy from Pennsylvania and New Jersey to Maryland and Virginia. While we support building the infrastructure necessary to transition to a clean energy economy, we support using existing infrastructure to do so, and we oppose construction of new transmission lines through preserved agricultural and open lands.

The MPRP would severely impair the Maryland Land Preservation Movement that has been cultivated for more than 60 years. Maryland taxpayers have invested well over \$1 billion to conserve land for the public good in our state in order to:

- Ensure agriculture (Maryland's largest industry) can survive despite dwindling open land in the state
- Protect the watershed and forests that filter water and air for Maryland's citizens and the Bay
- Harbor critical habitats for endangered species, including the bog turtle
- Protect open space and landscapes for all Maryland citizens and agri-tourists to enjoy



PSEG (the utility contracted to build the MPRP) has specifically targeted conserved land in its proposed routing, likely reasoning that seizing agricultural land will be cheaper and simpler than seizing land with costly development rights. The power lines that would cut through farms and adjacent watersheds will not only harm habitat and overall ecosystem health but also interfere with critical agricultural infrastructure and divide 200-year-old historic family farms and homesteads.

MPRP's approval of a new transmission line through preserved land would set a tragic precedent, indicating that preserving land with the State of Maryland does not protect that land, but rather renders it more vulnerable to future infrastructure projects. Such a precedent would trigger landowners to challenge preservation agreements, and severely undermine efforts to preserve additional land across the State. Future landowners will be disinclined to relinquish their development rights for preservation and those who have already placed their land under easement (and Maryland citizens whose tax dollars support state and local easement programs), will be cheated out of the promise made to protect these lands and the valuable resources they contain.



MPRP Proposed Routes in Northern Maryland

Background and Timeline

- In December 2023, the contract to build the MPRP was awarded to New Jersey-based energy company PSEG by PJM, the Regional Transmission Organization (RTO) responsible for operating and planning the regional electric grid in all or parts of thirteen states, including Maryland.
 - PJM received 72 proposals from 10 utilities; 22 of these used existing lines or rights of way. PJM selected PSEG's "greenfield" plan to build a new transmission line, requiring PJM to seize additional land rather than utilize existing infrastructure
 - The primary alternate route considered is owned by Baltimore Gas and Electric (BGE).
 - PJM's documentation of the submitted proposals and the **need for this project due to increased electricity demand for data centers** has been documented.
- This project has been approved by the Federal Electric Regulatory Commission (FERC).
- Starting on July 8th, PSEG held comment sessions in each affected county.
- In revealing the initial news of this project, PSEG released 10 proposed for the project (illustrated above) and held a comment period ending July 2024.
- PSEG is planning to select its final route as early as September 2024, at which point it will apply for a permit at the Maryland Public Service Commission.

List of Prominent Leaders Opposed/Concerned

- Former Governor and Republican Nominee for MD Senate Larry Hogan is opposed.
- Office of People's Counsel, who represents ratepayers, has raised concerns.
- Democratic Nominee for MD Senate Seat Angela Alsobrooks shared the following statement: "While the next steps would likely be conducted at the state level, what is paramount is that people's concerns are thoroughly heard and that any potential impact to lives and livelihoods is thoroughly assessed before any forward movement."
- Carroll and Frederick County governing bodies unanimously oppose.
- Baltimore County Executive, John Olszewski opposes the use of eminent domain to complete the project.

On behalf of the Land Preservation Trust and our partners in the conservation community, we urgently ask that you oppose the construction of the Maryland Piedmont Reliability Project transmission lines through conserved agricultural and open lands.

For more information, please contact Land Preservation Trust at 443-578-4404 or office@thelandpreservationtrust.org



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August 9, 2024

Mr. Jason Kalwa and Mr. James Gilroy
Public Service Enterprise Group, Inc. (PSEG)
80 Park Plaza
Newark, NJ 07102-4194

RE: Objection to Proposed Maryland Piedmont Reliability Project Powerline Locations on Permanently Preserved Land

Dear Mr. Kalwa and Mr. Gilroy:

The undersigned individuals and organizations are opposed to locating powerline infrastructure on preserved lands. We represent private non-profit corporations as described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), whose purposes include the preservation and protection of scenic, natural, recreational, productive, and open space lands. As such, we are authorized by the IRS to accept donated conservation easements and authorized by the State of Maryland and our respective counties to purchase and hold conservation easements. The only exception is the Land Trust Alliance, which joins this letter as the voice of the national land trust community, representing about 950 conservation organizations dedicated to supporting the efforts of land trusts and government entities to conserve land now for future generations.

The Importance of Permanence

Most conservation easements are granted "in perpetuity," meaning they are intended to protect forever the land they encumber for the conservation purposes specified in the deed of conveyance. Placing land in a conservation easement is a promise that it will not be converted to another use. Explicit protections for conserved lands must be included in any transmission planning process. Failure to provide such protections could put these critically important places at risk of development.

Siting Powerline Infrastructure on Conserved Lands is in Conflict with Federal Tax Policy.

In order to qualify for a Federal Income Tax Deduction as allowed by the Federal Tax Code under section 170 (h) the easement must:

- Be held in **perpetuity**; and
- Meet one of the following federally recognized **conservation purposes (IRS code section 170(h))**, **providing significant public benefit through:**
 - The preservation of land areas for **outdoor recreation by, or the education of, the general public**;
 - The protection of a **relatively natural habitat of fish, wildlife, or plants, or similar ecosystem**;
 - The preservation of certain open space (including **farmland and forest land**); or
 - The preservation of a **historically important land area or a certified historic structure**.

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Recognizing the significant public benefit resulting from the preservation of farms, forests and open spaces, the State of Maryland has adopted a suite of land preservation programs -- including: the Maryland Land Preservation Foundation (MALPF), the Rural Legacy Program, Program Open Space, and the Maryland Environmental Trust. Nineteen counties, including Baltimore City, exercise their authority to levy a transfer tax in addition to the State's 0.5% transfer tax rate. Many local governments, including Baltimore, Carroll, Harford, and Howard counties have also funded their own preservation programs. This public investment is not only direct, with tax incentives granted and public funds appropriated for easement purchase programs, but also indirect.

The public invests in conservation easements by funding government entities that hold and enforce easements; by approving tax-exempt status for more than 1,363 land conservation organizations across the nation; by supporting substantial tax deductions and credits for easement donations, land donations and cash; and by funding oversight of the administration and enforcement of easements on behalf of the public. Dozens of charitable foundations and corporations and thousands of citizens have donated millions of dollars to land trusts for land conservation over decades. This investment must be honored. Often landowners participating in one of the above programs sell at significant discounts and enjoy some federal income tax deductions, as at a minimum, these easements meet the requirements of 170 (h) outlined above.

Each property presented for consideration for a conservation easement goes through a rigorous review process to determine that it meets one or more of the above characteristics. Additional conservation attributes, such as high-quality agricultural soils, are often required if the property is to be funded under another state or local program.

Once a conservation easement is accepted, whether donated, purchased or a combination thereof, the land trusts accept the perpetual responsibility of the stewardship and enforcement of that easement. Land trusts are not allowed, under federal income tax law, to change the purposes of the easement or to alter the terms in any way that would diminish the conservation values.

Furthermore, as non-profits established for the preservation and protection of scenic, natural, recreational, productive, and open space lands – land trusts cannot divert resources to other public purpose, no matter how important that public purpose may be. All public charities must adhere to this standard. State and local governments levy taxpayer money for the express purpose of preserving scenic, natural, recreational, productive, and open space lands. Government is not at liberty to take back this taxpayer investment for other competing priorities.

Extinguishment Erodes Public Confidence and is Contrary to Public Policy

The most important asset of a land conservation organization – or any government entity holding conservation easements – is public confidence in its mission. When easement holders fail to defend their conservation easements; when governments condemn land or easements by eminent domain; when adverse judicial decisions and statutory changes weaken the laws upholding conservation easements, these losses erode confidence in conservation efforts across America. Extinguishing a conservation easement to promote development contravenes the state enabling statutes and federal regulations. It undermines public confidence in the conservation easements themselves and in the entities charged with

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the permanent protection of important conservation lands. It thwarts the landowner's voluntary choice to permanently protect private land from development.

Safeguarding our Future with Conservation

America loses a football field worth of forests, grasslands, ag land, deserts, and natural places to development every 30 seconds.¹ This amounts to approximately 1.39 million acres per year of natural areas, wilderness, historic sites, farms and forests, resources that are critical to our economic future, our public health and our quality of life. Federal and state lawmakers across the country have enacted laws and adopted policies supporting the permanent protection of our rapidly diminishing yet critically important natural capital of clean air and water, wildlife habitat and natural lands. Conservation easements are key to these efforts. They serve a vital public need that has been recognized by lawmakers, scientists and scholars. In comment (a) of Section 7.11 of the Restatement (Third) of Property - Servitudes, the American Law Institute explains that the importance of conservation easements, "underscored by statutory requirements that they be perpetual, will continue to increase as population growth exerts ever-greater pressures on undeveloped land, ecosystems, and wildlife."

Allowing transmission lines to travel through preserved properties is inherently detrimental to the scenic, natural, recreational, productive, and open space attributes of the properties that land trusts are obligated to protect. Doing so violates the requirements of the IRS, the purpose of our non-profits, and most importantly the trust that landowners have placed in land trusts to protect their land in perpetuity. As such, the undersigned organizations strongly object to the siting of the Proposed Piedmont Reliability Project on permanently preserved land.

Sincerely,

Josh Hastings
Executive Director
Forever Maryland

And the Following Organizations:

David Lillard
Executive Director
Catoctin Land Trust

Joel Dunn
President and CEO
Chesapeake Conservancy

Allison Colden
Maryland Executive Director
Chesapeake Bay Foundation

Steven K. Kline
President and CEO
Eastern Shore Land Conservancy

¹ 1 David M. Theobald and others, "Loss and fragmentation of natural lands in the coterminous U.S. from 2001 to 2017" (Truckee, CA: Conservation Science Partners, 2019), available at <https://www.cspinc.org/public/CSP%20Disappearing%20US%20Exec%20Summary%20011819.pdf>.

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Kim Pause Tucker, Ph.D.
Executive Director
Gunpowder Valley Conservancy

Phyllis Joris
Executive Director
NeighborSpace of Baltimore County

Kristin Kirkwood
Executive Director
Harford Land Trust

Denisse Guitarra
Maryland Conservation Advocate
Nature Forward

Meg Boyd
Executive Director
Howard County Conservancy

Frank Allen
Executive Director
Patuxent Tidewater Land Trust

Vicky Collins
President
Land Preservation Trust

Anna Mudd
Senior Policy Director
Potomac Conservancy

Leslie Ratley-Beach
Conservation Defense Director
Land Trust Alliance

Mark Southerland, PhD
Director
Safe Skies Maryland

Gary Allen
President
Maryland Forestry Foundation

Sarah Knebel
Executive Director
Scenic Rivers Land Trust

Robin G. Todd, PhD
Conservation Committee Chair
Maryland Ornithological Society

Rachel Toker
Chair of the Board
Urban Ecosystem Restorations

Paulette Hammond
President
Maryland Conservation Council

Renée Hamidi
Executive Director
Valleys Planning Council

CC: Honorable Wes Moore, Governor
Frederick H. Hoover, Maryland PSC, Chair
Manu Asthana, PJM Interconnection
Ralph LaRossa, PSEG, President & CEO

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The undersigned are voluntary, citizen members of the Board of Trustees of Maryland Environmental Trust. We work with the state to advance Maryland's mission to protect the land that sustains us. It is our responsibility to ensure that the conservation attributes of the properties currently protected with conservation easements are maintained and enforced in perpetuity.

We regularly review property owner requests regarding the proposed location of allowed dwelling units, new uses on the property, such as an on-farm brewery and any subdivision of the property. Each request is reviewed individually based on the specific terms of the Deed of Easement and the conservation values of the property.

It has come to our attention that numerous properties currently protected with permanent easements are in the path of the proposed Piedmont Reliability Project. The state has an interest in those properties, and in the event a route is chosen that impacts any easements held by MET we will need to complete an evaluation of each individual property to determine compliance with the terms of the Deed of Easement and protection of the conservation attributes.

For these reasons we recommend that any proposed route avoid MET easements. We hold a real property interest in these easements and will also need to be notified along with the property owner if a route is chosen that does affect any of our easements.